

GENERAL NOTICE

NOTICE 3098 OF 2000

PUBLIC FINANCE MANAGEMENT ACT, 1999 (ACT NO 1 OF 1999): TREASURY
REGULATIONS ON GOVERNMENT PAYROLL DEDUCTIONS

The Minister of Finance has made the Treasury Regulation on Government Payroll Deductions ("the Payroll Deduction Regulation") set out in the Schedule.

SCHEDULE

PREAMBLE

WHEREAS in the exercise of the executive authority of the Republic in accordance with section 85(2)(b) of the Constitution of the Republic of South Africa, 1996 (Act No 108 of 1996), on 28 June 2000 the Cabinet made a policy decision on the management of deductions on the government's payroll;

AND

WHEREAS the management of deductions on the government's payroll is a treasury matter and accordingly has to be regulated in terms of the Public Finance Management Act, 1999 (Act No 1 of 1999);

NOW THEREFORE, I, Trevor Andrew Manuel, MP, in my capacity as Minister of Finance and head of the National Treasury, and acting in terms of section 76 of the Public Finance Management Act, 1999, make this Treasury Regulation

Definitions

1. In this Treasury Regulation, unless the context indicates otherwise, a word or expression to which a meaning has been assigned in the Act, has the same meaning, and-

- (a) "Act" means the Public Finance Management Act, 1999 (Act No 1 of 1999);
- (b) "benefit deduction" means a deduction on Persal against an employee's salary for the purpose of facilitating the payment of a debt arising from an employee's benefits in terms of his or her conditions of employment or appointment, including payments in respect of a home owner's allowance and the motor finance scheme for senior government employees;
- (c) "collective agreement deduction" means a deduction on Persal against an employee's salary arising from a collective agreement entered into by and between the State in its capacity as employer and a union registered with the Public Service Co-ordinating Bargaining Council in accordance with applicable law;
- (d) "debt" means amounts of money owed and already payable by an employee to any person;
- (e) "Director-General" means the Director-General: National Treasury;
- (f) "discretionary deduction" means a deduction on Persal against an employee's salary, other than a benefit deduction, a collective agreement deduction, a State deduction and a statutory deduction;
- (g) "employee" means a person employed by or appointed to a department or an executive authority, and includes a magistrate contemplated in section 1 of the Magistrate's Act, 1993 (Act No 90 of 1993) and

employees of constitutional institutions;

- (h) "Persal" means the personnel salary system of government in the national and provincial sphere and includes reference to Persol;
- (i) "person" depending on the context, includes reference to the State or any other juristic body;
- (j) "responsible official" means an accounting officer contemplated in section 36 of the Act or such other persons to whom that accounting officer has delegated, a function to be performed in terms of this Treasury Regulation;
- (k) "State deduction" means a deduction on Persal against an employee's salary for the purpose of paying a debt owed to a department or constitutional institution and which is subject to section 34 of the Basic Conditions of Employment Act, 1997 (Act No 75 of 1997):
- (l) "statutory deduction" means a deduction on Persal against an employee's salary which is required or permitted in terms of a law, court order or arbitration award.

2. Application

This Treasury Regulation applies to all departments and constitutional institutions.

3. Persal Deductions

(1) Subject to item 5, no employee of a department or constitutional institution or of any agency, company or consultant contracted to operate Persal may, for the purpose of the payment of any debt or any other purpose, process a discretionary deduction with effect from the date of the commencement of this Treasury Regulation.

(2) Before a benefit deduction, a collective agreement deduction, a state deduction or a statutory deduction is processed on Persal, the responsible official must certify that such deduction is due and that he or she is satisfied that no portion of any such deduction is a discretionary deduction.

(3) The responsible official must, if the certification contemplated in sub-item (2) is in respect of an emoluments attachment order issued against an employee in terms of section 65J of the Magistrates' Court Act, 1944 (Act No 32 of 1944), state that he or she is satisfied that

- (a) the documentation presented by the judgment creditor or his or her attorney inter alia reflects that as contemplated in section 65J(2) of the Magistrates' Court Act, 1944:
 - (i) the employee concerned has in writing consented to the issuing of the emoluments attachment order or, in the absence of such consent, the court has authorised that it be issued, whether on application or otherwise, and such authorisation has not been suspended; or
 - (ii) that the judgment creditor or his or her attorney has first sent a registered letter to the employee concerned advising him or her of the amount of the judgment debt and costs as yet unpaid and warning him or her that an emoluments attachment order will be issued if the said amount is not paid within ten days of the date on which that registered letter was posted;
- (b) after satisfaction of the emoluments attachment order, the employee concerned will have sufficient means for his or her own and his or her dependant's maintenance: Provided that if the responsible

official's assessment reflects that after satisfaction of the emoluments attachment order, the concerned employee will not have sufficient means for his or her own or his or her dependant's maintenance, he or she must ensure that the judgment creditor or his or her attorney is so advised and requested- to inform the court in order that the court either rescind the emoluments attachment order or amend it in such a way that it will affect only the balance of the emoluments of the employee concerned over and above such sufficient means.

4. Non-compliance with this Treasury Regulation constituting misconduct

(1) Any serious or persistent material non-compliance with the provisions of this Treasury Regulation constitutes misconduct.

(2) The accounting officer of a department or constitutional institution must, in terms of applicable statutory provisions or other conditions of appointment or employment applicable to any person involved in conduct contemplated in sub-item (1), take disciplinary steps against such person.

(3) The Director-General or such other person who has been delegated by the Director-General, including an employee of another department or constitutional institution, may, on just cause and despite any other provision of this Treasury Regulation, exclude any person from receiving a deduction through Persal.

5. Transitional Arrangements

(1) A discretionary deduction which, at the date of commencement of this Treasury Regulation, had been registered against an employee's salary on Persal, remains so registered until 30 June 2001 or until such earlier date requested by the employee.

(2) A discretionary deduction contemplated in sub-item (1) may, from the date of commencement of this Treasury Regulation to 30 June 2001, be amended upwards only once and only in respect of insurance premiums: Provided that such upward amendment may not exceed 15% of the premium due.

6. Short Title and commencement

This Treasury Regulation shall be called the Payroll Deduction Regulation, 2000 and takes effect on 1 September 2000.

T A MANUEL, MP
MINISTER OF FINANCE
Date: 31.08.00