



MEMORANDUM OF UNDERSTANDING

BETWEEN

THE NATIONAL GOVERNMENT OF THE REPUBLIC OF SOUTH AFRICA

AND

THE NORTH WEST PROVINCIAL GOVERNMENT

ON

THE COORDINATION OF THE INVOCATION OF SECTION 100(1)(a) and (b)

OF THE CONSTITUTION OF THE REPUBLIC OF SOUTH AFRICA, 1996

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PREAMBLE

WHEREAS the National Government has invoked section 100(1)(a) and (b) of the Constitution of the Republic of South Africa, 1996, in the North West Provincial Administration;

WE, the National Government and the North West Provincial Government (herein referred to as the "Parties");

RECOGNISING that the Constitution provides that the Republic is one, sovereign, democratic state and that the government is constituted as national, provincial and local spheres of government, which are distinctive, interdependent and interrelated;

BEARING IN MIND that the Constitution requires all spheres of government to provide effective, efficient, transparent, accountable and coherent government for the Republic to secure the well-being of the people and the progressive realisation of their constitutional rights;

AND RECOGNISING that this MOU is binding upon Members of the Executive Committee in the North West Province;

NOW THEREFORE, the Parties undertake to collaborate as set out in this Memorandum of Understanding (hereinafter referred to as "MoU").

1 DEFINITIONS

1.1 In this MOU, unless the context indicates otherwise—

"Administrators" means the officials appointed by the relevant National Ministers and deployed by the relevant National Departments for purposes of the Intervention in terms of section 100(1) (a) and (b) of the Constitution, to implement the Intervention;

"Commencement Date" means the date on which the section 100(1)(a) and (b) Intervention was invoked and consequently commenced in the North West Province;

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“Constitution” means the Constitution of the Republic of South Africa, 1996;

“Coordination Committee” means the Committee referred to in paragraph 6(3) of this MOU;

“Director-General” means the Director-General of the North West Province as listed in schedule 1 of the Public Service Act, 1994;

“DPME” means the national Department of Planning, Monitoring and Evaluation as established in terms of Schedule 1 of the Public Service Act, 1994 (Proclamation 103 of 1994);

“EXCO” means the Executive Council of the Province established by the Premier in terms of section 125 of the Constitution of the Republic of South Africa, 1996;

“Heads of Department” means Heads of Department in the North West Province as listed in schedule 2 of the Public Service Act, 1994, where section 100(1)(a) was invoked;

“Inter-Ministerial Task Team” means the Task Team of National Ministers established by the National Government to monitor the Intervention;

“Intervention” means the process by the National Government of ensuring fulfilment of that obligation including issuing a directive to the provincial executive or assuming responsibility for the relevant obligation, in terms of section 100(1)(a) or (b) of the Constitution respectively;

“Intervention Teams” means those teams nominated by national Ministers responsible for intervening under section 100(1)(a) or (b) of the Constitution;

“National Departments” means all the National Departments which have been designated to implement the Section 100(a) or (b) invoked by the National Executive;

“National Executive” means the President who exercises the Executive Authority, together with the other members of the Cabinet as provided for in section 85 of the Constitution;

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“North West Co-ordinator” means the official designated by the Inter-Ministerial Task Team Convenor, to take responsibility for, and to co-ordinate the implementation of section 100(1)(a) and (b) in the Province;

“Province” means the North West Province;

“Provincial Departments” means all the Departments in the North West Provincial Administration; and

“Technical Task Team” means the Task Team of National Directors-General and other senior officials established to support their relevant Ministers who are members of the Inter-Ministerial Task Team.

2. BACKGROUND

- 2.1 The National Executive has constituted an IMTT comprised of Ministers and convened by the Minister in the Presidency responsible for Planning, Monitoring and Evaluation.
- 2.2 The IMTT Convenor is acting on behalf of the IMTT in terms of reporting to State structures like the Cabinet and National Council of Provinces.
- 2.3 The IMTT Convenor is assisted by the Director-General of DPME in executing her responsibilities, who in turn chairs the Technical Task Team (TTT) comprised of Directors-General of the respective departments and other senior officials.

3 PURPOSE OF THE MOU

- 3.1 The purpose of this MOU is to—
 - 3.1.1 Outline the roles and responsibilities of the Parties to the MOU in relation to implementation of the section 100(1)(a) and (b) intervention process in the Province;



- 3.1.2 provide a framework for communication of the ongoing expectations of the National Executive during the implementation of the Intervention;
- 3.1.3 create a conducive environment for, and coordinate, the implementation of the section 100(1)(a) and (b) Intervention;
- 3.1.4 enhance transparency of the Intervention;
- 3.1.5 ensure that all involved Parties remain actively committed to the implementation of the Intervention;
- 3.1.6 ensure that the Intervention Plans are, and remain, the only basis in terms of which the turnaround of the Departments is achieved;
- 3.1.7 confirm the governance and monitoring arrangements for the implementation of the section 100(1)(a) and (b) Intervention;
- 3.1.8 ensure cooperation between the North West Provincial Government and National Government with regard to the Intervention;
- 3.1.9 clarify pertinent issues that need intervention in the process of restoring good governance and public administration; and
- 3.1.10 determine milestones that must be achieved periodically.

4 COMMENCEMENT AND DURATION

This MOU comes into effect on the date of signing thereof; and shall remain in force until the achievement of the predetermined milestones under the Intervention Plan; and / or as may be decided by the National Government after consultation with the NCOP.

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5 ROLES AND RESPONSIBILITIES

5.1. The IMTT shall—

- 5.1.1 oversee the overall coordination of the North-West Intervention and report to the National Executive monthly;
- 5.1.2 issue all section 100(1)(a) or (b) directives through the relevant National Departments, as decided by the Cabinet and based on the intervention plan as approved by Cabinet;
- 5.1.3 appoint administrators who will assume responsibility for the relevant obligations in those Departments where section 100(1) (b) was invoked as decided by the Cabinet and based on the Intervention Plan as approved by Cabinet;
- 5.1.4 be appraised of all major decisions taken by the Provincial EXCO and Provincial Legislature in accordance with paragraph 5.2.3 below.
- 5.1.5 establish a reporting and communication line, for all departments in the province represented by HODs and Administrators, to the TTT through the Coordinating Committee as referred to in paragraph 6;
- 5.1.6 ensure that no Minister shall independently report to the Provincial EXCO or Provincial Legislature on his or her portfolio unless mandated by the IMTT;
- 5.1.7 establish a Coordinating Committee, contemplated in paragraph 5.1.5 herein, to manage the coordination and implementation of the section 100(1) (a) and (b) process in the Province.

5.2 The Premier shall:

- 5.2.1 support the initiatives of the IMTT in respect of the execution of the Intervention Plan approved by Cabinet;

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5.2.1 as far as possible, facilitate or promote the existence of a conducive environment for the IMTT deployed to implement the Intervention in the Province; and

5.2.3 ensure that all decisions taken by Provincial EXCO are shared with the Convenor of the IMTT before implementation.

6. COORDINATING COMMITTEE

6.1 The Convenor of the IMTT will appoint a Coordinator of the North West section 100(1)(a) and (b) Intervention, who will in turn establish and convene a Coordinating Committee.

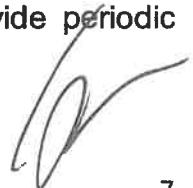
6.2 The Coordinating Committee will consist of a National administrator, National officials responsible for the implementation of section 100(1)(a) and (b), Provincial Director General and Provincial HODs of the Section 100(1)(a) and (b) Departments.

6.3 The Coordinator will report directly to the Convenor of the IMTT with regard to the activities of the Coordinating Committee and the implementation of the entire intervention.

6.4 The Coordinating Committee is responsible for the coordination of the implementation of section 100(1)(a) and (b) of the Constitution in the North West Province and shall—

6.4.1 hold at least weekly reporting meetings convened by the Coordinator, to receive, consolidate and report fortnightly on progress with the implementation of the section 100(1) to the TTT;

6.4.2 determine the full budget for the Intervention Plan based on individual Departmental inputs and thereafter provide periodic expenditure reports to the TTT;



- 6.4.3 immediately assign the necessary powers and functions to the administrators appointed to implement the intervention;
- 6.4.4 develop and adopt outcomes-based milestones for every Department and report thereon.
- 6.5 The TTT will prepare and present monthly progress reports to the IMTT and the Cabinet as well as to the designated Parliamentary structures as required;
- 6.6 The Coordinating Committee shall represent the interests of all affected Departments and ensure that all strategies are geared towards finalising the Intervention, and the anticipated exiting from the North West Province from the section 100(1)(a) and (b) Intervention;
- 6.7 The Coordinator on behalf of the IMTT will appraise the Provincial Executive Council on a monthly basis on the implementation of the Section 100 (1) and continuously update as and when determined by Provincial Executive Council.

7. PROTOCOLS

7.1 National Departments involved in the implementation of the Intervention Plan must develop and sign Protocols (Instruments) with respective Provincial Departments affected by Section 100 (1) (a) and (b), in terms of this MoU.

7.2.1 The powers and functions of the HoD without delays must be determined in order to determine the powers and functions necessary to implement the Section 100(1)(b) intervention. The determination must take into account the relevant departmental policies, delegations and codified instructions.



7.2.2 The Protocol must set out the specific powers and functions in respect of which the administrator will be responsible and the extent thereof and in respect of which the HoD remains responsible.

7.3 The Protocol must set out the communication lines by and between the officials and role-players involved in the implementation of the intervention.

8. COMMUNICATION

8.1 All stakeholders involved in the intervention shall ensure alignment of all forms and content of communication to the Government Communication and Information System (GCIS) policy regarding communication of governmental issues.

8.2 No official or stakeholder shall independently communicate the intervention issues/matters outside the established Intervention Communication Protocol.

9. DISPUTE RESOLUTION

9.1 The Parties undertake to settle any dispute that may arise out of the implementation of the Intervention process amicably, by mutual negotiations: provided that if this initial step fails, the dispute shall be submitted to the Convenor of the IMTT for arbitration.

9.2 If any of the parties is dissatisfied about the decision of the Convenor, that a Party shall be entitled to take further action to settle the dispute .

9.3 No Party shall resort to any court of law unless and until processes contemplated herein , have been exhausted.

10. AMENDMENT



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10.1 Any Party desiring amendment(s) to this MoU shall communicate its intention in this respect to the other Party; and submit the proposed amendment(s) in writing.

10.2 No amendment shall be of any force or effect until it is approved by the IMTT or the National Cabinet and signed by the Parties.

THUS DONE and signed at JOHANNESBURG on this 28th day of JUNE 2018.


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Dr Nkosazana Dlamini-Zuma
MINISTER- DPME & CONVENOR
IMTT



Prof Tebogo Job Mokgoro
PREMIER – NORTH WEST
PROVINCE

As Witnesses

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