



## NEWS FLASH

**TO THE NAPTOSA UNION REPRESENTATIVE**

### **Commencement of section 12 of the FETC Amendment Act, 2012: Transfer of staff to DHET on 1 April 2015**

The Minister of Higher Education and Training determined in Government Gazette No 37470, dated 26 March 2014, that section 12 of the FETC Amendment Act, insofar as it relates to staff other than management staff will come into operation on 1 April 2015.

This means that college staff (lecturers and support staff identified as transferees) will transfer to DHET only on 1 April 2015. Until then the status quo with regard to employment and employer (the college) will remain.

The National Implementation Task Team (NITT) established a 5-person working committee to develop *Business Rules* that will guide the transfer process. It is important that every college and all managers

understand and implement the two relevant collective agreements (separate agreement for lecturers and for support staff) in the same manner. The *Business Rules* will also be made available to staff members once completed.

We referred to the outdated management plan attached to FETCBU Collective Agreement 5 of 2014 (for lecturers) and 1 of 2015 (for support staff) in a previous news flash. The working committee will also update the management plan and incorporate it into the *Business Rules*. Having set the date of transfer on 1 April 2015 will allow enough time for stake holders to get everything order and to ensure that the process runs smoothly.

#### ***Transfer to DHET and conditions of service***

We indicated in FET News Flash 2 of 2014 that we would provide information on conditions of service matters set out in the collective agreements. In this regard please note the following:

1. When staff members are transferred their conditions of service “*will remain the same or shall on the whole not be less favourable than those on which they were employed on the day immediately prior to the transfer to the New Employer (DHET), provided the conditions of service are not less than what is provided for in terms of the Public Service Act (PSA). In such a case the terms and conditions of service of the PSA will apply.*”

The above implies that lecturers and support staff will transfer with their current conditions of service (unless the conditions of service are less favourable than other public servants’). Amendments to the conditions of service will have to be negotiated.

2. Lecturers and support staff getting so called “top ups”: The NITT will have to be provided with valid contracts in which the provisions for the “top up” are set out. In terms of section 197 of the Labour Relations Act individuals with valid contracts will be transferred with the “top up”. However, the state does not provide for “top ups” to be paid to public servants. In order to ensure that an individual will not be worse off than immediately prior to the transfer, the top up will most probably be incorporated into the basic salary of the individual.

Employees who were promoted, but on the Persal system remained on the lower post level, will be transferred on the promotion (higher) post level and higher salary notch, provided that a valid contract exists.

3. In terms of the Public Service Act (PSA) and regulations, GEPA Law and regulations and relevant policies and resolutions, all permanent employees of the state must belong to the Government Employees Pension Fund (GEPA), have access to medical aid subsidy and housing allowance and get a service bonus. On date of transfer this will also apply to all permanently appointed college staff and contract staff with employment contracts exceeding 6 months. However, employees who are currently getting 37% in lieu of benefits and who may experience problems when transferred on 1 April 2015 without the 37% cash benefit, will have until 1 April 2016 (12 months) to get their things in order and sort out all financial related issues. On 1 April 2016 all these staff members will automatically start contributing to GEPA. Employees who wish to join GEPA and access the other benefits from 1 April 2015 may do so.

The *Business Rules* will deal with this issue in more detail, as well as the situation of a person who are appointed in a permanent capacity, but who may wish not to transfer to DHET due to the benefits he/she is currently receiving as a college employee.

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