

**DIRCO proposed amendments
31 May 2018**

Clause 1: definitions

“**employee**”, for the purpose of this Act, means a person appointed to the Department or to any other national department in terms of the Public Service Act, 1994 (Proclamation 103 of 1994), or any other applicable legislation, and includes members of the Foreign Service in section 2”

“**prescribe**” means as defined by regulation in terms of clause 12, or defined in terms of codes or directives in terms of clause 9, and “prescribed” will have the same meaning

“**acquire**” in relation to an immovable asset, means acquisition through construction, purchase, lease and acceptance of a gift outside the Republic, for use by the Foreign Service.

“**immovable asset**” means land or an immovable structure on land, or rights in such land or immovable structure.

“**GIAMA**” means the Government Immovable Assets Management Act, 2007 (Act No. 19 of 2007).

“**this Act**” includes all its regulations, codes and directives.

Clause 1BIS: Application (new clause)

“(1) Subject to the provisions of this Act, the conditions of service of members of the Foreign Service must be governed by the law governing that employee’s conditions of service.

(2) Where this Act conflicts with provisions of the Public Service Act, 1994, or any other legislation, and it is not possible to read the conflicting provisions as complimentary to one another, this Act shall prevail.”

Clause 2(3)(d): Foreign Service

“render consular services to South African citizens in distress abroad and consular notarial services in line with the Guidelines for the Provision of Consular Services.”

Clause 3(2): Requirements for Members of the Foreign Service

“(a) The head of a national department must, in writing, notify the Director-General of an employee who has approval from that national department to be transferred.

(b) No member of the Foreign Service may take up a position at a South African Mission until such time-

- (i) as he or she has met the prescribed requirements for such transfer;

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- (ii) as he or she has obtained a security clearance as issued by a competent authority; and

approval for the transfer has been granted by the Director-General.”

Clause 5BIS: Recall (international law) (new clause)

(1)(a) A member of the Foreign Service must be recalled to the Republic:

- (i) when the Republic ceases to have diplomatic or consular representation in the foreign State where the member was transferred;
- (ii) if the member is declared persona non grata by the State where that member was transferred; or
- (iii) At the request of the State where that member was transferred.

(b) A member of the Foreign Service may be recalled to the Republic where such circumstances arise that would warrant the recall of that member in the interest of the Republic: Provided that the recall is reasonable and that written reasons are provided to the member.

Clause 8: Immovable assets

(1) Notwithstanding the provisions of section 4(1)(a) of GIAMA, the Minister is the custodian of all Immovable Assets outside the Republic acquired for use by the Foreign Service

(2) The Minister must act as caretaker of the assets under her custodianship and must acquire and manage such assets as contemplated in section 13(1) and (2) of GIAMA.

(3) Notwithstanding the provisions of sections ⁴2(b)(i) and 13(3)(b) of GIAMA, the Minister may dispose of assets under her custodianship in accordance with this Act.

Clause 8BIS: Revenue collection for visa applications (new clause)

(1) Subject to the Public Finance Management Act, 1999, the Department is responsible for the collection of revenue related to applications for visas in terms of the Immigration Act, 2002 (Act No. 13 of 2002).

(2) Any amount collected by the Department in terms of subsection (1) must be deposited into the National Revenue Fund of the Republic and accounted for by the Department.

Clause 9: Codes and Directives

Remove all references to policies

Clause 10(1)(a): Delegation of powers

(a) Delegate to the Director-General any power conferred on the Minister by this Act, except the powers contemplated in section 12; or

Clause 12(4): Regulations (new sub-clause)

The Minister may make regulations after consultation with any other relevant national department.

