



REF NO : 8/2/4/1/1

**CIRCULAR NO. 15 OF 2012**

TO : DEPUTY DIRECTOR GENERAL  
CHIEF FINANCIAL OFFICER  
CHIEF DIRECTORS  
DIRECTORS  
DISTRICT DIRECTORS  
SCHOOL PRINCIPALS

FROM : ACTING HEAD: EDUCATION

DATE : 10 AUGUST 2012

**SUBJECT: COMPLIANCE WITH THE COURT ORDER: THE CENTRE FOR CHILD  
LAW at al // THE MINISTER AND DIRECTOR GENERAL FOR BASIC  
EDUCATION AND MEC AND HEAD OF DEPARTMENT FOR  
EDUCATION IN THE EASTERN CAPE: CASE NO: 1749/2012**

1. Consequently to an urgent application brought by the Centre for Child Law and School Governing Bodies for Oatlands Preparatory School at el to compel the Department to implement the educator post establishment declared for 2012 (PPN 2012), by making appointments to vacant posts by a specified date, to pay by a specified date the salaries of temporary teachers who had not been paid; to employ and pay teachers appointed by school governing bodies to vacant posts; declare the 2013 educator establishment, which include non-teaching staff, by specific dates, to make appointments to all substantive vacant posts, in respect of teachers and non-teaching staff, and to report on progress in the implementation of these orders and make the reports available for inspection at district offices and to parties, the Court ordered the Department as follow:
  - 1.1 Forthwith to implement PPN 2012 declared by the MEC in terms of section 5(1) (b) of the Employment of Educators Act, 1998 (Act 76 of 1998) and the educator establishment of public schools in the Eastern Cape issued in terms of section 5(2) of the Act.
  - 1.2 To implement the PPN 2012 for public schools in full, by appointing educators to all vacant substantive posts declared in the 2012 educator establishment for public schools on a permanent basis **by 2 November 2012.**

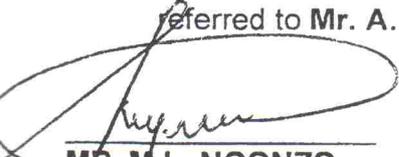
- 1.3 To appoint educators on a temporary basis pending the permanent appointment of all educators against all vacant substantive posts on PPN 2012 for public schools **by 2 September 2012**.
- 1.4 To pay the salaries of all educators whose appointment on temporary basis has been approved by the Department of Education, Eastern Cape, which the department has failed to pay, **by 17 August 2012**.
- 1.5 Where an educator:
- 1.5.1 been duly identified by the School Governing Body concerned, in accordance with the Memorandum of 10 November 2011 or the Circular of 19 April 2012, to fill a vacant substantive post recognized in the 2012 post establishment for public schools, and
- 1.5.2 been performing the functions of that post, such educator will be deemed to have been appointed as a temporary educator in terms of the EEA pending the permanent appointment of an educator against that vacant substantive post on the 2012 educator establishment for public schools
- 1.6 To pay the salaries of the educators referred to in paragraph 1.5 and/ or reimburse the school concerned from the date on which the educators assumed duty. In order for such payments to be made:
- 1.6.1 **By 17 August 2012**, the Department will provide the applicants attorneys with contact details for each district office in the province.
- 1.6.2 **By 3 October 2012**, the relevant schools with the provide the relevant district office with the following
- 1.6.2.1 the document demonstrating the approval of the School Governing Body
- 1.6.2.2 the name of the educator
- 1.6.2.3 the post in respect of which the educator assumed duty
- 1.6.2.4 the date and terms on which the educator assumed duty
- 1.6.2.5 proof of the attendance and /or rendering of service by the educator concerned; and
- 1.6.2.6 proof of payment by the school, if applicable
- 1.6.3 The payment will be made by the Department of Basic Education to the Provincial Head of Department within one month of the submission of the information referred to in paragraph 1.6.2
- 1.7 To declare the 2013 educator establishment of the Department of Education, Eastern Cape, in terms of section 5 (1)(b) of the EEA.
- 1.8 to declare the 2013 establishment for public schools in the Eastern Cape in terms of section 5 (2) of the EEA and Public Service Act, 1994, Proclamation 103 of

1994 (as applicable) by not later than 30 September 2012, such establishments to include posts in respect of educators and non-educator personnel.

- 1.9 Ensure that the 2013 educator establishments for public schools declared in terms of paragraph 8 above consist of posts that are fully funded, shall ensure that educators and non-educator personnel are appointed to, and assume, these posts, by no later than 31 January 2013.
- 1.10 Department shall make a report available for inspection at each district office and to the parties on 3 September 2012, 4 December 2011 and 31 January 2013, such reports to contain at least details of:
  - 1.10.1 The steps taken to appoint educators on a permanent or temporary basis to fill vacant posts against the 2012 educator establishment for public schools in terms of paragraph 2 and 3 above
  - 1.10.2 The steps which have been taken to transfer and / or ensure the movement of teachers who are additional to the educator establishment of their schools in terms of the 2012 educator establishment for public schools and
  - 1.10.3 The steps taken to ensure payment of educators in terms of paragraph 4 and above;
  - 1.10.4 The steps taken to declare the 2013 establishment in terms of paragraphs 7 and 8 above, and the steps taken to implement them.
2. To comply with the granted Court Order as listed above, the following instruction must be implemented forthwith:
  - 2.1 A project team to manage and coordinate the implementation and reporting in regard to paragraph 1.10 above, has been set up and include the Deputy Director-General for Institution and Operations Management (I.O.M) for the provincial administration and the Leader of the National Intervention Team. Mr. A. Mtirara, CES: Collective Bargaining & Policy Research in the Directorate: Labour Relations in this province is appointed as the Project Leader.
  - 2.2 Each district office to nominate three (3) human resource practitioners to capture and approve the appointment of all temporarily employed educators that have not yet received remuneration. The nominated practitioners are to report to Head Office (Education Leadership Institute) on **Monday, 13 August 2012** with all the relevant complete files of the affected temporary educators. All districts are required to nominate only the relevant personnel that are responsible for the function of appointments and are competent on the PERSAL system in the district. The District Offices are responsible to provide transport for the said offices and the Head Office will be responsible to provide accommodation.

- 2.3 Each district office must provide the list of all substantive vacancies in the school post establishments issued in terms of PPN 2012, including the list of additional educators. In instances where they were properly identified and/ or volunteered identified themselves provided the relevant profiles to assist in the matching of such personnel against the existing substantive vacant posts.
- 2.4 The School Principals in the relevant schools that have existing substantive vacancies referred to in the preceding paragraph are required to submit the lists and the profiles of such vacancies to assist in the process of educator post matching process as required in terms of the order. This information must be submitted to the district offices **not later than the 20 August 2012**.
- 2.5 <sup>ND</sup> The District Offices to provide to head office not later than 13 August 2012 the list and profiles of all temporary educators who have not yet been appointed but have registered at the district office in terms of paragraph 4.1 of the Collective Agreement No.1 of 2012 of the Education Labour Relations Council in this Province (PELRC).
- 2.6 In addition, all districts are required to submit all the information regarding outstanding payments and list of all temporary educators that were duly appointed but have not yet been paid up to date.
- 2.7 Regarding the non-teaching support staff at public schools including special schools all district offices are required to provide the list of available vacancies and existing personnel **not later than 30 September 2012**.
- 2.8 <sup>Def</sup> <sup>Pg 15, 16</sup> <sup>Court order</sup> <sup>Par 5, 6.2</sup> Regarding the payment of temporary educators who were appointed by the School Government Bodies to fill substantive vacant posts referred to in paragraph 1.5 the affected schools are required to submit all the relevant information to District Offices for collation and submission to **PricewaterHouseCoopers** for verification and validation of the entitlement as per the provisions outlined on paragraph 6 of the Court Order. Each District shall collate all the said information and submit through the Internal Audit division of this department.
- 2.9 All the District Directors are designated as Information Officers in this regard and are required to ensure that all the relevant reports with specific reference to their districts are available for inspection as required in term of paragraph 1.10 above.
- 2.10 In the implementation of this Court Order all the District Offices are required to ensure the District Implementation Teams as envisaged in the Management Plan to implement the Collective Agreement mentioned on paragraph are functional and kept informed of the developments in this regard.

- 2.11 To give effect to this internal memorandum regarding the implementation of the Court Order all the relevant functionaries in the department and relevant stakeholders must strictly adhere without fail to the attached Management plan in the implementation of the court order.
3. All endeavors have been made to explain the complexity of the Court Order and Management plan in the meeting of the Human Resource Managers convened on 10 August 2012. However, should further information be required regarding the Court Order or management plan be required such enquiries should be referred to **Mr. A. Mtirara the Project Leader at 040-608 4505/ 0761916615.**



**MR. M.L. NGONGO**

**ACTING HEAD: EDUCATION: PROVINCE OF EASTERN CAPE**