

Law n.º 12-A/2008 of 27th February

Establishing job attachment, careers and remuneration regimes of staff fulfilling public functions

The Assembly of the Republic decrees under the terms of paragraph c) of Article 161 of the Constitution as follows:

TITLE I

Object and scope of application

Article 1

Object

1 – The present law defines and regulates the job attachment, careers and remuneration regimes of staff fulfilling public functions.

2 – Complementarily, the present law defines the judicial and functional regime applicable to each form of the public employment legal relationship.

Article 2

Subjective scope of application

1 – The present law is applicable to all staff fulfilling public functions, irrespective of the form of job attachment and constitution of the public employment legal relationship under which the respective functions are performed.

2 – The present law is also applicable with any necessary adaptations, to current staff with the status of civil servant or employee of legal entities who are excluded from its objective scope of application.

3 – Without prejudice to the provisions set out in paragraph a) and e) of no. 1 of Article 10, the present law is not applicable to the Armed Forces and the National Republican Guard, the attachment careers and remuneration regimes of which are set out in special laws.

4 – The special laws for revision of job attachment, careers and remunerations regimes referred to in the preceding number comply with the underlying principles to Articles 4 to 8, numbers 1 to 3 of Article 9, Articles 25 to 31, 40 and 41, numbers 1 to 4 of Article 42, numbers 1 and 2 of Article 43, no. 1 of Article 45, Articles 46, 47 and 50, numbers 1 and 3 of Article 66, Article 67, numbers 1 and 2 of Article 68, no. 1 of Article 69, Articles 70, 72, 73, 76 to 79, 83 and 84, no. 1 of Article 88, Articles 101 to 103, numbers 1 to 3 of Article 104, Article 109, no. 1 of Article 112, Articles 113 and 114, numbers 1 to 3 and 6 to 10 of Article 117 and Article 118, with the adaptations imposed by the organisation of the Armed Forces or the National Republican Guard and by the competences of the respective bodies and services.

Article 3

Objective scope of application

1 – The present law is applicable to direct and indirect state administration services.

2 – The present law is also applicable with the necessary adaptations, namely, to competences pertaining to administrative matters of corresponding supporting organs to the Government, regional and local authority administrative services.

3 – The present law is also applicable, with any adaptations imposed by the observance of corresponding competences, to organs and supporting services of the President of the Republic, Parliament, the Courts and Public Prosecutor's Office and respective management organs and of other independent organs.

4 – The applicability of the present law to the external outlying services of the State, to local staff or in other ways recruited and performing duties therein, in no way prejudices the validity and effectiveness of:

- a) Norms and principles of International Law except where otherwise provided;
- b) Legal regimes that are locally applicable; and
- c) Special instruments and legal internal mobility measures.

5 – Without prejudice to provisions set out in no. 2 of the preceding Article, the present law is not applicable to public corporations and to the supporting offices of Members of the Government or holders of organs referred to in numbers 2 and 3.

TITLE II

Human resources management

Article 4

Planning of activity and resources

1 – Taking into consideration the mission, attributions, strategy, superiorly set objectives, the competences of organic units and available financial resources, organs and services plan, in the preparation of the draft budget, activities, of a permanent or temporary nature, to be developed during its implementation, any likely changes to be introduced in the flexible organic units, as well as the respective establishment plan.

2 – The data referred to in the preceding number accompany the respective draft budget.

Article 5

Establishment plans with work posts needed for the performance of functions of a service

1- Establishment plans with work posts indispensable for the performance of functions of a service contain an indication of the number of work posts that the organ or service needs for the development of the respective activities, characterised according to:

- a) Attribution, competence or activity that the person who fills the work post is intended to comply with or perform;
- b) Corresponding position or career and category;

- c) The area of academic or vocational training of the person who is to fill the work post, whenever deemed indispensable within each career and, or category.
- 2 – In the de-concentrated organs and services, establishment plans are spread out in as many plans as the de-concentrated organic units.
- 3 – Establishment plans are passed, maintained or changed by the competent authority for the passage of the draft budget and made known by affixing them in the organ or service or insertion on the electronic page, so must remain.
- 4 – The change of establishment plans that imply a reduction in work posts is based on the reorganisation of the organ or service under the terms legally provided.

Article 6

Human resources management according to establishment plans

- 1 – Taking establishment plans into consideration, the organ or service checks if the number of staff in functions are sufficient, insufficient or excessive.
- 2 – If the number of staff performing functions is deemed insufficient, the organ or service, without prejudice to the provisions set out in paragraph b) of no. 1 and numbers 3 and 4 of the following Article, may promote the recruitment of staff needed to fill the work posts in question.
- 3 – The recruitment referred to in the preceding number, to fill work posts necessary for the performance of activities is carried out with recourse to the constitution of public employment legal relationships for an indefinite period of time, except when such activities are of a temporary nature, in which case recruitment is carried out with recourse to the constitution of public employment legal relationships for a determined or determinable time.
- 4 – Recruitment for the constitution of public employment legal relationships for an indefinite period of time in the forms provided for in no. 1 of Article 9 always begins among staff with a public employment legal relationship for a previously established period of time.
- 5 – Recruitment for the constitution of public employment legal relationships for a determined or determinable period of time in the forms provided for in no. 1 of Article 9 always begins among staff who:
- a) Do not wish to maintain the status of individuals subject to public employment legal relationships constituted for an indefinite period of time; or
 - b) Those in a special mobility situation.
- 6 – In case of the impossibility of filling all or some work posts as a result of the application of provisions set out in the preceding numbers, the organ or service, after a favourable opinion by members of the Government responsible for finance and public administration, may recruit staff with a public employment legal relationship for a determined or determinable period of time or without a previously established public employment legal relationship.
- 7 – The significance and date of the opinion referred to in the preceding number is expressly mentioned in the recruitment procedure in question.
- 8 – Under the conditions provided for in no. 4 of the preceding Article, if the number of staff in functions is deemed excessive, the organ or service begins by taking the necessary legal steps for the termination of public employment legal relationships constituted for a determined or determinable period of time that does not need and when necessary, applies to the remaining regime legally provided for, including that of placement of staff in a special mobility situation.

9 – The recruitment provided for in no. 5 may also take place when specially provided for by law, by way of specific selection laid down by reason of duly grounded scientific, specialised or artistic aptitude.

Article 7

Budgeting and management of staff expenses

1 – Organs or services budget appropriations assigned to staff expenses are intended to bear the following types of charges:

- a) Remuneration of staff who must maintain the performance of functions in the organ or service;
- b) Recruitment of staff needed to fill the work posts provided for, and not filled, in the establishment plans passed and, or with changes in pay stepping in the category of public employees who maintain the fulfilment of functions;
- c) Grant of performance bonuses to staff of the organ or service.

2 – Without prejudice to the provisions set out in no. 6 of Article 47, budgeting of the types of charges referred to in the paragraphs b) and c) of the preceding number is made in an equitable way among the organs or services and have as a basis weighting relating to:

- a) Objectives and activities of the organ or service as well as the motivation of the respective staff, with regard to what has been referred to in paragraph b) of the preceding number;
- b) Level of performance accomplished by the organ or service in the preceding year to that of the preparation of the draft budget, in relation to what has been referred to in paragraph c).

3 – It is incumbent upon the top manager of the organ or service, after the factors referred to in paragraph a) of the preceding number have been weighted, to decide on the maximum amount of each one of the types of charges referred to in paragraph b) of no. 1 that he proposes to bear. The top manager may opt, without prejudice to the provisions set out in no. 6 of Article 47, for the integral allocation of budget allotments corresponding to only one of the types.

4 – The decision referred to in the preceding number is taken within the time limit of 15 days after the beginning of the budget implementation.

5 – Whenever the totality of budget appropriations intended to bear the type of charges referred to in the paragraph b) of no.1 is not used, the remaining part is added to those which are destined to bear the charges referred to in paragraph c) of the same number.

TITLE III

Job attachment regimes

CHAPTER I

Constitution of the public employment legal relationship

SECTION I

Requirements relating to staff

Article 8

Requirements

The constitution of the public employment legal relationship depends upon the following requirements by the staff, in addition to others provided for in the law:

- a) Portuguese nationality, when not waived by the Constitution, international convention or special law;
- b) Aged 18 or over;
- c) Non-inhibition of fulfilment of public functions or no ban on the performance of those which to be performed;
- d) Physical robustness and profile indispensable to the fulfilment of functions;
- e) Compliance with laws relating to the compulsory vaccination.

SECTION II

Forms of public employment legal relationship

Article 9

Forms

1 – The public employment legal relationship is constituted by appointment or by employment contract in public functions, hereinafter called by contract.

2 – The appointment is the unilateral act of the public employer entity the effectiveness of which depends upon the acceptance of the appointee.

3 – The contract is the bilateral act concluded between a public employer entity, with or without legal personality, acting on behalf and in representation of the State, and an individual, under the terms of which a subordinate employment relationship of an administrative nature is constituted.

4 – The public employment legal relationship is also constituted by means of a limited executive tenure whenever it deals with:

- a) The performance of posts not inserted in careers namely managers;
- b) Attendance at a specific training course or the obtaining of a certain academic degree or of a professional title before the experimental period in which begins the appointment or the contract, for the fulfilment of functions integrated into a career; in both cases by those who are subject to a public employment legal relationship for a previously constituted indefinite period of time.

SECTION III

Appointment

Article 10

Scope of appointment

Staff are appointed according to their integration in careers suitable for that purpose and who are charged with compliance with or the performance of attributions, competences and activities relating to:

- a) Generic and specific missions of the Armed Forces in permanent establishment plans;

- b) External representation of the State;
- c) Security Intelligence;
- d) Criminal investigation;
- e) Public Security Forces, including warders;
- f) Inspection.

Article 11

Forms of appointment

- 1 – The appointment assumes the forms of permanent appointment and temporary appointment.
- 2 – A permanent appointment is for an indefinite period of time, without prejudice to the experimental period provided for and regulated in the following Article.
- 3 – A temporary appointment is made for a determined or determinable period of time.

Article 12

Permanent appointment experimental period

- 1 – The permanent appointment of a public employee to any career and category begins with an experimental period designed to prove whether the public employee has the skills required to fill the post.
- 2 – The experimental period has one year duration unless otherwise stated by a special law.
- 3 – During the experimental period the public employee is coached by a Selection Board especially composed for this purpose, and charged with his/her final assessment.
- 4 – The final assessment takes into consideration the data that the Selection Board has collected, the report that the public employee must submit and results of attended training activities.
- 5 – The final assessment is translated into a scale ranging from 0 to 20 marks, and the experimental period is deemed successfully completed when the public employee has reached an assessment not lower than 14 or 12 marks, according it deals with or not, of career or category of grade 3 of functional complexity.
- 6 – After being successfully completed the experimental period is formally marked by an act in writing by the competent entity for the appointment.
- 7 – The length of service that elapsed in the successfully completed experimental period is calculated, for all legal purposes, towards the career and category in question.
- 8 – After successfully completing the experimental period, the appointment terminates and the public employee returns to the juridical and functional situation that was previously held, when constituted and consolidated for an indefinite period of time, or terminates the public employment legal relationship, in either case without right to compensation.
- 9 – By specially grounded act of the competent entity, and hearing of the Selection Board, the experimental period and the appointment may terminate beforehand when the public employee manifestly reveals not to possess the competences required for the work post to be filled.

10 – The length of service elapsed in the experimental period that has been unsuccessfully completed is taken into consideration, being the case, in the career and category to which the public employee returns.

11 – The rules provided for in the general law on the open competition procedure for recruitment purposes of staff are applicable, with any necessary adaptations, to the constitution, composition, functioning and competence of the Selection Board, as well as the homologation and administrative objection of results of the final assessment.

Article 13

Provisional appointment regime

1 – Prerequisites for recourse to the provisional appointment, to the experimental period and its duration and renewal are applicable, with any necessary adaptations, to provisions suitable to the Employment Contract Regime in Public Functions (RCTFP) relating to the term of the employment contract concluded to meet the urgent public and temporary needs of public legal entities under the situations of substitution of a civil servant or contractual staff who are temporarily prevented from providing services.

2 – The recruitment area of the provisional appointment is constituted by public employees who do not have or do not intend to preserve the status of persons subject to public employment legal relationships constituted for an indefinite period of time, as well as for those who are in a special mobility situation.

Article 14

Forms of appointment

1 – The appointment assumes the form of an order and may consist in a mere declaration of agreement with a prior proposal or information that, in this case is part and parcel of the act.

2 – The appointing order sets out a reference to legally enabling provisions and to the existence of adequate budget commitment.

Article 15

Acceptance of the appointment

1 – The acceptance is the public and personal act by which the appointee declares he/she accepts the appointment.

2 – Acceptance is formalised by means of the signature of the appointee on a document, and the model of said document being passed by order of the member of the Government responsible for the Public Administration area.

3 – In the act of acceptance the public employee shall take the following oath:

“I solemnly swear that I will faithfully perform the office with which I am invested, with respect to the duties that result from the Constitution and the law”.

Article 16

Competence

1 – The competent entity for the appointment is also responsible for the signing of the document of acceptance.

2 – The competence provided for in the preceding number may, at the request of the organ or service, even though, on the initiative of the public employee, be performed by the civil governor or, abroad by the diplomatic or consular authority.

Article 17

Time limit for acceptance

1 – Without prejudice to the provisions set out in special laws, the time limit for acceptance is 20 days; consecutively calculated, from the date of publication of the act of appointment.

2 – In duly justified cases, namely, of disease and holidays, the time limit provided in the preceding number may be extended, for determined periods of time, by the entity responsible for the signature on the respective document of acceptance.

3 – In case of absence due to maternity, paternity or adoption, of leave caused by an accident at work or occupational disease and military service, the time limit provided for in no. 1 is automatically extended for the termination of such situations.

Article 18

Effects of acceptance

1 – The acceptance determines the beginning of functions for all legal effects, namely, those relating to receiving remuneration and calculation of the length of service.

2 – In cases of absence on grounds of maternity, paternity or adoption and of absences due to an accident at work, occupational disease, the receiving of remuneration arising from a permanent appointment has retroactive effects as from the date of publication of the respective act.

3 – In the cases provided for in no. 3 of the preceding Article, the calculation of the length of service arising from the permanent appointment has retroactive effects as from the date of publication of the respective act.

Article 19

Non-acceptance

1 – The competent entity responsible for the signing of the document of acceptance cannot under penalty of civil, financial and disciplinary liability refuse to do so.

2 – Without prejudice to the provisions set out in special laws, the non-acceptance of the appointee leads to automatic repeal of the act of appointment without the possibility of repeating the procedure in which the act was practised.

SECTION IV Contract

Article 20

Scope of contract

The staff who are not appointed are contracted and their public employment legal relationship must not be constituted under a limited executive tenure.

Article 21

Contract forms

1 – The contract assumes the forms of contract for an indefinite period of time and fixed or unfixed term employment contract for the performance of functions of a subordinate nature, under an administrative law regime of a predictable duration and that may not be fulfilled by appointed or contracted staff.

2 – The length of service that elapsed in the experimental period that has been unsuccessfully completed is calculated, being the case, in the career and category to which the public employee returns.

Article 22

Prerequisites and recruitment area of the term employment contract concluded to meet urgent public and temporary needs of public legal entities in situations, requiring the substitution of a civil servant or contractual staff and temporarily prevented from providing services

1 – The prerequisites of the recourse to the term employment contract concluded to meet urgent public and temporary needs of public legal entities in situations requiring the substitution of a civil servant or contractual staff temporarily prevented from providing services are those provided for in the RCTFP.

2 – The recruitment area of the aforementioned contract is constituted by public employees who have not, or do not intend to preserve the status of individuals subject to public employment legal relationship constituted by an indefinite period of time as well as by those who are placed in a special mobility situation.

SECTION V

Limited executive tenure

Article 23

Duration and renewal

1 – Unless otherwise stipulated by special law, limited executive tenure is of three years duration, successively renewable for equal periods.

2 – The length of service elapsed under a limited executive tenure is calculated, towards the career and category to which the public employee returns.

Article 24

Taking office

1 – Without prejudice to provisions set out in special laws, the acceptance of fulfilment of positions under a limited executive tenure assumes the form of taking office.

2 – Taking office is a public, personal and solemn act whereby the public employee expresses willingness to accept performance of the post.

3 – The provisions set out in Article 14, in numbers 2 and 3 of Article 15, Articles 16 and 17, in no.1 of Article 18 and Article 19 are applicable to the limited executive tenure and the taking of office, with any necessary adaptations.

CHARTER II

Guarantees of impartiality

Article 25

Incompatibilities and impediments

1 – The existence of incompatibilities and impediments contributes to guarantee impartiality in the performance of public functions.

2 – Without prejudice to provisions set out in the Constitution, in Articles 44 to 51 of the Code of Administrative Procedure and in special laws, the incompatibilities and impediments to which public employees are subject are those provided for in the present chapter, irrespective of the form of the constitution of the public employment legal relationship under which they perform functions.

Article 26

Incompatibility with other functions

Public functions are, as a rule, fulfilled on an exclusivity basis.

Article 27

Holding more than one public post or office along with other public functions

1 – The performance of functions along with other public functions is possible provided that the latter are not remunerated and the plurality of functions is of manifest public interest.

2 – Should these functions be remunerated and if there is manifest public interest in this plurality of functions, the performance of functions may only be simultaneously performed with other public functions in the following cases:

- a) Inherences;
- b) Activities of representation of organs or services or of ministries;
- c) Participation in commissions or working groups;
- d) Participation in advisory councils and supervisory commissions or other collegiate organs, in this case for supervisory or control of public monies;
- e) Activities of an occasional or temporary nature that may be deemed complement to the function;

- f) Teaching or research activities of duration not longer than that of set by order of the members of the Government responsible for finance, Public Administration and higher education and that, without prejudice to, or compliance with the weekly working hours schedule, of not more than one third of the working hours inherent in the main function;
- g) Holding of conferences, lectures, short duration training actions and other activities of an identical nature.

Article 28

Plurality of public functions with private functions

- 1 – Without prejudice to the provisions set out in the following numbers, the fulfilment of public functions may be held simultaneously with private functions or activities.
- 2 – Functions or private competitive or similar activities must not be held on a plurality basis, by a public employee or through an intermediary person with those of public functions and that conflict with them, on a remunerated or non-remunerated basis or on an autonomous or subordinate regime
- 3 – The functions or activities that have a similar content to that of public functions performed and developed in a permanent or usual way that are also directed at the same circle of recipients are covered by the provisions set out in the preceding number.
- 4 - The public employee or an intermediary must not hold on a plurality basis, private functions or activities on a remunerated or non-remunerated basis or on an autonomous or subordinate employment regime that:
 - a) are legally deemed incompatible with public functions;
 - b) are developed in an overlapping timetable, even though partially that of public functions;
 - c) jeopardises the neutrality and impartiality required for the performance of public functions;
 - d) cause any damage whatsoever to public interests or to the rights and interests of legally protected citizens.

Article 29

Authorisation for holding more than one public office or post

- 1 – The plurality of functions under the terms provided for in Articles 27 and 28 depends upon authorisation by the competent entity.
- 2 – A request must be submitted for this purpose setting out the following information:
 - a) Place at which the performance of functions or activities are held, on a plurality basis;
 - b) Timetable in which such plurality of functions is fulfilled;
 - c) Remuneration to be received, where necessary;
 - d) Autonomous or subordinate nature of the work to be developed and respective job content;
 - e) Grounds whereby the applicant deems that plurality, according to the case, is of manifest public interest or does not occur in the provisions set out in paragraphs a) and d) of no. 4 of the preceding Article;

f) Grounds whereby the applicant deems there is no conflict with other functions to be performed, namely, because the function to be performed simultaneously does not assume the characteristics referred to in numbers 2 and 3 and in paragraph c) of no. 4 of the preceding Article;

g) Commitment to immediately terminate plurality of functions or activities in case of supervening occurrence of conflict.

3 – It is incumbent upon holders of management positions under penalty of termination of limited executive tenure, under the terms of the respective statute, to verify the existence of situations of plurality of non-authorized functions as well as, generally monitoring strict observance of guarantees of impartiality in the performance of public functions.

Article 30

Interest in the procedure

1 – Public employees must not deliver services in the scope of study, preparation or financing of projects to third parties, either themselves or through an intermediary, on an autonomous or subordinate employment regime basis. The same is also applicable to applications or request that should be submitted for their appraisal or decision or to the organs or organic units placed under their direct influence.

2 – Public employees must not benefit personally and unduly, from acts or take part in contracts in the formation of which organs, or organic units placed under their direct influence intervene.

3 – For the purposes of provisions set out in the preceding numbers, those organs or organic units are regarded as being under the direct influence of the public employee, if they:

a) are subject to their power of direction, superintendence or supervision;

b) fulfil powers delegated or sub-delegated by said public employee;

c) have been instituted by said worker or the respective holder has intervened as the public employer entity, for the specific purpose of intervening in the procedures in question;

d) are integrated, totally or partially, by public employees appointed for a determined or determinable period of time;

e) whose holder or public employees integrated therein have, less than one year benefited from any remuneration, or have obtained a rating relating to performance assessment, in the procedure of which he/she has intervened;

f) have cooperated, in a situation of hierarchical parity in the scope of the same organ or service or organic unit.

4 – It is equivalent to the interests of the public employee, defined under the terms of numbers 1 and 2, the interest:

a) of his wife or her husband, not separated from persons and assets and property, of his/her ancestors and descendants in any degree of kin, of collateral relatives up to the second degree and of whom he/she lives with under the conditions set out in Article 2020 of the Civil Code;

b) in the company in which he/she holds capital direct or indirectly, by himself/herself or with the persons referred to in the preceding paragraph, with a participation not less than 10 %.

5 – The infringement of duties referred to in numbers 1 and 2 will lead to disciplinary action provided for in the respective statute.

6 – For the purposes of provisions set out in the Code of Administrative Procedure, the public employees should inform the respective line manager of the existence of situations referred to in no. 4, before decisions are taken, acts practised or concluded, or contracts drawn up as referred to in numbers 1 and 2.

7 – The provisions set out in Article 51 of the Code of Administrative Procedure are applicable with the necessary adaptations.

CHARTER III

Termination of the public employment legal relationship

Article 31

General provisions

1 – Whenever provided for in special law, and under the terms laid down therein, non-compliance with any of the requirements referred to in Article 8 will lead to the termination or change of the public employment legal relationship.

2 – In any case and in the failure of a special law that otherwise stipulates, the public employment legal relationship terminates when the public employee completes 70 years of age.

Article 32

Termination of the appointment

1 – The permanent appointment is terminated by:

- a) The unsuccessful completion of the experimental period under the terms of numbers 8, 9 and 10 of Article 12;
- b) Resignation upon request of the public employee;
- c) Mutual agreement between the public employer entity and the public employee, by means of fair compensation;
- d) Application of a disciplinary penalty leading to compulsory early retirement or dismissal;
- e) Death of the public employee;
- f) Detachment from the service for retirement purposes.

2 – The resignation referred to in the paragraph b) of the preceding number comes into effect on the 30th day calculated as from the date of submission of the respective request, except when the public employer entity and the public employee otherwise agree.

3 – The reason for termination referred to in paragraph c) of no.1 is regulated by order of the members of the Government responsible for finance and public administration with observance of the following rules:

- a) The compensation to be granted to the public employee has as a reference his/her basic monthly remuneration, the respective amount is calculated according to the number of complete years, and respective percentage in the case of fraction of the year of performance of public functions;
- b) Such cause, generates the incapacity of the public employee to constitute an attachment relationship, as public employment or other, with the organs and services to which the present law is applicable, during the number of months equal to double the number resulting from the division of the amount of the compensation

granted by the number of his/her monthly basic remuneration, calculated and rounded up.

4 – The termination of the provisional appointment is subject to any necessary adaptations to the adequate general principles of the Employment Contract Regime in Public Functions RCTFP relating to term employment contract concluded to meet urgent public and temporary needs of public legal entities in situations involving the substitution of a civil servant or contractual staff who are temporarily prevented from providing services, as well as that of set out in paragraph d) of no. 1.

Article 33

Termination of the contract

1 – On the unsuccessful completion of the experimental period the contract is terminated and the public employee returns to the juridical and functional situation that was held before said experimental period, when constituted and consolidated for an indefinite period of time, or alternately terminates the public employment legal relationship.

2 – The contract may be terminated on grounds provided for in the RCTFP.

3 – When the contract for an indefinite period of time terminates due to collective dismissal or by extinction of the work post, the identification of public employees affected by said termination is made by application of procedures provided for in the law, in case of the reorganisation of services.

4 – After the public employees have been identified whose contract must be terminated the remaining procedures provided for in the RCTFP are applied.

5 – After the need to terminate the contract has been confirmed, the public employee is notified, within ten working days, that if he/she so wishes he/she can be placed in a special mobility situation for one year period.

6 – Should the public employee not so wish, and no repealing agreement has taken place under the terms of the RCTFP, the contract is terminated.

7 – If the public employee is placed in a special mobility situation and has resumed functions for an indefinite period of time in any organ or service to which the present law is applicable, procedures to terminate the contract are filed without the corresponding act being put into practice.

8 – If functions are not resumed, under the terms of the preceding number, during the time limit for placement of the public employee in a special mobility situation, the contract is terminated.

9 – The general principles set out in numbers 5 to 8 are applicable with the necessary adaptations, to the termination of the contract for an indefinite period of time for:

- a) Lapse due to the absolute and definitive supervening impossibility, of the public employer entity to receive the work; or
- b) Dismissal due to ineptitude.

10 – For the purposes provided for in RCTFP, the inexistence of alternatives in relation to the termination of the contract or of other work posts compatible with the category or with the vocational qualification of the public employee is justified by way of a declaration issued by the mobility managing entity.

Article 34

Termination of limited executive tenure

1 – In the default of special law that otherwise stipulates, limited executive tenure terminates, at any time, on the public employer entity or the public employee's initiative, with prior notice of 30 days.

2 – After terminating limited executive tenure, the public employee returns to the juridical and functional situation that he/she held before the limited executive tenure when constituted and consolidated for an indefinite period of time, or terminates the public employment legal relationship, in the contrary case, in any case with right to compensation whenever provided for in a special law.

CHARTER IV

Contracts for provision of services

Article 35

Scope of the contracts for provision of services

1 – The organs and services to which the present law is applicable may conclude contracts of provision of services, in the form of contracts for the performance of specific works of an exceptional nature without hierarchical subordination; this type of contract is provided for when in the proper service there are no members of staff with suitable qualifications to perform such work. There is also another type of contract with the same characteristics as that aforementioned, subject to a monthly fixed remuneration under the terms provided for in the present chapter.

2 – The signing of these contracts may only occur when, cumulatively:

- a) They deal with the performance of non-subordinate work, for which recourse to any form of public employment legal relationship is convenient;
- b) The work is carried out as a rule by a legal entity;
- c) The legal regime of acquisition of services is observed;
- d) The contract proves that obligations with regard to taxation and social security have been met.

3 – The non-subordinate work is deemed as being performed with autonomy and is not subject to the discipline and direction of the contracting organ or service, nor does it impose compliance with working hours.

4 – Exceptionally, when proved to be impossible or inconvenient, the provisions set out in paragraph b) of no. 2 are observed, the member of the Government responsible for finance may authorise the signature of such contracts.

5 – The contracts for the performance of specific works of an exceptional nature must not exceed the contractual time limit initially laid down.

6 – The contract which has successive provisions in the performance of a liberal profession with a fixed monthly salary, may be terminated at any time by any of the parties concerned, even though when concluded with a clause of tacit extension, with a prior notice of 60 days and without the obligation of compensation.

Article 36

Infringement in the scope of conclusion

1 – Without prejudice to the full taking effect during the time in which they are in force, contracts for the provision of services concluded with breach of the requirements provided for in numbers 2 and 4 of the preceding Article are deemed null and void.

2 – The infringement referred to in the preceding number may incur the responsible person for said violation in civil, financial and disciplinary liability.

3 – For the purposes of the effectiveness of the financial liability of managers perpetrators of the violation referred to in no. 1 by the Court of Auditors, payments spent are deemed as a consequence undue payments.

CHARTER V

Publicising of attachment patterns

Article 37

Publication

1 – In the 2nd Series of the Official Gazette are published, by extract:

- a) Acts of permanent appointment, as well as those which determine, in relation to appointed staff, permanent changes of organ or service and, or, of category;
- b) Contracts for an indefinite period of time, as well as the acts which determine in relation to contracted staff, permanent changes of organ or service and, or, of category;
- c) Limited executive tenures;
- d) The acts of termination of forms of the public employment legal relationship referred to in the preceding paragraphs.

2 – Extracts of acts and contracts set out the indication of the career, category and pay steps of the appointee or contracted.

Article 38

Other forms of publicising

1 – In the organ or service and inserted on the electronic page are made known by extract:

- a) Acts of provisional appointment and respective renewals;
- b) The fixed or unfixed term employment contracts concluded to meet urgent public and temporary needs of public legal entities in situations requiring the substitution of a civil servant or contractual staff temporarily prevented from providing services and respective renewals;
- c) Contracts of provision of services and respective renewals;
- d) Terminations of attachment forms referred to in the preceding paragraphs.

2 – Extracts of the acts and contracts set out the indication of the career, category and pay steps of the appointee or contracted, or the function to be performed and respective payment, as well as the respective deadline.

3 – Extracts of the contracts of provision of services set out with reference to the grant of a visa and the issuance of a declaration of conformity or, such being the case, their waiving.

TITLE IV
Career regime
CHAPTER I
Scope of application of career regime

Article 39

Scope of application

1 – Without prejudice to provisions set out in the following number and in Article 58, the present title is applicable to public employment legal relationships constituted for an indefinite period of time.

2 – Articles 50 and 51, numbers 2, 3 and 4 of Article 53, Articles 54 and 55 and no. 1 of Article 57 are applicable with the necessary adaptations to provisional appointments and to fixed or unfix employment contracts concluded to meet urgent public and temporary needs of public legal entities in situations requiring the substitution of a civil servant or contractual staff temporarily prevented from providing services.

CHARTER II
Careers
SECTION I
Organisation of careers

Article 40

Integration in careers

Staff appointed permanently and contracted for an indefinite period of time to perform functions integrated in careers.

Article 41

General and special careers

1 – Careers, the job contents of which characterise work posts that organs or services generally need for the development of the respective activities are deemed general careers.

2 – Careers, the job contents of which characterise work posts that only one or some organs or services need for the development of the respective activities are deemed special careers.

3 – Special careers may only be created when cumulatively:

a) The respective job contents may not be absorbed by the job contents of general careers;

b) The respective public employees are subject to more demanding functional duties than those provided for the general careers;

c) For integration in such careers, and in any of the categories in which they are divided, as a rule, successful attendance at a specific training course for a duration of not less than six months is required, or the obtaining of a given academic degree or professional title.

4 – Successful attendance and the obtaining of those requirements referred to in paragraph c) of the preceding number may occur during the probationary period during which the appointment or the contract begins.

Article 42

Uni-category and multi-category careers

1 – Irrespective of qualifications as general or special, careers are uni-category or multi-category.

2 – Careers to which corresponds a single category are deemed uni-category.

3 – Careers that are divided into more than one category are deemed multi-category.

4 – Multi-category careers may be created when each of the career categories corresponds to job content distinct from the remaining.

5 – The job content of higher categories integrates that of those that are lower in relation to them.

Article 43

Job content

1 – Legal job descriptions correspond to each career, or to each category into which it is divided.

2 – The job content of each career or category must be described in a wide-ranging way, waiving details relating to the tasks therein covered.

3 – The job description may not in any case, and without prejudice to provisions set out in no. 3 of Article 271 of the Constitution, constitute a basis for non-compliance with the duty of obedience and does not prejudice the granting to the public employee of functions, not expressly mentioned, that are similar or functionally linked, for which the public employee holds suitable academic qualification and does not imply professional devaluation.

Article 44

Degrees of functional complexity

1 – According to qualification level title, as a rule, demanded for integration in each career, these are classified in three degrees of functional complexity, as follows:

a) Degree 1, when the title of compulsory schooling is required, even though added to suitable vocational training;

b) Degree 2, when 12-year schooling or an equivalent course is required;

c) Degree 3, when a bachelor's degree or a higher university degree is required.

2 – The legislation that creates the career refers to the respective degree of functional complexity.

3 – Multi-categorical careers may present more than one degree of functional complexity, each one of them referenced to categories, when the integration therein depends, as a rule, on the title of different academic qualification levels.

Article 45

Pay steps

1 – A variable number of pay steps correspond to each category of careers.

2 – A minimum number of eight pay steps correspond to the category of the uni-category career.

3 – In multi-category careers, the number of pay steps in each category is as follows:

a) A minimum number of eight pay steps correspond to the lower category;

b) A number of proportionally decreasing pay steps correspond to each one of the categories successively higher so as:

i) Being the career divided into two categories, four are the minimum number of pay steps in the higher category;

ii) Being the career divided into three categories, five and two are the minimum number of pay steps of successively higher categories;

iii) Being the career divided into four categories, six, four and two are the minimum number of pay steps of successively higher categories.

Article 46

Change of pay steps: managerial option

1 – Taking budget appropriations into consideration intended to bear the charges provided for in paragraph b) of no. 1 of Article 7, the top manager of the organ or service decides, under the terms of numbers 3 and 4 of same Article, if, and to what extent, he proposes to bear charges arising from changes in the remuneration in staff categories of the organ or service.

2 – The decision referred to in the preceding number sets, duly justified the maximum amount, with the necessary desegregations, of charges that the organ or service is expected to bear, as well as the universe of careers and categories where changes in remuneration may occur.

3 – The universe referred to in the preceding number may also be desegregated whenever the top manager in office deems it necessary, as regards:

a) Attribution, competence or activity that staff integrated in a determined career or holders of a determined category must comply with or perform;

b) Academic or professional training area of staff integrated in a specific career or holders of a determined category when such training area has been used in the characterisation of the work posts in the establishment plans.

4 – For the purposes of the provisions set out in the preceding numbers, changes may not take place in all careers or in all categories of the same career or be relative to all staff integrated in that career or holders of a determined category.

5 – The decision is made known by affixing it in the organ or service and inserting it on the electronic page.

Article 47

Change of pay steps: Rule

1 – The staff universe is defined under the terms of the preceding Article of the organ or service, wherever they perform functions that in the absence of a special law to the contrary, have obtained in the last performance assessments that which has referred to the functions fulfilled during the pay steps in which they are placed:

- a) Two maximum consecutive ratings;
- b) Three ratings immediately lower to those consecutive maximum ones; or
- c) Five ratings immediately lower to those referred to in the preceding paragraph, provided that they substantiate positive consecutive performance.

2 – After determination of staff that meet each of the defined universes, they are grouped, within each universe, by descending order of quantitative classification obtained in the last performance assessment.

3 – Taking into account the ordering referred to in the preceding number the maximum number of charges set by each universe, under the terms of numbers 2 and 3 of the preceding Article is distributed in the above mentioned order, so each public employee changes his/her position in the category for the remuneration grade immediately following that in which he/she is placed.

4 – The change in pay grade does not occur when, notwithstanding that the requirements provided for in no. 1 are met, the maximum amount of charges set for the universe in question has been predictably spent, in the scope of the budget implementation, with the change relating to the public employee being ordered by a superior.

5 – For the purposes of the provisions in paragraphs b) and c) of no. 1 are also ratings that are higher than those therein referred to are also taken into consideration.

6 – A compulsory change to the pay grade immediately following that in which the public employee is placed, when it exists, irrespective of the universes defined under the terms of the preceding Article, when, in the absence of a special law to the contrary, 10 scores have been accumulated in the performance assessments referred to the functions performed during the remuneration grade in which he/she is placed, are calculated as follows:

- a) Three scores for each maximum rating;
- b) Two scores for each rating immediately lower to the maximum;
- c) One score for each rating immediately lower to that referred to in the preceding paragraph, provided that it substantiates positive performance;
- d) A negative score for each rating corresponding to the lowest assessment level.

7 – In the absence of a special law to the contrary, the remuneration grade is applicable as from 1st January of the year in which takes place.

Article 48

Change in pay steps: Exception

1 – Even if the requirements provided for in no. 1 of the preceding Article are not met, the top manager of the organ or service, after having heard the Assessing Coordinating Council, or the organ with equivalent competence, and in the limits set by the decision referred to in numbers 2 and 3 of the Article 46, may change, to the pay steps immediately following, the remuneration grading of the public employee in whose last performance assessment has obtained the maximum rating or the immediately lower.

2 – Likewise, in the limits set for the decision referred to in numbers 2 and 3 of Article 46, the top manager of the organ or service, after having heard the Assessing Coordinating Council, or the organ or the organ with equivalent

competence, may determine that the change of positioning in the category of public employee referred to in no. 3 of the preceding Article if operates to any other pay steps following that one in which is placed.

3 – The provisions set out in the preceding number have as limit the maximum pay steps for which have changed his/her positioning the staff who in the ambit of the same universe are superiorly ordered.

4 – The changes of the pay steps provided for in the present Article are particularly justified and made public, with their full content of the respective justification and opinion of the Assessing Coordinating Council, or the organ with equivalent competence, by way of publication in a specific space of the 2nd Series of the Official Gazette, by affixing in the organ or service and by insertion on the electronic page.

5 – The provisions set out in no. 7 of the preceding Article are applicable.

SECTION II General careers

Article 49

Enumeration and characterisation

1 –General careers are as follows:

- a) Senior Public employee;
- b) Assistant Specialist;
- c) Assistant Operational.

2 – The characterisation of general careers according to the number and designation of categories in which they are divided, job contents, degrees of functional complexity and the number of pay grades in each category are set out in the annex to the present law, of which it is part and parcel.

3 – The estimate in establishment plans, of work posts which have to be filled by specialist coordinators in assistant specialist careers depends on the existence of flexible organic units at section level or the need to coordinate, at least, 10 specialist assistants to the relevant sector of activity.

4 – The estimate, in the establishment plans, of work posts that must be filled by general operational employees in the assistant operational career depends on the need to coordinate, at least, three operational employees in charge of the relevant sector of activity.

5 – The estimate in the establishment plans, of work posts that must be filled by operational employees in the assistant operational career depends on the need to coordinate, at least, 10 operational assistants in the relevant sector of activity.

CHARTER III Recruitment

Article 50

Open competition procedure

1 – After the decision of the public employer entity top manager, under the terms of no. 2 of Article 6 and paragraph b) of no. 1 and numbers 3 and 4 of Article 7, to promote the recruitment of staff needed to fill all or some work posts provided for, and not filled, in the establishment plans, the respective open competition procedure is made known, namely by way of publicising in the 2nd Series of the Official Gazette.

2 – The open competition procedure referred to in the preceding number observes the injunctions arising from provisions set out in numbers 3 to 7 of Article 6.

3 – The publicising of the open competition procedure is clearly set out with reference to the number of work posts to be filled and their characterisation according to the attribution, competence or activity to comply with or to perform, career, category and when indispensable, the corresponding academic or professional training area.

4 – For the purposes of the provisions set out in the preceding number, the publicising of the procedure refers to:

- a) Academic training when in the cases of paragraph c) of no. 1 of Article 44 more than one exists at the same academic qualification level;
- b) Professional training when in the cases of paragraphs a) and b) of no. of Article 1 44, career integration does not depend or does not exclusively depend of academic qualifications.

Article 51

Demand of academic qualifications level

1 – As a rule, only applicants holding academic qualifications may apply and, when this is the case, the training area corresponding to the degree of functional complexity of the career and category characterising the work posts to be filled are publicised.

2 – The publicising of the procedure may foresee the possibility of an application of someone who, although not a holder of the qualifications required, is deemed to have enough training and, or, the professional experience necessary and for the substitution of those qualifications.

3 – The substitution of qualifications under the terms referred to in the preceding number is not admissible when they are required for the carrying out of a specific profession or function, implied in the characterisation of the work posts in question where a special law demands a title or the meeting of certain conditions.

4 – The Selection Board first analyses training and or professional experience and deliberates on the admission of the applicant to the open competition procedure.

5 – In case of admission, the deliberation is accompanied with the full content of its justification, and it is notified to the remaining applicants.

Article 52

Other requirements for recruitment

1 – When it deals with of uni-category careers or of categories lower than multi-category careers, may apply for the procedure:

- a) Staff integrated in the same career, to comply with or to perform different attribution, competence or activity, of the organ or service at stake;
- b) Staff integrated in the same career, to comply with or to fulfil any attribution, competence or activity, of other organ or service or are placed in a special mobility situation;
- c) Staff integrated in other careers;
- d) Being the case, staff fulfilling the respective positions in a limited executive tenure or who are subject to other public employment legal relationships for a determined or determinable period of time and individuals without public employment legal relationship previously established.

2 – In the failure of a special law to the contrary, when it deals with categories higher of multi-categories careers, may apply for the procedure, besides those which are referred to in the preceding number, staff integrated in the same career, in a different category, of the organ or service in question, that are placed to comply with or perform identical attribution, competence or activity.

Article 53

Selection methods

1 – Without prejudice to the provisions set out in the following numbers, the selection methods to be used compulsorily in the recruitment are as follows:

- a) Knowledge tests, destined to assess whether, and to what extent, the applicants have the skills necessary for the fulfilment of the function; and
- b) Psychological assessment destined to assess whether, and to what extent, the applicants have the remaining competences required.

2 – Except when they are passed over by other applicants that are, cumulatively, holders of the category and are placed or, dealing with applicants placed in a special mobility situation, who are at last placed, to comply with or to perform the attribution, competence or activities characterising the work posts for which the procedure was publicised, the selection methods to be used in their recruitment are as follows:

- a) Curricular assessment particularly related to the functions that are to be fulfilled in the category and in compliance with or performance of attribution, competence, or activity in question and the level of performance therein accomplished; and
- b) Selection interview of skills demanded for the fulfilment of the function.

3 – Other legally provided for optional selection methods may also be used.

4 – In duly justified, exceptional cases, namely, when the number of applicants is in so high that the use of the selection methods referred to in the preceding numbers becomes unfeasible, the public employer entity may limit itself to the use in any recruitment, of those methods referred to in paragraph a) of numbers 1 or 2.

Article 54

Legal steps of open competition procedure

1 – The open competition procedure is simplified and urgent and obeys the following principles:

- a) The Selection Board is composed of the public employer entity staff, of other organs or services and, when the training area finds it convenient, private entities;
- b) Inexistence of acts or of preparatory lists for final ordering of applicants;
- c) The final ordering of applicants is unitary even though different selection methods have been applied to them;
- d) Recruitment is carried out in decreasing order in the final ordering of applicants placed in a special mobility situation and, after having recourse to all of them, the remaining applicants.

2 – The legal steps of the open competition procedure, including that destined to constitute recruitment reserves in each organ or service or in a centralised entity are governed by order of the member of the Government responsible for the Public Administration area or, when dealing with a special career in relation to which such legal steps are found to be mismatched, by order of the member of the Government whose scope of application covers the organ or service in the establishment plan of which the estimate of the career is contained.

Article 55

Determination of remuneration

1 – When the public employment legal relationship forms the basis of a contract, the remuneration of the public employee recruited in a category is the subject of negotiation with the public employer entity and takes place:

- a) Immediately after the end of the open competition procedure; or
- b) At the successful attendance at a specific training course or on obtaining a specific academic degree or a given professional title under the terms of paragraph c) of no. 3 of Article 41 that arise from the conclusion of a contract.

2 – For the purposes of the provisions set out in paragraph d) of no. 1 of the preceding Article, negotiation with the applicants placed in a special mobility situation precedes that which has taken place with the remaining applicants.

3 – Without prejudice to informal contacts that may and should take place, negotiation between the public employer entity and each one of the applicants as regards the final ordering is made in writing.

4 – In duly justified, exceptional cases, namely when the number of applicants is so high that negotiation becomes unfeasible, the public employer entity may take the initiative of consubstantiating it in a proposal of access to a determined pay steps forwarded to all applicants.

5 – Possible agreement reached or the proposal of accession are the subject of justification in writing by the public employer entity.

6 – In each of the universes of applicants referred to in paragraph d) of no. 1 of the preceding Article, as well as relative to the ordering of all applicants, the lack of agreement with a determined applicant determines negotiation with the one who immediately follows, to whom in any case a higher pay step may be proposed than the maximum proposed, and not accepted by any of the applicants that have preceded him /her in the ordering.

7 – After closure, documentation relating to the negotiable procedures in question is made public and is freely accessible.

8 – Whenever the work post in question is governed by the public employment legal relationship, a special law may apply to him /her with the provisions laid down in the preceding numbers.

9 – When the possibility provided for in the preceding number is not used, the positioning of recruited staff is in one of the pay steps of the category that has been jointly publicised with the data referred to in no. 3 of Article 50.

Article 56

Course on Advanced Studies in Public Management

1 – After the constraints referred to in no. 1 of Article 50 regarding activities of a permanent nature have been observed, the top manager of the public employer entity may opt, as an alternative to publicising the open competition procedure provided for, by having recourse to graduates from the Advanced Studies in Public Management Course (CEAGP).

2 – In accordance with the provisions in the preceding number, the public employer entity forwards a list of the number of work posts to be filled, as well as the respective characterisation under the terms of the numbers 3 and 4 of Article 50 to the National Institute for Public Administration (INA).

3 – The characterisation of the work posts set out in the list takes into consideration that the graduates on CEAGP may only be integrated in the general career of senior public employee and on compliance with or execution of attributions, competences or activities that the respective regulation identifies.

4 – The forwarding in the list to the INA comprises the public employer entity, ended the CEAGP, integrate the corresponding number of graduates.

5 – Recruitment for attendance at CEAGP observes injunctions resulting from the provisions set out in numbers 4 to 7 of Article 6.

6 – Integration in the general career of a senior public employee is effected in the first pay steps or in one where the remuneration level is identical or, if this fails, immediately higher than the remuneration level corresponding to the positioning of the applicant in the original category, when the holder is in the scope of a public employment legal relationship constituted for an indefinite period of time.

7 – The CEAGP may equally be provided in other institutions of higher education under the terms laid down by order of the members of the Government responsible for Public Administration and Higher Education, in this case, the Directorate General for Administration and Public Employment, the competent entity for the management of all procedures.

8 – The CEAGP is regulated by order of the member of the Government responsible for Public Administration.

Article 57

Vocational Training

1 – If it does not deal with a special career for where successful attendance at a specific training course has been required, the functions of the recruited employee may involve an off-site training period or in-service training, the duration of which and content depend on the prior juridical and functional situation of the employee.

2 – Staff are entitled to, and have a duty to attend annual training and further vocational training activities in the area in which he/she fulfils functions.

CHARTER IV General mobility

Article 58

Loan of a public employee due to public interest

1 –A signature agreement of loan of a public employee due to public interest occurs when a public employee of an entity excluded from the scope of application of the present law performs functions, even though on a part time basis, in an organ or service to which the present law is applicable and, inversely, when a public employee of an organ or service fulfils functions, even though in the same regime, in an entity excluded from the scope of application.

2 – The agreement presupposes consent in writing of the organ or service of the concerned member of the Government, the entity and the public employee and implies, by lack of any provisions to the contrary, the suspension of the statute of the origin.

3 – The loan due to public interest subjects the public employee to the orders and instructions of the organ or service or of the entity where he/she will fulfil functions, and is remunerated with due respect to normative provisions applicable to the fulfilment of those functions.

4 – The exercise of disciplinary power is the responsibility of the assignee entity, except when the application of disciplinary penalties leads to early compulsory retirement or to a question of dismissal.

5 – The behaviour of the public employee is relevant to the scope of the legal employment relationship of origin, and any disciplinary procedure that checks for disciplinary offences will respect the disciplinary statute of origin.

6 – The assigned public employee is entitled to:

a) Calculation, in the category of origin, of the length of service performed on a loan basis;

b) Opt for the maintenance of the original social protection regime with incidence of the discounts on the amount of the remuneration that would be assigned in the category of origin;

c) Filling, under the legal terms, of different work post in the organ or service, or in the entity of origin or in another organ or service.

7 – In the case provided for in paragraph c) of the preceding number, the loan agreement due to public interest lapses with the filling of the new work post.

8 – The agreement may terminate at any time, on the initiative of any of the parties that have intervened therein, with prior notice of 30 days.

9 – Loan due to public interest for the same organ or service or for the same entity of a public employee that has been the object of loan and has returned to the juridical and functional situation of origin may not take place for one year.

10 – In the case provided for in the first part of no. 1, the fulfilment of functions in the organ or service is carried out by a suitable constitutional pattern of the public employment legal relationship.

11 – The functions to be performed in an organ or service correspond to a position or to a career, category, activity and when indispensable, the academic or professional training area.

12 – When the functions correspond to a management position, the loan agreement due to public interest is preceded by observance of the requirements and legal procedures of recruitment.

13 – The loan agreement due to public interest for the performance of functions in the organ or service to which the present law is applicable has a maximum duration of one year, except when it has been concluded for the performance of functions in an organ or service, and is of a temporary nature that does not constitute a public employment legal relationship for an indefinite period of time, or in cases in which duration is undetermined.

14 – In the case provided for in paragraph b) of no. 6, the organ or service or the entity participate:

a) In the financing of the social protection scheme specifically applicable to the importance that is legally established for the contribution of employer entities;

b) Administrative expenses of civil service health sub-systems, under the applicable legal terms.

15 – When a public employee of the organ or service has to fulfil functions in a central trade union or employers' confederation or private entity with representation equivalent to the economical and social sectors, the agreement may envisage continued remuneration, as well as corresponding participation ensured by the organ or service.

16 – In the case provided for in the preceding number, the maximum number of staff on loan is four for each central trade union and two for each of the remaining entities.

Article 59

Internal mobility in relation to organs or services

1 – Whenever it is convenient for the public interest, namely when the economy, effectiveness and efficiency of organs or services so impose, staff may be subject to internal mobility.

2 – The mobility referred to in the preceding number is always justified and may be undertaken:

a) Within the same constitutional form of the public employment legal relationship for an indefinite period of time or between both patterns;

b) Within the same organ or service or between two organs or services;

c) Covering staff, without distinction, either in activity or those placed in a special mobility situation;

d) Whether full or part time, according to what is agreed upon between the individuals who must give their agreement.

Article 60

Forms of internal mobility

1 – Internal mobility assumes the forms of mobility in the category and inter-career mobility or categories.

2 – Mobility in the category is carried out for the fulfilment of functions inherent in the category of which the public employee is holder, in the same activity or in a different activity for which he/she has suitable qualifications.

3 – Inter-career mobility or categories are carried out for the fulfilment of functions not inherent in the category of which the public employee is holder and are inherent in:

- a) A higher or lower category of the same career; or
- b) A career of an equal degree of functional complexity, higher or lower to that of the career in which he/she is integrated or to the category of which he/she is holder.

4 – Inter-career mobility or categories depend on the adequate qualifications of the public employee and may not substantially modify his/her position.

Article 61

Agreements

1 – As a rule, the internal mobility depends on the agreement of the public employee and of the organs or services of origin and destination.

2 – Without prejudice to provisions set out in the following numbers the agreement, of the public employee is waived for the purposes of internal mobility, in any of its patterns, when:

- a) It is carried out for an organ, service or organic unit located in the council of his/her organ, service or organic unit of origin or in the council of his/her residence;
- b) The organ, service or organic unit of origin or his/her residence is located in the council of Lisbon or in the Porto and the mobility is carried out for an organ, service or organic unit located in a council confining with any of them;
- c) It is carried out for any other council, provided that cumulatively the following conditions are met, appraised according to the use of public transport:
 - i) It does not imply monthly expenses for travelling between the residence and the work post, in both directions, higher than 8 % of the monthly net remuneration or being higher, that do not exceed, the monthly expenses for travelling between the residence and the organ, service or the organic unit of origin;
 - ii) The time spent in those travels does not exceed 25 % of the working hours or exceeding it does not overcome the time spent in the travels between the residence and the organ, service or organic unit of origin.

3 – The provisions set out in paragraph c) of the preceding number are not applicable when the public employee invokes and proves that the internal mobility would cause serious damage for his/her personal life.

4 – When the internal mobility is carried out for a lower category of the same career or for a career of lower functional complexity degree in relation to the career in which he/she is integrated or of the category of which is holder, the agreement of the public employee may not in any case be waived.

5 – When the internal mobility is carried out for an organ or service, namely of a temporary nature that may not constitute public employment legal relationship for an indefinite period of time and it is foreseen that may have a duration higher than one year, the agreement of the public employee placed in a situation of special mobility may never be waived.

6 – In the scope of the services referred to in numbers 1 and 2 of Article 3, the agreement of the service of origin is waived for the purposes of internal mobility, in any of its forms when it is carried out:

- a) For a service or organic unit located outside the metropolitan areas of Lisbon and Porto;

b) On public employee's initiative, provided that the interest of the service of origin is justified and recognised by order of the respective member of the Government.

Article 62

Remuneration

1 – The public employee under mobility in the category, in a different organ or service or whose juridical and functional situation of origin be that of placed in a special mobility situation, may be remunerated by the pay steps immediately following that one in which is positioned in the category or, in case of inexistence by the remuneration level that follows to that one corresponding to his/her position in the single remuneration scale.

2 – The public employee in inter-career mobility or categories in any case whatsoever is affected in the remuneration corresponding to the category that he/she holds.

3 – In the case referred to in the preceding number, the remuneration of the public employee is increased to the higher remuneration level and closer to that one corresponding to his/her position in the category of which is holder and that is provided for in the category whose functions is to perform, provided that the first pay steps of this category corresponds to a higher remuneration level than that of the remuneration level of the first position of that on he /she holds.

4 – Should the hypothesis provided for in the preceding number do not verify the public employee may be remunerated under the terms of no. 1.

5 - Except otherwise agreed upon between the organs or services, the public employee under internal mobility is remunerated by the organ or service of destination.

Article 63

Duration

1 – The internal mobility has a maximum duration of one year, except when an organ or service are at stake, namely of a temporary nature that may not constitute public employment legal relationships for an indefinite period of time, case in which its duration is undetermined.

2 – It is not possible to occur, during the time limit of one year internal mobility for the same organ, service or organic unit of a public employee who has been placed in internal mobility and have returned to the juridical and functional situation of origin.

Article 64

Consolidation of the mobility in the category

1 – The mobility in the category that is carried out within the same organ or service is definitively consolidated, by decision of the respective top manager:

a) Irrespective of agreement of the public employee, if it would not be demanded for his/her beginning or with his/her agreement in the contrary case, when it is carried out in the same activity;

b) With the agreement of the public employee when it has been carried out in a different activity.

2 – The consolidation referred to in the prior number is not preceded nor followed of any experimental period.

Article 65

Performance assessment and length of service under internal mobility

The rating obtained in the performance assessment, as well as the length of service of functions in a career and category arising from internal mobility of the public employee report themselves, in alternative, to his/her juridical and functional situation of origin or to the corresponding to internal mobility in which it was placed, according, meanwhile, the public employee does not constitute or constitutes respectively a public employment legal relationship for an indefinite period of time, without interruption of functions in the last juridical and functional situation.

TITLE V

Remuneration scheme

CHAPTER I

Remunerations

SECTION I

Components of the remuneration

Article 66

Right to a remuneration

1 – The right to remuneration due on grounds of performance of functions in an organ or service to which the present law is applicable is constituted, as a rule, with the acceptance of the appointment, or equivalent act, or should they do not occur with the beginning of the effective fulfilment of functions.

2 – The provisions set out in the preceding number does not prejudice a different regime legally provided for, namely in the no. 2 of Article 18.

3 – The remuneration, when periodical is monthly paid.

4 – The law provides for the situations and conditions in which the right to remuneration is total or partially suspended.

5 – The right to remuneration finishes with the termination of any pattern of attachment, namely of constituted public employment legal relationships.

Article 67

Components of the remuneration

The remuneration of staff fulfilling functions under public employment legal relationships is composed of:

- a) Basic remuneration;
- b) Remuneration supplements;
- c) Performance bonuses.

SECTION II
Basic remuneration

Article 68

Single remuneration scale

1 – The single remuneration scale contains the totality of remuneration levels susceptible of being used in the setting of the basic remuneration of staff fulfilling functions under the public employment legal relationships.

2 – The number of remuneration levels and the pecuniary amount corresponding to each one is set by joint order of the Prime Minister and the member of the Government responsible for finance area.

3 – The change of number of remuneration levels is the object of collective bargaining under the terms of the law.

4 – The change of pecuniary amount corresponding to each remuneration level is the object of annual collective bargaining, under the terms of the law, however must be maintained the proportionality relating between each one of the levels.

Article 69

Setting of basic remuneration

1 – The identification of the remuneration levels corresponding to the pay steps of categories, as well as the positions fulfilled in a limited executive tenure is made by regulatory decree.

2 – In the identification of the remuneration levels corresponding to pay steps of categories the following rules have a tendency to be observed:

a) Dealing with multi-category careers, the intervals between those levels are decreasingly smaller insofar as the corresponding positions become higher;

b) No remuneration level corresponding to positions of various categories of the career is overlapped, being verified a single growing movement from the level corresponding to the first position of the lower category up to the corresponding to the last position of the higher category;

c) Exceptionally, the level corresponding to the last remuneration level of one category may be identical to that of the first position of the category immediately higher;

d) Dealing with uni-category careers, the intervals between those levels are constant.

Article 70

Concept of basic remuneration

1 – The monthly basic remuneration is the pecuniary amount corresponding to the remuneration level according to the cases, of the pay steps in which the public employee is placed in the category of which is holder or of the position fulfilled under a limited executive tenure.

2 – The basic remuneration is referenced to the title, respectively, of one category and to the respective pay stepping of the public employee or to that one of a position fulfilled under a limited executive tenure.

3 – The annual basic remuneration is paid in 14 monthly payments, corresponding one of them to the Christmas allowance and the other one to the Holiday allowance under the terms of the law.

Article 71

Hourly remunerativa

1 – The value of the normal hour of work is calculated through the formula $(Br \times 12) / (52 \times N)$, being Br the monthly basic remuneration and N the number of hours of the normal weekly duration of work.

2 – The formula referred to in the preceding number serves as a basis for the calculation of the remuneration corresponding to any other fraction of the working time.

Article 72

Option for basic remuneration

When the public employment legal relationship is constituted by limited executive tenure, or there is place for the loan of public interest, the public employee is entitled to opt at any time, for the basic remuneration due in the juridical and functional situation of origin that be constituted for an indefinite period of time.

SECTION III

Remuneration supplements

Article 73

Conditions for granting remuneration supplements

1 – The remuneration increases due to the performance of functions in work posts that present more demanding conditions in relation to other work posts characterised by identical position or by similar career and category are deemed remuneration supplements.

2 – The remuneration supplements are referenced to the fulfilment of functions in the work posts referred to in the first part of the preceding number, being only paid for those who fill such work posts.

3 – When staff undergo in the fulfilment of their functions more demanding working conditions in the work posts determined under the terms of no. 1 are entitled to remuneration supplements:

a) In an exceptional and provisional way, namely those conditions arising from the provision of extraordinary work, night work, on weekends, complementary and public holidays and outside the normal work place; or

b) In a permanent way, namely those conditions arising from the provision of hazardous, arduous and unhealthy work, shift work, in outlying areas and secretarial work for managers.

4 – The remuneration supplements are only due while last the working conditions that determine their grant.

5 – The remuneration supplements are only due while there is effective fulfilment of functions.

6 – As a rule, the remuneration supplements are set in pecuniary amounts, only exceptionally may be set in percentage of the monthly basic remuneration.

7 – The remuneration supplements are created and regulated by law, and, or, in the case of public employment legal relationships constituted by contract, by collective agreement with observance of provisions set out in the preceding numbers.

SECTION IV Performance bonuses

Article 74

Preparation for the grant

1 – Taking into consideration the budget appropriations intended to bear the type of charges provided for in paragraph c) of no.1 and no.5 of Article 7, the top manager of the organ or service sets and justifies within the time limit of 15 days after the beginning of the implementation of the budget, the universe of positions and of the careers where the grant of performance bonuses may take place with the desegregations necessary of the available amount according to such universes.

2 – The provisions set out in numbers 3 to 5 of Article 46 are applicable to the grant of performance bonuses with the necessary adaptations.

Article 75

Conditions to grant performance bonuses

1 – Staff, who cumulatively fulfil functions in an organ or service and, in the absence of a special law to the contrary, obtained in their last performance maximum assessment rating or that immediately below, meet the requirements defined under the terms of the preceding Article.

2 – Afterwards staff who meet each of the defined areas are placed in a decreasing order, in each universe, of quantitative classification obtained in the assessment.

3 – Taking the ordering into account referred to in the preceding number, and after exclusion of staff who, in that year, have changed their pay steps in the category for whose remuneration level receive the basic remuneration, the maximum amount of charges set for each universe under the terms of the preceding Article is distributed, in the aforementioned order, so each public employee receives the equivalent amount to his/her basic monthly remuneration.

4 – The granting of performance bonuses does not occur when, regardless of the requirements provided for in no. 1 being met, the maximum amount of charges set for the universe in question have been spent on the granting of bonuses to staff as ordered from a superior position.

5 – Performance bonuses are related to the performance of the public employee as objectively revealed and assessed.

Article 76

Other performance reward systems

1 – Within the limits provided for in paragraph c) of no. 1 and in no. 5 of Article 7, by law and, or, in the case of public employment legal relationships constituted by contract, by collective bargaining, other performance reward systems may be

created and regulated, namely, in accordance with the results achieved by a team or by the performance of staff who are in the last pay steps of the respective category.

2 – The systems referred to in the preceding number may set aside application of the provisions set out in the present section.

CHARTER II Discounts

Article 77

Enumeration

1 – Remunerations due for the performance of functions in the organ or service to which the present law is applicable are subject to the following discounts:

- a) Compulsory discounts;
- b) Optional discounts.

2 – Discounts resulting from legal imposition are of a compulsory nature.

3 – Discounts, permitted by law are of an optional nature, needing the express authorisation of the holder of the right to remuneration.

4 – In the absence of a special law to the contrary, discounts are made directly by means of withholding at source.

Article 78

Compulsory discounts

After the public employment legal relationship has been established the following discounts are compulsory:

- a) Individual income tax;
- b) Contributions applicable for the social protection scheme.

Article 79

Optional discounts

1 – After the public employment legal relationship has been established the following discounts are optional, namely:

- a) Premiums for sickness or personal accident insurance, life insurances and retirement complements and reform savings plan;
- b) Trade union fees.

2 – Provided that it is requested by the appointee or an individual, on a limited executive tenure basis, trade union fees are obligatorily withheld at the source.

3 – Adequate provisions of the RCTFP are applicable on a subsidiary basis to the discounts referred to in the preceding number.

TITLE VI
Juridical and Functional regime of public employment legal relationship forms

Article 80

Normative sources for appointment

1 – Normative sources of the juridical and functional regime are applicable to staff who, while subject to a public employment legal relationship different from the limited executive tenure, are found in the conditions referred to in the Article 10 are as per this order:

- a) The present law and the legislation that regulates it, in the applicable part;
- b) General laws the subjective scope of application of which covers all staff, irrespective of the pattern of the constitution of the public employment legal relationship under which they fulfil their respective functions in the applicable part;
- c) Special laws applicable to corresponding special careers, in matters that are regulated by the provisions set out in the law;
- d) On a subsidiary basis, general laws the subjective scope of application of which is circumscribed to then designated civil servants and contractual staff.

2 – General laws provided for in paragraph b) of the preceding number are namely those which define:

- a) The reorganisation of services regimes and placement of staff in a special mobility situation;
- b) The manager statute;
- c) The performance assessment systems for services, managers and remaining staff;
- d) The disciplinary statute.

3 – Matters regulated by special laws provided for in paragraph c) of no. 1 are namely those which define:

- a) The structuring of special careers;
- b) Recruitment requirements and the subsequent determination of pay stepping;
- c) Pay scale grades for career categories;
- d) Remuneration supplements;
- e) Other performance reward systems;
- f) Systems adapted and specific performance assessment;
- g) Special disciplinary statutes;
- h) The regime applicable to matters not governed by laws as stipulated in paragraphs a) and b) of no.1.

Article 81

Normative sources for the contract

1 – Normative sources of the juridical and functional regime applicable to staff that, while subject to a public employment legal relationship different from the limited executive tenure, are under different conditions of those referred to in Article 10 of this order:

- a) The present law and legislation that governs it, in the applicable part;
- b) General laws the subjective scope of application of which covers all staff, irrespective of the form of constitution of the public employment legal relationship under which they fulfil their respective functions in the applicable part;

- c) Special laws applicable to corresponding special careers, in matters that are regulated by legal provisions;
 - d) The RCTFP;
 - e) On a subsidiary basis, general laws the subjective scope of application of which is circumscribed to then designated civil servants and contractual staff;
 - f) On a subsidiary basis, provisions set out in the contract.
- 2 – They are also normative sources in matters regulated by provisions set out in legal provisions regulating collective agreements that integrate or repeal provisions or regimes set out in the sources referred to in paragraphs a) to d) of the preceding number namely on:
- a) Remuneration supplements;
 - b) Other performance reward systems;
 - c) Systems adapted and specific to performance assessment;
 - d) The regime applicable to matters not regulated in the laws provided for in paragraphs a) and b) of no. 1 when expressly regulating them.
- 3 – The provisions set out in numbers 2 and 3 of the preceding Article are applicable with any necessary adaptations, except with regard to paragraph b) of the latter, the content of which is restricted to recruitment requirements.

Article 82

Normative sources of limited executive tenure

- 1 – Normative sources of the juridical and functional regime applicable to staff whose public employment legal relationship is constituted by a limited executive tenure by this order:
- a) The present law and the legislation that regulates it, in the applicable part;
 - b) General laws the subjective scope of application of which covers all staff, irrespective of the pattern of constitution of the public employment legal relationship under which they fulfil functions in the applicable part;
 - c) Special laws applicable to the corresponding limited executive tenure, in matters regulated by legal provisions;
 - d) On a subsidiary basis, that which is applicable to the public employment legal relationship of origin whenever there is and subsists;
 - e) As provided for in Article 80, when there is no, nor does there subsist a public employment legal relationship of origin
- 2 – The provisions set out in no. 2 and in paragraphs b), first part and c) to h) of no. 3 of Article 80 are applicable with any necessary adaptations.

TITLE VII

Final and transitional provisions

Article 83

Competent jurisdiction

- 1 – The courts of administrative and tax jurisdiction are competent to appraise disputes arising from public employment legal relationships.
- 2 – The provisions set out in the preceding number are irrelevant for the competence set at the coming into force and effect of the RCTFP.

Article 84

Continuation of performance of public functions

The fulfilment of functions under any form of the constitution of the public employment legal relationship in any of the organs or services to which the present law is applicable is taken into consideration as performance of public functions or in the career, in the category and, or, in the pay grade according to cases, when staff maintaining the performance of functions definitively change an organ or service.

Article 85

Remuneration of category and performance

1 – The basic pay grade includes remuneration for category and performance, equal, respectively, to five sixths and to one sixth of the basic remuneration.

2 – The law provides for situations and conditions in which the right to remuneration of performance is lost.

Article 86

Prevalence

Except when results are expressly to the contrary, the provisions set out in the present law prevail over any special law and instruments of collective labour regulations.

Article 87

Passage of the RCTFP

The RCTFP is passed by law

Article 88

Transition of the form of public employment legal relationship for an indefinite period of time

1 – Staff currently appointed permanently and fulfilling functions under the conditions referred to in the Article 10 maintain the permanent appointment.

2 – Current staff contracted for an indefinite period of time and fulfilling functions under the conditions referred to in Article 10 transfer, without further formalities to the permanent appointment pattern.

3 – Current staff contracted for an indefinite period of time and fulfilling functions in different conditions from those referred to in Article 10 maintain the contract for an indefinite period of time, with the content resulting from the present law.

4 – Current staff permanently appointed and fulfilling functions in different conditions from those referred to in Article 10 maintain the regimes for the termination of the public employment legal relationship and of reorganisation of services and placement of staff in a situation of special mobility proper to permanent appointment and transit, without other formalities, according to the pattern of contract for an indefinite period of time.

Article 89

Conversion of provisional appointments and of limited executive tenure during the probation period

1 – Current staff provisionally appointed and under limited executive tenure During the probation period transit under the conditions provided for in numbers 1 and 4 of the preceding Article, according to the cases:

- a) For the form of a permanent appointment, for an experimental period;
- b) For the form of contract for an indefinite period of time, for an experimental period.

2 – During the experimental period, time in a provisional appointment or in a limited executive tenure is imputed.

Article 90

Conversion of extraordinary limited executive tenures and other limited executive tenures

1 – Current staff in extraordinary limited executive tenure for the holding of the period of probation transit, under the conditions provided for in numbers 1 and 4 of Article 88, according to cases:

- a) For the form of permanent appointment, for an experimental period;
- b) For the form of contract for an indefinite period of time in an experimental period.

2 – In the experimental period the time elapsed in the extraordinary limited executive tenure is imputed.

3 – Current staff in a limited executive tenure, even though of an extraordinary nature, in services, on an installation regime, transit for the form suitable for internal mobility.

4 – Current staff under limited executive tenure in other transit situations for the form of limited executive tenure with the content resulting from the present law.

Article 91

Conversion of employment contracts governed by public law

1 – Without prejudice to the provisions set out in Article 108, current staff under an employment contract governed by public law transit in accordance with the nature of the functions fulfilled and with the foreseeable duration of the contract:

- a) For the form of permanent appointment, in an experimental period;
- b) For the form of transitional appointment;
- c) For the form of contract for an indefinite period of time, in an experimental period;
- d) For the form of fixed or unfixed term employment contracts concluded to meet urgent public and temporary needs of public legal entities in situations requiring the substitution of a civil servant or contractual staff temporarily prevented from providing services.

2 – In the experimental period time in an employment contract governed by public law is imputed.

3 – The provisions set out in no. 4 of Article 88 are applicable to staff who transit under the terms of paragraph c) of no. 1 after the experimental period with any necessary adaptations.

4 – For the purposes of the transition referred to in paragraphs b) and d) of no. 1 the date of coming into force and effect of the RCTFP is deemed as initial term for the respective public employment legal relationships.

Article 92.

Conversion of employment contracts concluded to meet urgent public and temporary needs of public legal entities in situations requiring the substitution of a civil servant or contractual staff temporarily prevented from providing services for the performance of functions

1 – The current staff under an employment contract concluded to meet urgent public and temporary needs of public legal entities in situations requiring the substitution of a civil servant or contractual staff temporarily prevented from providing services for the performance of functions in the conditions referred to in Article 10 transit to the form of transitional appointment.

2 – The remaining staff under an employment contract concluded to meet urgent public and temporary needs of public legal entities in situations requiring the substitution of a civil servant or contractual staff temporarily prevented from providing services maintain the contract, with the content arising from the present law.

Article 93

Conversion of substitutions in non management positions

1 – Staff currently on a substitution basis in a non management position transit to the form adequate of internal mobility.

2 – Without prejudice to the taking into consideration of the length of service previously performed on a substitution basis under the terms and for the purposes of no. 3 of Article 23 of Decree-Law no. 427/89, of 7th December, in the new drafting by Decree-law no. 102/96, of 31st July, the date of the coming into force and effect of the legal text referred to in no. 5 of the Article 118 is considered the initial term of the transition referred to in the preceding number.

Article 94

Reappraisal of contracts for provision of services

1 – The renewal of contracts for the provision of services currently in force will be reappraised by organs and services in light of the regime now approved.

2 – The regime provided for in Article 36 is applicable to the infringement of provisions set out in the preceding number with any necessary adaptations.

Article 95

Transition to the career of general senior public officer

1 – Present staff transit to the senior public officer general career, who:

- a) Are integrated in the senior public officer general regime career;
- b) Are integrated in the specialist career of the general regime;

c) Are integrated in different careers to those referred to in the preceding paragraphs the degree of functional complexity and job content of which is identical to those of that career.

2 – Current staff also transit to the senior public officer general career, who:

a) Are integrated in careers with different designations from those referred to in paragraphs of the preceding number where the degree of functional complexity and functional content are identical;

b) Are not integrated in careers, the degree of functional complexity and functional content of functions that are performed are identical.

3 – Careers referred to in no. 1 are set out in a decree-law to be published within a time limit of 180 days.

4 – The transitions referred to in no. 2 need confirmation by the member of the Government concerned and of the member of Government responsible for Public Administration, prior to the nominative list referred to in Article 109.

Article 96

Transition to the category of coordinator specialist

1 – Current staff transit to the category of specialist coordinator of the general coordinator assistant career, who:

a) are section heads;

b) are holders of the category of coordinator of the specialist general career;

c) are holders of categories different from those referred to in the preceding paragraphs whose degrees of functional complexity and functional content are identical to those of that category.

2 – Current staff still transit to the category of specialist coordinator of the general career who:

a) are holders of categories with a designation different from that of those which are referred to in paragraphs of the preceding number whose degrees of functional complexity and functional content are identical to those of that category;

b) while not holders of categories, the degree of functional complexity and functional content of functions they fulfil are identical to those of that category.

3 – The categories referred to in no. 1 are set out in a decree-law to be published within the time limit of 180 days.

4 – The transitions referred to in no. 2 need confirmation by the member of the Government concerned and the member of Government responsible for the Public Administration, prior to the nominative list referred to in Article 109.

Article 97

Transition to the category of assistant specialist

1 – Current staff transit to the category of assistant specialist of the general assistant specialist career who:

a) are integrated in the administrative assistant career of the general regime;

b) are integrated in the careers of accounting public employee of the general regime;

c) without prejudice to the provisions set out in the preceding Article, are integrated in professional specialist careers of the general regime;

d) are integrated in careers or are holders of categories different from those referred to in the preceding paragraphs the degree of functional complexity and the functional content of which are identical, nevertheless, to those of that category.

2 – Current staff still transit to the category of assistant specialist of the general assistant specialist career who:

a) are integrated in careers or are holders of categories with designations different from that referred to in paragraphs of the preceding number the degree of functional complexity and functional content of which are identical to those of that category;

b) are not integrated in careers and are not holders of categories, but the degrees of functional complexity and functional content of functions are identical, nevertheless, to those of that category.

3 – The careers and categories referred to in no. 1 are set out in a decree-law to be published within a time limit of 180 days.

4 – The transitions referred to in no. 2 need confirmation by the member of the Government concerned and the member of Government responsible for the Public Administration, prior to the nominative list referred to in Article 109.

Article 98

Transition to the category of general operational foreman

1 – Current staff transit to the category of general operational foreman of the assistant operational general career, who:

a) are holders of the category of general foreman of worker staff in the general career regime;

b) are holders of categories different from that referred to in the preceding paragraph the degrees of functional complexity and functional content of which are identical to those of that category.

2 – Current staff still transit to the category of general operational foreman of the assistant operational general career who:

a) are holders of categories with a designation different from that referred to in the paragraphs of the preceding number the degrees of functional complexity and functional content of functions of which are identical to those of that category;

b) are not holders of categories, the degree of functional complexity and functional content of which are identical, nevertheless, to those of that category.

3 - The categories referred to in no. 1 are set out in a decree-law to be published within the time limit of 180 days.

4 - The transitions referred to in no. 2 need confirmation by the member of the Government concerned and the member of Government responsible for the Public Administration, prior to the nominative list referred to in Article 109.

Article 99

Transition to the category of operational foreman

1 – Current staff transit to the category of operational foreman of the assistant operational general career who:

a) are holders of the category of foreman of the worker staff general career regime;

b) are holders of categories different from those referred to in the preceding paragraph the degrees of functional complexity and functional content of functions of which are identical to those of that category.

2 – Current staff still transit to the category of operational foreman of the assistant operational general career who:

a) are holders of categories with a designation different from that those referred to in paragraphs of the preceding number the degrees of functional complexity and functional content of which are identical to those of that category;

b) are not holders of categories, the degrees of functional complexity and functional content of which are identical, nevertheless, to those of that category.

3 - The categories referred to in no. 1 are set out in a decree-law to be published within the time limit of 180 days.

4 - The transitions referred to in no. 2 need the confirmation of the member of the Government concerned and of the member of the Government responsible for the Public Administration, prior to the nominative list referred to in Article 109.

Article 100

Transition to the category of operational assistant

1 – Without prejudice to the provisions set out in Articles 98 and 99, current staff transit to the category of operational assistant in the operational assistant general career who:

a) are integrated in worker staff general career regime;

b) are integrated in the auxiliary staff general career regime;

c) are integrated in careers or are holders of categories different from those referred to in the preceding paragraphs the degrees of functional complexity and functional content of which are identical, nevertheless, to those of that category.

2 – Without prejudice to the provisions set out in Articles 98 and 99, workers still transit to the category of operational assistant of the assistant operational general career who:

a) are integrated in careers or are holders of categories with a designation different from that of those referred to in the preceding number the degrees of functional complexity and functional content of which are identical, nevertheless, to those of that category;

b) are not integrated in careers nor holders of categories, the degree of functional complexity and functional content of which are identical, nevertheless, to those of that category.

3 - The careers and categories referred to in no. 1 are set out in a decree-law to be published within the time limit of 180 days.

4 - The transitions referred to in no. 2 need confirmation by the member of the Government concerned and of the member of Government responsible for the Public Administration, prior to the nominative list referred to in Article 109.

Article 101

Revision of careers and special corps

1 – The special career regime and special corps are revised within the time limit of 180 days so as:

a) to be converted, with regard to the provisions set out in the present law, in special careers; or

b) to be absorbed by general careers.

2 – to be converted into special careers, their characterisation is subject to the provisions set out in no. 2 of Article 49.

3 – In any case the legal texts of revision define the rules of the transition of staff.

Article 102

Conversion of mobility situations for or of other entities

1 – Current staff in a mobility situation for, or of an entity excluded from the objective scope of application of the present law transit to the juridical and functional situation of loan of public interest.

2 – The initial term of loan referred to in the preceding number is from the date of coming into force and effect of the legal text referred to in no. 5 of Article 118.

Article 103

Conversion of secondments, detachments, occasional and special loans and specific assignments

1 – Current staff seconded, detached, occasional and specially loaned and under a specific assignment for, and in an organ or service to which the present law is applicable transit to the pattern of internal mobility.

2 - The date of coming into force and effect of the legal text referred to in no. 5 of Article 118 is deemed as from the initial term of internal mobility referred to in the preceding number.

Article 104

Pay steps

1 – In the transition to new careers and categories staff are repositioned on the pay scale which corresponds to the pecuniary amount which is identical to the pecuniary amount corresponding to the basic remuneration to which staff are currently entitled, or to which they would be entitled by the application of paragraph b) of no. 1 of Article 112, including therein and integration additions or differentials due.

2 – In case of absence of identity, staff are repositioned in the pay steps, automatically created, on a pay scale not lower than the first career position to which they transit, the pecuniary amount to be identical to the pecuniary amount corresponding to the basic remuneration to which they are currently entitled, or would be entitled by way of application of paragraph b) of no. 1 of Article 112.

3 – In the case provided for in the preceding number, staff, up to the subsequent change of the pay scale of the category or of the career, maintain the right to the basic remuneration they have been receiving or would receive, which is the object of change in identical proportion which results from the application of no. 4 of Article 68.

4 – The date of coming into force and effect of the RCTFP is deemed the initial term of the pay scale referred to in the preceding numbers, irrespective of the length of service that staff have performed in the pay scale and index in which they were placed or in a position that corresponds to the basic remuneration that they have been receiving or would receive.

Article 105

Remuneration of trainees

1 – During the experimental period, current trainees maintain the right to the pecuniary amount corresponding to the remuneration that they have been receiving.

2 – After successful completion of the experimental period, current trainees also retain the right to the pecuniary amount at the remuneration when at the level of the pay steps they must fill corresponds to a pecuniary amount lower to that one which they have been receiving.

3 – The provisions set out in no. 3 of the preceding Article are applicable with any necessary adaptations.

Article 106

Subsisting careers

1 – Being impossible the transition of staff under the terms of Articles 95 to 101 being impossible due to the degree of functional complexity and, or, of the functional content of the career in which they are integrated or of the category of which they are holders and, or, of rules of remuneration repositioning provided for in Article 104, the corresponding careers and, or, categories subsist under the terms in which they are currently provided for, applying them with necessary adaptations to the provisions set out in Articles 46 to 48 and 113.

2 – While exist staff integrated into the careers or holders of categories referred to in the preceding number, the organs or services where they fulfil functions adopt the necessary legal orders, namely those provided for in numbers 2 and following Article 51, as to their integration in other careers or categories.

3 – The pecuniary amounts corresponding to basic remuneration for careers and categories referred to in no. 1 are the object of change in identical proportion to that which results from the application of no. 4 of Article 68.

4 – The careers and, or, categories referred to in no. 1 are set out in a decree-law to be published within a time limit of 180 days.

5 – Organs or services cannot recruit or have recourse to the general mobility of staff not integrated in careers or not holders of categories referred to in no. 1 for the fulfilment of functions that correspond to them.

Article 107

Remuneration levels of the limited executive tenures

The basic remuneration for positions and functions that must be fulfilled under a limited executive tenure is to be revised within a time limit of 180 days with a view to their conforming with the provisions therein.

Article 108

Transition of apprentices and assistants

1 – Current apprentices and assistants transit to the pattern of fixed employment contracts concluded to meet urgent public and temporary needs of public legal

entities in situations requiring the substitution of a civil servant or contractual staff temporarily prevented from providing services.

2 – The date of the coming into force and effect of the RCTFP is deemed as the initial term of the contract referred to in the preceding number.

3 – The provisions set out in numbers 2, 3 6 and 7 of Article 13 of Decree –Law no. 404-A /98 of 18 December are applicable up to the termination of the contracts referred to in the preceding numbers, with any necessary adaptations.

4 – The pecuniary amounts corresponding to the indexes referred to in the legal provisions mentioned in the previous number are subject to alteration in the identical proportion to that which would result from the application of n.º 4 of Article 68.

Article 109

Nominative list of transitions and maintenances

1 – The transitions referred to in Article 88 and following, as well as the maintenance of the juridical and functional situations therein provided for, are executed in each organ or service, by means of the nominative list of which public employees are notified and are made public by affixing in the organ or service and insertion on the electronic page.

2 – Without prejudice to what is set out therein to the contrary, transitions are effective as from the date of the coming into force and effect of the RCTFP.

3 – The nominative list sets out, in relation to each public employee of the organ or service, among other data, the reference to the pattern of constitution of his/her public employment legal relationship, situations of general mobility of the or in the organ or service and his/her position or career, category, attribution, competence or activity that he/she complies with or performs, the pay steps and remuneration level.

4 – As regards staff referred to in no. 4 of Article 88, the nominative list further notes that each one of them shall maintain the regimes therein mentioned, as well as that referred to in no. 2 of Article 114.

5 – The provisions set out in the preceding numbers are also applicable to staff placed in a special mobility situation, in the suitable part.

6 – Without prejudice to provisions set out in no. 4 of Article 104, the former fulfilment of functions, by staff set out in the list, under the terms of any constitutional pattern whatsoever of the public employment legal relationship is taken into consideration under the legal terms then in force, as fulfilment of public functions or in the position or career, in the category or in the pay scale, according to the cases arising from the transition.

Article 110

Recruitment and selection of staff in open competitions

1 – Public employment legal relationships resulting from recruitment and selection in open competitions completed and valid as from the date of the coming into force and effect of the RCTFP are constituted with observance that provided for in the present article.

2 – The provisions set out in the preceding number are still applicable to recruitment and selection in open competitions pending as from the date of the coming into force and effect of the RCTFP provided that they were open before the coming into force and effect of the present law.

3 – Any remaining pending staff recruitment and selection open competitions lapse, as from the date referred to in the preceding number, irrespective of their pattern and situation.

Article 111

Procedures under way relating to staff

1 – Procedures currently in use for staff administration and management lapse in relation to the provisions set out in the present law, having disappeared from the juridical order.

2 – Procedures currently destined for the practice of staff administration and management acts whose substantial and formal requirements of validity and, or, of effectiveness, with regard to the provisions set out in the present law, have been modified pursue, being procedurally possible and useful, in order to verify and apply such requirements.

Article 112

Revision of remuneration supplements

1 – Remuneration supplements that have been created by a special law are to be revised within a time limit of 180 days so as conform with the provisions set out in the present law so as to:

- a) be maintained, total or partially, as remuneration supplements;
- b) be integrated, total or partially, into the basic remuneration;
- c) no longer be received.

2 – When, by application of the provisions set out in the preceding number, the remuneration supplements are not totally or partially, maintained as such or are integrated into the basic remuneration, the exact pecuniary amount, or the part that is left over, continues to be received by staff up to the end of their active life in the career or category as they have the right due to integration or title

3 – The pecuniary amount referred to in the preceding number is not susceptible to any change.

4 – The regime of the respective remuneration supplement to the pecuniary amount referred to in the no. 2 is applicable.

5 – The provisions set out in numbers 2 and following are not applicable when the remuneration supplement has been created or changed by a non-legislative act after the coming into force and effect of Law no. 43/2005, of August 29th.

Article 113

Relevance of assessments in changes in pay steps and performance bonuses

1 – For the effect of the provisions set out in numbers 1 and 6 of Article 47 and in no. 1 of Article 75 performance assessments which have taken place in the years 2004 to 2007, both inclusive, are taken into consideration under the terms of the following numbers provided that they cumulatively:

- a) refer to functions fulfilled during placement in the current pay scale and index or in the position which corresponds to the basic remuneration that staff have been receiving;
- b) have taken place under the terms of Laws numbers 10/2004, of 22nd March, and 15/2006, of 26th April.

2 – For the purposes of provisions set out in no. 6 of Article 47, and without prejudice to the provisions set out in the following numbers, the relevance of performance assessments referred to in the preceding number obeys the following rules:

- a) When the performance assessment system applied foresees five ratings or assessment levels, the number of marks to be granted is three, two, one, zero and one negative, respectively from higher to lower;
- b) When the performance assessment system applied foresees four ratings or assessment levels, the number of marks to be granted is two, one, zero and one negative, respectively from higher to lower;
- c) When the performance assessment system applied foresees three ratings or assessment levels, the number of marks to be granted is of two, one and one negative, respectively from higher to lower;
- d) When the performance assessment system applied foresees two ratings or assessment levels, the number of marks to be granted is of one and a half for the rating or level corresponding to a positive performance and of one negative for the rating or level corresponding to a negative performance.

3 – When a rating or assessment level has been negative, marks are granted under the following terms:

- a) Zero marks when a single rating has been obtained or an assessment level has been negative;
- b) A negative mark for each rating or assessment level that adds to the rating or level referred to in the preceding paragraph.

4 - When the performance assessment system applied pursuant to no. 2 of Article 2 and no. 1 of Article 4 of Law no. 15/2006, of 26th April, did not establish maximum percentages, in compliance with the principle of differentiation of performances laid down in Article 15 of Law no. 10/2004, of 22nd March, the three and two marks provided for in paragraphs a) to c) of no. 2 are granted taking into account the following rules:

- a) In the case of paragraph a), three marks for the rating or maximum performance levels higher, up to the limit of 5 % of the total staff, and two marks for the remaining ratings or maximum assessment levels, and for those immediately lower to the maximum, up to a limit of 20 % of the total staff;
- b) In the case of paragraphs b) and c), two marks for the ratings or maximum assessment levels, up to a limit of 25 % of the total staff.

5 - When the performance assessment system applied did not permit the differentiation provided for in the preceding number, namely due to the non-existence of quantitative ratings, the number of marks to be granted obeys the provisions set out in paragraph d) of no.2.

6 – When the systems specific to performance assessment foresee periodicity of non-annual assessment, each rating or assessment rating granted has repercussions on each of the years that elapsed during the period assessed.

7 – The number of marks granted to staff whose performance has not been assessed, namely, due to non-applicability or the non-effective application of legislation in matters pertaining to performance assessment, is one mark for each year not assessed.

8 – The number of marks granted as per the present Article is communicated by the organ or service to each public employee, with the annual discrimination and respective justification.

9 – The substitution of the marks granted under the terms of paragraph d) of no. 2 and of numbers 5 to 7, at the request of the public employee, must be submitted within a time limit of five working days after the communication referred to in the

preceding number, is undertaken by way of curricular weighting, under the terms provided for in the performance assessment system of Public Administration staff, applied with the necessary adaptations, by the assessing public employee appointed by the most senior manager of the organ or service.

10 – The proposed ratings under the terms of the preceding number are confirmed by the top manager of the organ or service and submitted by him/her to the respective member of the Government for ratification, with a view to checking the balance of ratings distribution at the various levels of assessment, in accordance with the differentiation of performances principle, as well as the appraising of the possible responsibilities of holders of management positions for the purposes provided for in no. 2 of Article 4 of Law no.15/2006, of April 26th.

11 – After the ratification referred to in the preceding number, the number of marks is granted under the terms of no. 6 of Article 47, corresponding to the rating obtained in the year or years in relation to which the curricular weighting has been made.

12 – When the specific application of the provisions set out in number 1 of Articles 47 and 75 imposes the existence of quantitative ratings and the system of performance assessment applied does not supply them, a curricular weighting is made, under the terms provided for in the performance assessment system referred to in no. 9, of staff to whom these specific precepts are applicable, so as to obtain the referred to quantification.

Article 114

Social protection and social benefits

1 – All staff are entitled, under the terms of the law to social protection, other social benefits and a meal allowance.

2 – Staff referred to in Articles 88 and following maintain the regime of social protection from which they have been benefiting, without prejudice to their convergence with the regimes of the social security system, under the terms of Article 104 of Law no. 4/2007, of January 16th.

Article 115

Transitional qualifications levels

1 – In the absence of a special law to the contrary, while staff remain integrated in the career resulting from the transition provided for in the present title, or to a different category of the career, the academic qualification level is not demanded from them corresponding to the degree of functional complexity of the career in question, even though they apply for an open competition procedure publicised to fill work posts, in the organ or service where they fulfil functions or in another organ or service, corresponding to an identical or to a different category of career.

2 – Without prejudice to the provisions set out in the preceding number and in numbers 2 and following of Article 51, when the attributions, competences or activities of organs or services so impose it, a special law may admit that, by 31st December of 2012, holders of a university course that does not confer the level of a degree may apply for a publicised open competition procedure to fill work posts corresponding to Grade 3 careers or categories.

Article 116

Repeals

All legal provisions contrary to stipulations set out in the present law are hereby repealed, namely:

- a) Those which have passed or altered the establishment plans of organs or services to which the present law is applicable;
- b) Decree no.16 563, of 2nd March 1929;
- c) Decree-Law no.719/74, of 18th December;
- d) Article 2 of Decree-Law no. 729/74, of 20th December;
- e) Decree-Law no. 485/76, of 21st June;
- f) Decree-Law no. 191-E/79, of 26th June;
- g) Article 3 of Decree-Law no. 465/80, of 14th October;
- h) Article 25 of Decree-Law no. 110-A/81, of 14th May;
- i) Decree-Law no. 65/83, of 4th February;
- j) Regulatory Decree no. 82/83, of 30th November;
- l) Decree-Law no. 41/84, of 3rd February;
- m) Decree-Law no. 85/85, of 1st April;
- n) Regulatory Decree no. 20/85, of 1st April;
- o) Decree-Law no. 248/85, of 15th July;
- p) Article 2 of Decree-Law no. 12/87, of 8th January;
- q) Decree-Law no. 247/87, of 17th June;
- r) Decree-Law no. 265/88, of 28th July;
- s) Decree-Law no.184/89, of 2nd June;
- t) Decree-Law no. 244/89, of 5th August;
- u) Decree-Law no. 353-A/89, of 16th October;
- v) Decree-Law no. 381/89, of 28th October, with the exception of Articles 4 and 5;
- x) Decree-Law no. 427/89, of 7th December;
- z) Decree-Law no. 407/91, of 17th October;
- aa) Decree-Law no. 409/91, of 17th October;
- ab) Decree-Law no. 413/93, of 23rd December;
- ac) Article 29 of Decree-Law no. 77/94, of 9th March;
- ad) Decree-Law no. 230/94, of 14th September;
- ae) Article 2 of Decree-Law no. 233/94, of 15th September;
- af) Article 20 of Decree-Law no. 45/95, of 2nd March;
- ag) Decree-Law no. 159/95, of 6th July;
- ah) Decree-Law no. 121/96, of 9th August;
- ai) Decree-Law no. 226/96, of 29th November;
- aj) Articles 18 and 19 of Decree-Law no. 13/97, of 17th January;
- al) Normative Order no. 70/97, published in 22nd November of 1997;
- am) Decree-Law no. 22/98, of 9th February;
- an) Decree-Law no. 53-A/98, of 11th March;
- ao) Decree-Law no. 175/98, of 2nd July;
- ap) Decree-Law no. 204/98, of 11th July;
- aq) Decree-Law no. 404-A/98, of 18th December;
- ar) Decree-Law no. 412-A/98, of 30th December;
- as) Article 33 of Decree-Law no. 84/99, of 19th March;
- at) Decree-Law no. 238/99, of 25th June;
- au) Articles 5 and 6 of Decree-Law no. 324/99, of 18th August;
- av) Articles 6 to 8 of Decree-Law no. 325/99, of 18th August;
- ax) Articles 10 and 11 of Decree-Law no. 326/99, of 18th August;

- az) Order no. 807/99, of 21st September;
- ba) Decree-Law no. 497/99, of 19th November;
- bb) Decree-Law no. 518/99, of 10th December;
- bc) Decree-Law no. 54/2000, of 7th April;
- bd) Decree-Law no. 218/2000, of 9th September;
- be) Resolution of the Council of Ministers no. 12/2001, of 8th February;
- bf) Decree-Law no. 142/2001, of 24th April;
- bg) Resolution of the Council of Ministers no. 97/2002, of 18th May, and complementary orders;
- bh) Decree-Law no. 149/2002, of 21st May;
- bi) Decree-Law no. 101/2003, of 23rd May;
- bj) Article 6 of Law no. 99/2003, of 27th August.

Article 117

Application of new regimes

1 – The regimes of job attachment, careers and remunerations defined and governed by the present law are applicable under the terms of the following numbers.

2 – As from the date of the coming into force and effect of the present law, the public employment legal relationships are constituted:

a) For the performance of positions covered by paragraph a) of no. 4 of Article 9 and of functions in careers the functional content of which is inserted in the activities referred to in Article 10, for limited executive tenure or by appointment, respectively, under the terms of Decree-Law no. 184/89, of 2nd June and respective complementary legislation;

b) For the fulfilment of positions and functions not covered by the preceding paragraph, by employment contract, under the terms of Law no. 23/2004, of 22nd June.

3 – Employment contracts are concluded for entrance careers, categories and remuneration, provided for in the law, in regulations or in a collective bargaining regulation in force.

4 – As from the date of coming into force and effect of the present law, changes in pay scale are processed under the terms provided for in Articles 46 to 48 and 113 of the present law as regards current careers and, or, categories. To this end the legal provisions applicable to the scale and change of pay scale are those provided for a pay steps and to a change of pay steps, respectively.

5 – As from the date of the coming into force and effect of the present law, the granting of performance bonuses shall occur under the terms provided for in Articles 74 to 76 and 113 of the present law.

6 – Public employment legal relationships arising from open competitions for staff recruitment and selection or other processes of recruitment open before the date of the coming into force and effect of the present law are constituted with observance to the provisions set out in no. 2.

7 – Without prejudice of the obligation of submission of establishment maps and of the preparation of the draft budget for 2009 under the terms provided for in Articles 4, 5 and 7, during 2008 and for the purposes provided for in the present law:

a) The establishment plans in force constitute the comprehensive staff plans of the organs and services to which these articles refer;

b) The services which have no establishment plans shall draw up comprehensive staff plans as per the provisions set out in Article 5.

8 – The legal references made to establishment plans and to positions of comprehensive staff plans are considered as made to and to work posts, respectively.

9 – The provisions set out in numbers 4 and 5 are not applicable to staff referred to in Article 1 of the Teaching Career Statute of Kindergarten Workers and of Primary and Secondary Education Teachers, passed by Decree-Law no. 139-A/90, of 28th April, rectified by a Declaration published in the Official Gazette, 1st Series, no. 149, supplement, of 30th June 1990, and changed by Decrees-Law numbers 105/97, of 29th April, 1/98, of 2nd January, 35/2003, of 17th February, 121/2005, of 26th July, 229/2005, of 29th December, 224/2006, of 13th November, 15/2007, of 19th January, and 35/2007, of 15th February.

10 – Non compliance with revision provided for in Articles 101, 107 and 112 of the present law implies no increase in the amount of the remuneration supplements provided for in Article 112, as from the date of coming into force and effect of the RCTFP. Likewise, it implies the reduction in the budgets of the services into which they are paid, the total amount corresponding to allowances to be paid in the current budget implementation.

11 – Regimes resulting from the present Article prevail over any special law whatsoever in force on the date of the coming into force and effect of the present law.

Article 118

Coming into force and effect and production of effects

1 – Without prejudice to the provisions set out in the following number, the present law comes into force and effect on the 1st day of the month following its publication and produces effects under the terms of numbers 3 to 7.

2 - No. 2 of Article 54, Article 87, numbers 3 of Articles 95 to 100 and Articles 101, 106, no. 4, 107, 112 and 118 come into force on the day following the publication of the present law.

3 – To allow for the application of the regimes provided for in the preceding Article, the Articles 1 to 5, 7 and 8, paragraph a) of no. 4 of Article 9, Article 10, Articles 46 to 48, Article 67, in the part in which stipulates performance bonuses, Articles 74 to 76 and Articles 113 and 117 produce effects with the coming into force and effect of the present law.

4 – Articles 25 to 30, 35 to 38 and 94 also produce effects with the coming into force and effect of the present law.

5 – Articles 58 to 65, 93, 102 and 103 produce effects on the date defined in the legal text that makes changes to Law no. 53/2006, of 7th December.

6 – Articles 50 to 53, no. 1 of Article 54 and Articles 55 to 57 produce effects as from the date of coming into force and effect of the order provided for in no. 2 of Article 54.

7 – The remaining provisions of the present law produce effects as from the date of the coming into force and effect of the RCTFP.

Passed on January 18th 2008.

The President of the Assembly of the Republic, Jaime Gama.

Promulgated on 20th February 2008.

Let it be published.

The President of the Republic, Aníbal Cavaco Silva.

Countersigned on 20th February 2008.

The Prime Minister, José Sócrates Carvalho Pinto de Sousa.

ANNEX

(Referred to in no. 2 of Article 49)

Characterisation of general careers

(See original document)