



Government Gazette

REPUBLIC OF SOUTH AFRICA

Regulation Gazette

No. 7722

Vol. 457

Pretoria

25

July

2003

No. 25209



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GOVERNMENT NOTICE GOEWERMENSKENNISGEWING

OFFICE OF THE PUBLIC SERVICE COMMISSION KANTOOR VAN DIE STAATSDIENSKOMMISSIE

No. R. 1012

25 July 2003

RULES FOR DEALING WITH THE GRIEVANCES OF EMPLOYEES IN THE PUBLIC SERVICE

It is hereby notified for general information that the Public Service Commission has under section 11 of the Public Service Commission Act, 1997 (Act No. 46 of 1997), read in conjunction with section 196 (4) (f) (ii) of the Constitution of the Republic of South Africa, 1996 (Act No. 108 of 1996), made the Rules set out in Schedule 1 hereto.

Thus done and signed at Pretoria on this Twenty-fifth day of July 2003.

S. S. SANGWENI

Chairperson

Public Service Commission

SCHEDULE 1

A. DEFINITIONS

In this procedure, unless the context indicates otherwise—

“**Commission**” means the Public Service Commission established in terms of section 196 (1) of the Constitution;

“**Constitution**” means the Constitution of the Republic of South Africa, 1996 (Act No. 108 of 1996);

“**days**” refers to working days;

“**executing authority**” means an authority as defined in subsection 1 (1) of the Public Service Act, 1994;

“**grievance**” means a dissatisfaction regarding an official act or omission by the employer which adversely affects an employee in the employment relationship, excluding an alleged unfair dismissal;

“**head of department**” means the incumbent of a post mentioned in Schedules 1, 2 and 3 of the Public Service Act, 1994, or the person acting in such post;

“**Public Service Act**” means the Public Service Act, 1994 (Proclamation No. 103 of 1994);

“**recognised trade union**” means all the trade unions admitted to the Public Service Co-ordinating Bargaining Council as well as any other trade union that enjoys the relevant organisational rights in a particular department;

“**resolve**” means to settle a grievance to the satisfaction of the aggrieved employee;

“**representative**” means a fellow employee, a representative or official of a recognised trade union.

No. R. 1012

25 Julie 2003

REÛLS VIR DIE HANTERING VAN GRIEWE VAN WERKNEMERS IN DIE STAATSDIENS

Hiermee word vir algemene kennisname bekend gemaak dat die Staatsdienskommissie kragtens artikel 11 van die Staatsdienskommissiewet, 1997 (Wet No. 46 van 1997), saamgelees met artikel 196 (4) (f) (ii) van die Grondwet van die Republiek van Suid-Afrika, 1996 (Wet No. 108 van 1996), die Reëls uitgevaardig het soos in Bylae 1 hierby uiteengesit.

Aldus gedoen en geteken te Pretoria op hede die Vyf-entwintigste dag van Julie 2003.

S. S. SANGWENI

Voorsitter

Staatsdienskommissie

BYLAE 1

A. DEFINISIES

In hierdie prosedure, tensy anders vermeld, beteken—

“**dae**” werksdae;

“**erkende werknemersorganisasie**” al die werknemersorganisasies toegelaat tot die Staatsdiens Gekoördineerde Bedingingsraad asook enige werknemersorganisasie wat die relevante organisatoriese regte in 'n spesifieke departement geniet;

“**grief**” 'n ontevredenheid met betrekking tot 'n amptelike handeling of nalate deur die werkgewer wat die werknemer in die werksverhouding nadelig beïnvloed, met uitsluiting van 'n beweerde onbillike ontslag;

“**Grondwet**” die Grondwet van die Republiek van Suid-Afrika, 1996 (Wet No. 108 van 1996);

“**hoof van departement**” die ampsbekleër van 'n pos vermeld in Skedules 1, 2 en 3 van die Staatsdienswet, 1994, of die persoon wat in sodanige pos waarneem;

“**Kommissie**” die Staatsdienskommissie tot stand gebring in terme van artikel 196 (1) van die Grondwet;

“**oplos**” om 'n grief tot die tevredenheid van die gegriefde werknemer te skik;

“**Staatsdienswet**” die Staatsdienswet, 1994 (Proklamasie No. 103 van 1994);

“**uitvoerende gesag**” 'n gesag soos gedefinieer in subartikel 1 (1) van die Staatsdienswet, 1994;

“**verteenwoordiger**” 'n medewerknemer, 'n verteenwoordiger of beampte van 'n erkende werknemersorganisasie.

B. PURPOSE AND APPLICATION

1. The purpose of this grievance procedure is to advance sound labour relations and address grievances in the public service by fulfilling the primary objectives of this procedure which are—
 - (a) to give effect to section 196 (4) (f) (ii) of the Constitution which empowers the Commission to investigate grievances of employees in the public service concerning official acts or omissions, and recommend appropriate remedies;
 - (b) to give effect to section 11 of the Public Service Commission Act, 1997 (Act No. 46 of 1997), which empowers the Commission to make Rules to deal with grievances;
 - (c) to promote—
 - (i) speedy, impartial and equitable handling of grievances;
 - (ii) sound labour relations;
 - (iii) resolution of individual grievances at the lowest possible level in a department.

C. MANAGING A GRIEVANCE

1. A grievance must as far as possible be resolved by an employer and as close to the point of origin as possible.
2. The employer must ensure that the grievance is dealt with in a fair, impartial and unbiased manner, and that the principles of natural justice are observed.
3. The procedure must be such that it assists and enables an employer and an employee to address a dissatisfaction.
4. No employee must be victimised or prejudiced, directly or indirectly as a result of lodging a grievance.
5. If disciplinary action is being taken against an employee, utilisation of this procedure by the employee to address any matter related to the disciplinary action shall not halt the disciplinary procedure.
6. A grievance must be lodged in writing and all decisions taken during the process must be in writing.
7. An employee may be assisted by a representative.

D. ADHERENCE TO TIME LIMITS

1. In determining adherence to time limits, this should be calculated by excluding the first day and including the last day.
2. The parties must adhere to the time limits set out in this procedure, unless they mutually agree to extend them.
3. A grievance must be lodged with the employer within 90 days from the date on which the employee became aware of the official act or omission which adversely affects him or her.

B. DOEL EN AANWENDING

1. Die doel van hierdie griewe prosedure is om gesonde arbeidsverhoudinge te bevorder en om griewe in die Staatsdiens te hanteer deur aan die primêre doelwitte van hierdie prosedure te voldoen, naamlik deur—
 - (a) uiting te gee aan artikel 196 (4) (f) (ii) van die Grondwet, wat die Kommissie magtig om griewe van werknemers in die Staatsdiens aangaande amptelike handeling en nalates te ondersoek, en om gepaste remedies aan te beveel;
 - (b) uiting te gee aan artikel 11 van die Staatsdienskommissiewet, 1997 (Wet No. 46 van 1997), wat die Kommissie magtig om reëls te maak vir die hantering van griewe;
 - (c) die bevordering van—
 - (i) spoedige, onpartydige en regverdigde hantering van griewe;
 - (ii) gesonde arbeidsverhoudinge;
 - (iii) die oplossing van individuele griewe op die laagste moontlike vlak binne 'n departement.

C. HANTERING VAN 'N GRIEF

1. 'n Grief moet so ver moontlik deur 'n werkgewer opgelos word, en so na as moontlik aan die punt van oorsprong daarvan.
2. Die werkgewer moet seker maak dat die grief hanteer word op 'n regverdige, onpartydige en onbevooroordeelde wyse, en dat die beginsels van natuurlike geregtigheid nagekom word.
3. Die prosedure moet van so 'n aard wees dat dit meewerk met en die werkgewer en werknemer in staat stel om 'n ontevredenheid aan te spreek.
4. Geen werknemer mag, direk of indirek, geïntimiseer of benadeel word as gevolg van die rig van 'n grief nie.
5. Indien dissiplinêre aksie teen 'n werknemer geneem word, sal die gebruik van hierdie prosedure deur 'n werknemer, om enige aspek wat verband hou met die dissiplinêre aksie aan te spreek, nie die dissiplinêre prosedure stuit nie.
6. 'n Grief moet skriftelik gerig word en alle besluite geneem tydens die proses moet op skrif gestel word.
7. 'n Werknemer mag deur 'n verteenwoordiger bygestaan word.

D. NAKOMING VAN DIE TYDSBEPERKINGS

1. Om vas te stel of die tydsbeperkings nagekom is, moet, by die berekening daarvan, die eerste dag uitgesluit en die laaste dag ingesluit word.
2. Die partye moet die tydsbeperkings in hierdie prosedure uiteengesit nakom, tensy hulle skriftelik onderling ooreengekom het om dit te verleng.
3. 'n Grief moet aan die werkgewer gerig word binne 'n periode van 90 dae vanaf die datum waarop die werknemer bewus geword het van die amptelike handeling of nalate wat hom of haar nadelig affekteer.

4. An employee may demand that his or her grievance be referred to the Commission within 10 days after receiving the executing authority's decision.

E. PROVISION OF INFORMATION

1. An employer must provide relevant information necessary for an employee to lodge or pursue a grievance, if requested.
2. The provision of such information is subject to any limitations imposed by law.
3. The employee must be provided with information about the status of the grievance and the progress made towards the planned finalisation date.
4. The employer must provide the employee with a copy of the grievance form after each applicable level of authority dealt with the grievance.

F. DEPARTMENTAL STAGES TO ADDRESS A GRIEVANCE

1. An employee may lodge a grievance with an employee designated to facilitate the resolution of grievances in the department.
2. The prescribed form at Annexure A must be used when a grievance is lodged.
3. The designated employee must liaise with the relevant structures of authority of the department in an attempt to resolve the grievance.
4. The grievance may be resolved by any person within the relevant structures of authority who has the requisite authority to do so.
5. The aggrieved employee will be duly informed by the designated employee about the status and progress made towards the resolution of the grievance.
6. If the grievance is resolved to the satisfaction of the aggrieved employee the confirmation thereof will be reduced to writing by the designated employee.
7. If a grievance cannot be resolved, the executing authority must inform the aggrieved employee accordingly.
8. The department (including the executing authority) has 30 days to deal with the grievance. The period may be extended by mutual agreement in writing.
9. If after the aggrieved employee is informed of the outcome of the grievance and he/she remains dissatisfied—
 - (a) he/she must inform the executing authority thereof in writing within 10 days;
 - (b) the executing authority must in terms of section 35 (1) of the Public Service Act, 1994, forward the grievance and the relevant documentation to the Public Service Commission for a recommendation within five days of being informed by the aggrieved employee.

4. 'n Werknemer mag eis dat sy of haar grief na die Kommissie verwys word binne 10 dae na ontvangs van die uitvoerende gesag se besluit.

E. VERSKAFFING VAN INLIGTING

1. 'n Werkgewer moet, indien so versoek, alle relevante inligting aan die werknemer verskaf, indien dit deur die werknemer benodig word ten einde 'n grief te rig of om dit voort te sit.
2. Die verskaffing van sodanige inligting is onderworpe aan enige beperkinge daargestel deur die reg.
3. Die werknemer moet voorsien word van inligting aangaande die status van die grief en die vordering wat gemaak word ten einde die beplande datum van finalisering te bereik.
4. Die werkgewer moet die werknemer voorsien van 'n afskrif van die grieewe vorm nadat elke toepaslike vlak van gesag die grief hanteer het.

F. DEPARTEMENTELE VLAKKE VIR DIE HANTERING VAN 'N GRIEF

1. 'n Werknemer mag 'n grief rig aan die aangewese werknemer, wie die oplossing van grieewe in die departement fasiliteer.
2. Die voorgeskrewe vorm, Addendum A, moet gebruik word wanneer 'n grief gerig word.
3. Die aangewese werknemer moet skakel met al die relevante gesagstrukture van die departement in 'n poging om die grief op te los.
4. Die grief mag opgelos word deur enige werknemer binne die relevante gesagstrukture wie die vereiste magtiging het om dit te doen.
5. Die gegriefde werknemer moet gereeld deur die aangewese werknemer ingelig word aangaande die status van en die vordering gemaak ten opsigte van die oplossing van die grief.
6. Indien die grief opgelos is tot bevrediging van die gegriefde werknemer sal bevestiging daarvan skriftelik deur die aangewese werknemer aangeteken word.
7. Indien 'n grief nie opgelos kan word nie, moet die uitvoerende gesag die gegriefde werknemer dienoreenkomstig inlig.
8. Die departement (insluitende die uitvoerende gesag) het 30 dae tyd om die grief af te handel. Die periode mag skriftelik by onderlinge ooreenkoms verleng word.
9. Indien die gegriefde werknemer, nadat hy of sy ingelig is oor die uitkoms van die grief, steeds ontevrede is, moet—
 - (a) hy of sy die uitvoerende gesag binne 10 dae skriftelik daarvan in kennis stel;
 - (b) die uitvoerende gesag in terme van artikel 35 (1) van die Staatsdienswet, 1994, die grief en alle relevante dokumente binne vyf dae, nadat hy of sy so deur die gegriefde werknemer in kennis gestel is, na die Kommissie vir 'n aanbeveling verwys.

10. If the grievance constitutes an alleged unfair labour practice as defined in the Labour Relations Act, 1995, the employee may inform the executing authority in writing that he/she wishes to utilise the dispute resolution mechanisms provided for in the constitution of the Public Service Co-ordinating Bargaining Council or the relevant sectoral council (whichever is applicable) and that the Public Service Commission should therefore not consider the grievance.
11. If there is failure on the part of the department to respond to the grievance within the period referred to in Rule F8, the aggrieved officer may lodge his or her grievance with—
 - (a) the Commission directly; or
 - (b) in the case of an alleged unfair labour practice, with the Public Service Co-ordinating Bargaining Council or the relevant sectoral council (whichever is applicable) in terms of its dispute resolution procedure.

G. REFERRAL TO THE COMMISSION

1. Once the Commission has received all the information from the executing authority, it must within 30 days consider such grievance and inform the executing authority of its recommendation and the reasons for its decision in writing.
2. On receipt of the Commission's recommendation, the executing authority must, within five days, inform the employee and the Commission of his or her decision in writing.

H. GRIEVANCES OF HEADS OF DEPARTMENT

1. If a head of department has a grievance, he/she may in the case—
 - (a) of the head of a national department, submit the grievance to the President; or
 - (b) of the head of a provincial department, submit the grievance to the relevant Premier.
2. The President or Premier has 30 days to deal with the grievance. The period may be extended by mutual agreement.
3. Rules F9 and 10 will, read with the changes required by the context, apply to all grievances of heads of department.

I. EVALUATION

1. The head of department must ensure that grievance resolution is evaluated by maintaining a record of the number of grievances resolved from the beginning of each calendar year and report to the Commission on a six monthly basis.
2. The Commission must report on the management of grievances and the efficiency of the grievance procedure at least once a year to the National Assembly and in respect of its activities in a Province to the legislature of that Province.

10. Indien die grief 'n beweerde onbillike arbeidspraktyk, soos gedefinieer in die Arbeidsverhoudingswet, 1995 daarstel, mag die werknemer die uitvoerende gesag skriftelik in kennis stel dat hy of sy verkies om die dispuut resoluie meganismes, waarvoor in die grondwet van die Staatsdiens Gekoördineerde Bedingingsraad of die relevante Sektorale Bedingingsraad (welke van toepassing is) voorsiening gemaak word te gebruik en dat die Kommissie nie die grief moet oorweeg nie.
11. Indien die departement nalaat om binne die tydperk voorgeskryf in Reël F8 met die grief te handel, mag die gegriefde werknemer sy of haar grief—
 - (a) direk aan die Kommissie rig; of
 - (b) in die geval van 'n beweerde onbillike arbeidspraktyk, aan die Staatsdiens Gekoördineerde Bedingingsraad of die relevante Sektorale Bedingingsraad (welke van toepassing is) rig, in terme van die betrokke dispuut resoluie prosedure.

G. VERWYSING NA DIE KOMMISSIE

1. Sodra die Kommissie al die inligting vanaf die uitvoerende gesag ontvang het, moet die Kommissie binne 30 dae sodanige grief oorweeg en die uitvoerende gesag skriftelik van die Kommissie se aanbeveling en die redes daarvoor in kennis stel.
2. Binne vyf dae na onvangs van die Kommissie se aanbeveling moet die uitvoerende gesag die werknemer en die Kommissie skriftelik van sy of haar besluit in kennis stel.

H. GRIEWE VAN HOOFDE VAN DEPARTEMENTE

1. Indien 'n hoof van 'n departement gegrief is, mag hy of sy in die geval van—
 - (a) die hoof van 'n nasionale departement die grief na die President verwys; of
 - (b) die hoof van 'n provinsiale departement die grief na die relevante Premier verwys.
2. Die President of die Premier het 30 dae tyd om die grief af te handel. Die periode mag by onderlinge ooreenkoms verleng word.
3. Reëls F9 en 10 sal, saamgelees met die veranderings vereis deur die konteks, van toepassing wees op alle griewe van hoofde van departemente.

I. EVALUERING

1. 'n Hoof van 'n departement moet verseker dat die oplossing van griewe geëvalueer word deur die instandhouding van 'n rekord van die getal griewe wat gedurende elke kalenderjaar opgelos word en moet op 'n sesmaandelikse basis daaromtrent verslag doen aan die Kommissie.
2. Die Kommissie moet ten opsigte van die hantering van griewe en die effektiwiteit van die griewe prosedure, een maal per jaar aan die Nasionale Vergadering en die Provinsiale Wetgewers verslag doen.

J. OTHER PROCEDURES

When a grievance is lodged in terms of this procedure, an aggrieved employee must disclose whether he or she is utilising any other procedure.

K. TRANSITIONAL MEASURES

1. A grievance lodged before the promulgation of the Interim Rules, namely before 1 July 1999, shall be dealt with and concluded as if the Public Service Regulations had not been repealed.
2. A grievance lodged before the promulgation of these grievance rules, must be dealt with and concluded in terms of the Interim Grievance Rules promulgated in *Government Gazette* No. 20231 of 1999.

L. DATE OF COMMENCEMENT

The date of commencement of these Rules is, subject to the provisions of Rule K, 19 September 2003.

J. ANDER PROSEDURES

Wanneer 'n grief in ooreenstemming met die bepalings van hierdie prosedure gerig is, moet 'n gegriefde werknemer openbaar of hy of sy gelyktydig 'n ander prosedure volg.

K. OORGANGSBEPALINGS

1. 'n Grief gerig voor die inwerkingtreding van die Interim Reëls, naamlik voor 1 Julie 1999, sal hanteer en afgehandel word asof die Staatsdiensregulasies nie herroep is nie.
2. 'n Grief gerig voor die inwerkingtreding van hierdie Griewe Reëls, moet hanteer en afgehandel word in ooreenstemming van die bepalings van die Interim Griewe Reëls gepubliseer in *Staatskoerant* No. 20231 van 1999.

L. DATUM VAN INWERKINGTREDING

Die datum waarop hierdie Reëls in werking tree is, onderworpe aan die voorskrifte van Reël K, 19 September 2003.

SCHEDULE 2**GOVERNMENT NOTICE REPEALED**

Number and year of Notice	Short title	Extent of the repeal
Notice 20231 of 1999	Interim Grievance Rules of the Public Service Commission	The repeal of the whole with effect from 19 September 2003

Annexure A

GRIEVANCE FORM**PLEASE READ THE FOLLOWING INSTRUCTIONS BEFORE COMPLETING THE FORM**

1. This form must be used to lodge a grievance (excluding an alleged unfair dismissal) when you are dissatisfied with an official act or omission and you have been unable to resolve the problem by using informal discussion.
2. You have to lodge your grievance within 90 days from the date on which you became aware of the official act or omission which adversely affects you.
3. You may be assisted or represented by a fellow employee or a representative or official from a recognised trade union.
4. It is important to complete all information accurately. When the form is completed, it must be given to the employee designated to facilitate grievances at your institution. The department will attach this form to the grievance documentation and it will be used through all stages of the grievance procedure.
5. At each stage where a person within the relevant structure of authority attempts to resolve the grievance, each party will complete the appropriate part of the form. You will be given an opportunity to respond to each and every comment.
6. At the conclusion of each stage of the grievance procedure, the department will provide you with a copy of the completed form.
7. Once the grievance has been resolved, you do not need to complete the rest of the form. The Human Resources Section of your department will then file the form. It will then be used to report statistics to the Public Service Commission annually.
8. You are required to complete Parts A and B of this form and to hand it to the designated employee who facilitates grievances at your institution. The employee will affix his/her signature in the block below part B of the form to indicate that the grievance has been received. Ensure that you receive a copy of the form where receipt of your grievance has been acknowledged.
9. Part C of the grievance form will be completed by the employer and yourself during the various stages where attempts will be made to resolve the grievance.

PART A: PERSONAL INFORMATION

To be completed by aggrieved employee:

Initials and Surname : _____

PERSAL number : _____

Employing department : _____

Directorate : _____

Rank/Designation : _____

Date on which you became aware of
the official act or omission : _____

Contact numbers : Tel No: _____ Fax No: _____

Name of representative (where applicable): _____

Contact numbers of representative : Tel No: _____ Fax No: _____

Name of trade union (where applicable) : _____

Contact numbers of trade union : Tel No: _____ Fax No: _____

PART B: DETAILS OF GRIEVANCE

To be completed by aggrieved employee:

What are you aggrieved about? (If space below is not enough, please attach additional page(s)):

What solution do you propose?

SIGNED: _____
EMPLOYEE DATE

Receipt of grievance form acknowledged and copy given to aggrieved employee

DESIGNATED EMPLOYEE DATE

Name: _____

Rank: _____

PART C: GRIEVANCE RESOLUTION: LEVELS**NOTES:**

This part of the form makes provision for various levels of authority to attempt to resolve the dispute. There are, however, no prescribed levels for the resolution of a grievance. Depending on the circumstances, one or more pages below need to be completed.

If the grievance cannot be resolved up to the level of head of department, it has to be submitted to the executing authority (i.e. the page below that specifically refers to the executing authority has to be completed).

The grievance must be dealt with by all the applicable levels (including the executing authority) within a period of 30 days, unless extended by agreement with the aggrieved employee.

(Part C continued)

LEVEL: DESIGNATED EMPLOYEE

To be completed by the designated employee

Name : _____

Designation : _____

Telephone No : _____

Fax No : _____

Was the grievance resolved? Yes No

If yes, give details of agreement (if the space below is not enough please attach additional page(s))

SIGNED: _____
DESIGNATED EMPLOYEE DATE

To be completed by employee

Was the grievance resolved? Yes No

Do you have any comments?

SIGNED: _____
EMPLOYEE DATE

