

# GOVERNMENT NOTICE

## GOEWERMENTSKENNISGEWING

### PUBLIC SERVICE COMMISSION

No. 263

30 March 2015

## GOVERNANCE RULES OF THE PUBLIC SERVICE COMMISSION

### A. PREAMBLE

Whereas the Public Service Commission ("the Commission") is an independent, impartial constitutional institution, which must exercise its powers and perform its functions without fear, favour or prejudice.

We recognize, as Public Service Commissioners, that the Commission is the only constitutional institution established in Chapter 10 of the Constitution of the Republic of South Africa, Act 108 of 1996 ("the Constitution") with a specific focus on the public service.

Furthermore, the prominence given to the Commission in Chapter 10 of the Constitution, 1996, illustrates its importance as an institution supporting democracy and strengthening the public service and administration.

Given our Constitutional mandate, we as a single Public Service Commission, are committed to setting standards of excellence in governance that we will hold the public service to.

Whereas sections 11 of the Public Service Commission Act, 1997 ("the Act") provides that the Commission may make rules which are not inconsistent with the Act or the Constitution as to—

- (a) the investigation, monitoring and evaluation of those matters to which section 196(4) of the Constitution relates, the procedure to be followed at any such investigation, the documents to be submitted to the Commission in connection with any such investigation, and the manner in which and the time within which the said documents shall be submitted;
- (b) the powers and duties of the Chairperson, the Deputy Chairperson or any other commissioner, and the delegation or assignment of any power and duty entrusted to the Commission by or under this Act, the Constitution or the Public Service Act to a commissioner referred to in section 196(7)(b) of the Constitution;
- (c) the manner in which meetings of the Commission shall be convened, the procedure to be followed at those meetings and the conduct of its business, the quorum at those meetings, and the manner in which minutes of those meetings shall be kept;
- (d) any matter required or permitted to be prescribed by rule under the Act.

Whereas sections 13 of the Act provides that the Commission may—

- (1)(a) delegate to one or more commissioners, or to an officer or officers, any power conferred upon the Commission by or under this Act, the Constitution or the Public Service Act, excluding the power referred to in this subsection or in section 11; or
- (b) authorise one or more commissioners, or an officer or officers, to perform any duty assigned to the Commission by or under this Act, the Constitution or the Public Service Act, excluding the duty referred to in section 196(6) of the Constitution, on such conditions as the Commission may determine.
- (2) Any delegation or authorisation may at any time be amended or revoked by the Commission.

In line with our constitutional and legislative objectives, we dedicate ourselves to ensuring that the standard of our own internal deliberations and decision-making processes meet the tests of accountability, transparency and responsiveness.

We therefore adopt these Governance Rules in the spirit of guaranteeing coherence, predictability, collegiality and joint responsibility in the internal deliberations of the Commission, whilst at the same time ensuring efficiency, effectiveness and responsiveness in decision-making.

## **B. APPLICATION**

- 1. The Governance Rules are promulgated and issued in terms of sections 11 (b) and (c) of the Act and are binding on all commissioners appointed under the Act.
- 2. These Governance Rules, inter alia, define the—
  - a) powers and duties of commissioners;
  - b) delegations and assignment of powers and duties; and
  - c) manner in which the meetings of the commission must be convened.
- 3. The Governance Rules must be read in conjunction with the prevailing legislation, policies (protocols and guidelines) and rules of the Commission promulgated in terms of section 11 (a) which are listed in Schedule A.

## **C. DEFINITIONS**

- 1. In these Governance Rules the following words have the following meaning, unless the context indicates otherwise:

**"Chairperson"** means the Chairperson of the Commission contemplated in Section 5 of the Act;

**"Commission"** means the Public Service Commission as contemplated in section 196 of the Constitution;

"**Commissioner**" means a person contemplated in section 196(7) of the Constitution and appointed in terms of section 4 of the Act;

"**Constitution**" means the Constitution of the Republic of South Africa, Act 108 of 1996;

"**Delegation framework**" means the delegations as contemplated in section 13 of the Act;

"**Deputy Chairperson**" means the person contemplated in section 5 of the Act;

"**Director-General**" means the person contemplated in section 14 of the Act;

"**employee**" means an employee as defined in the Public Service Act;

"**EXCO**" means the Executive Committee of the Public Service Commission as contemplated in rule E.2;

"**investigations**" means those investigations referred to in section 196(4)(f) of the Constitution;

"**MTEF**" means Medium Term Expenditure Framework;

"**Office of the Commission**" means the office of the Public Service Commission referred to in section 14 of the Act which Office provides administrative support to the Commission;

"**Plenary**" means the meetings contemplated in rule E.1;

"**Public Finance Management Act**" means the Public Finance Management Act, Act 1 of 1999;

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

"**the Act**" means Public Service Commission Act, 1997 (Act No. 46 of 1997);

"**nationally based commissioner**" means a person contemplated in section 196(7)(a) of the Constitution and appointed in terms of section 4 of the Act;

"**provincially based commissioner**" means a person contemplated in section 196(7)(b) of the Constitution and appointed in terms of section 4 of the Act;

"**Serving Commissioners**" means a commissioner serving at any point in time; and

"**Stakeholder Management Framework**" means the Framework contemplated in Rule E.4 (b)(i).

#### **D. POWERS AND DUTIES OF COMMISSIONERS**

1. All powers and functions of the Commission are reflected in section 196(4) of the Constitution, Public Service Commission Act, Public Service Act and Treasury Regulations.

2. Additional powers and duties of the Commissioners are as follows:

##### **2.1 All Commissioners-**

- (a) must exercise their mandate as a single commission in accordance with the Constitution or as assigned or delegated by the Commission;
- (b) may interact with all relevant stakeholders reflected within the Stakeholder Management Framework and any other body or person relevant to the work of the Commission;
- (c) must as mandated, represent the Commission at governmental and other meetings or functions;
- (d) must maintain integrity in working closely with Parliament, Provincial Legislatures, the

- Executive and Departments; and
- (e) must observe and maintain an environment of transparency and accountability internally.

## 2.2 Nationally based Commissioners-

- (a) must represent the Commission nationally in accordance with the delegations contemplated in section 13 of the Act; and
- (b) must report to the Commission on any developments emerging nationally that has an impact on the work of the Commission.

## 2.3 Provincially based Commissioners-

- (a) must exercise the powers and functions of the Commission in section 196(4) in their provinces in accordance with the delegations in schedule B;
- (b) must represent the Commission in their respective provinces in terms of section 196 (13) of the Constitution and section 11(b) of the Act; and
- (c) must report to the Commission on any developments emerging provincially that has an impact on the work of the Commission.

## 2.4 The Chairperson -

- (a) is the Chairperson of the Commission, assigned by the President in terms of Section 5 of the Act;
- (b) is also a Commissioner and must perform the functions in Rule D.2.1 and D.2.2 or D.2.3;
- (c) must provide overall leadership to the Commission, ensuring its effectiveness in all aspects of its role without limiting the principle of joint responsibility for the Commission's decisions;
- (d) must report to the Commission any action taken in terms of subrule (c);
- (e) is responsible for—
  - (i) facilitating and coordinating the functioning of the Commission;
  - (ii) ensuring that the Commission's decisions are executed;
  - (iii) overseeing the planning and execution of the work of both the Commission and the Office of the Commission and ensuring alignment and consistency of approach;
  - (iv) protecting the dignity of the Commission;
  - (v) ensuring effective stakeholder management; and
  - (vi) convening the scheduled meetings of the Commission and any other special meeting determined in consultation with the Commissioners; and
- (f) is the executive authority of the Office, as contemplated in the Public Service Act.

## 2.5 The Deputy Chairperson-

- (a) is the Deputy Chairperson of the Commission assigned by the President in terms of Section 5 of the Act; and
- (b) is also a Commissioner and must perform the functions in Rule D.2.1 and D.2.2 or D.2.3.

## E. OPERATIONAL FUNCTIONING OF THE MEETINGS OF THE COMMISSION

### 1. Plenary meetings

- (a) Plenary meetings are constituted by the Commissioners and is the highest decision-making body of the Commission.
- (b) Plenary meetings are convened and chaired by the Chairperson or, if the Chairperson is absent or unavailable, by the Deputy Chairperson.
- (c) All decisions on policy of the Commission must be approved at Plenary meetings.
- (d) Plenary meetings must be scheduled to discharge the powers and functions of the Commission as set out in the Constitution, subject to a minimum of one meeting per quarter of a calendar year.
- (e) All Plenary meetings take precedence. Commissioners who are unable to attend Plenary meetings must advise the Chairperson in writing at least five (5) days prior to the meeting or as soon as practically possible.
- (f) Fifty percent plus one of the serving commissioners constitutes a quorum.
- (g) If there is no quorum, the Plenary meeting must be postponed and reconvened on a suitable date.
- (h) Decisions must be reached by consensus of all commissioners present. In the event of an impasse, there must be a vote. Minority views should be recorded.
- (i) Plenary meetings in addition to those scheduled may be held at the instance of the Chairperson. Alternatively, the majority of serving Commissioners may request a meeting, which the Chairperson must convene within 7 days of receiving such a request.
- (j) Discussions in Plenary meetings must be confidential and documents must be classified accordingly.
- (k) The Plenary meetings must be at the national office, unless circumstances determine otherwise.
- (l) The Director-General or employees designated by him or her must keep a register of attendance of Commissioners and include it in the Annual Report.

### 2. Executive Committee (EXCO)

- (a) EXCO of the Commission is constituted by the Chairperson, Deputy Chairperson, conveners of Specialist Teams and one provincially based Commissioner, selected on a 6 monthly rotational basis.

- (b) Fifty percent plus one of the commissioners referred to in subrule (a) constitute a quorum.
- (c) EXCO-
  - (i) must monitor the implementation of the decisions of Plenary meetings;
  - (ii) must, subject to rule E.1. (c), take operational decisions within the parameters of the policy framework of the Commission; and
  - (iii) must be scheduled to provide strategic direction, subject to a minimum of one meeting per month.
- (d) The Chairperson, Deputy Chairperson and the Director-General may proceed to take a decision on any urgent operational matter and report to the EXCO and the Commission.
- (e) If the EXCO cannot reach consensus on any operational decision to be taken, such decision will be referred to the Plenary meeting. In the event of an impasse, a special Plenary meeting must be convened.
- (f) The Chairperson will report on all decisions taken by the EXCO to the Plenary meeting.

### 3. **Specialist Teams**

- (a) In order to execute the mandate, subcommittees are established in the form of Specialist Teams.
- (b) Plenary meetings must constitute Specialist Teams.
- (c) Each commissioner must be a member of a Specialist Team.
- (d) When a new Commissioner is appointed, the Chairperson must consult the Commissioner and the Specialist Team and report to the Commission on the assignment of the new Commissioner.
- (e) Commissioners may request through the Chairperson to be re-assigned to other Specialist Teams.
- (f) Each Specialist Team must be made up of at least three commissioners.
- (g) Each Specialist Team must assign a Convenor to coordinate the operations of the Specialist Team.
- (h) Commissioners through the Specialist Teams must provide strategic oversight of the key performance areas in accordance with the powers and functions of the Commission as contemplated in the Constitution, the Act and the Public Service Act.
- (i) Specialist Teams must take decisions and make findings and recommendations on behalf of the Commission in line with the delegations framework, which decisions, findings and recommendations must be ratified by the Commission at the following Plenary meeting.
- (j) Commissioners who are allocated to Specialist Teams may on a twelve month (calendar year) rotational basis convene the work of the Specialist Team and convene Specialist Team meetings at designated project milestones informed by provincial and national needs supported by the relevant Deputy Director-General.
- (k) Where a Specialist Team deals with a matter that falls within the geographical area of a commissioner who is not a member of the Specialist Team for purposes of

performing its functions in respect of that matter, the Commissioner from the relevant Province must be consulted on such a matter and be invited as a participant.

- (l) The Director-General or employees designated by him or her must be present at Specialist Team meetings and they may fully participate in such meetings to support and advise the Commission.

### 3.1 Operational structures of Specialist Teams

- (a) Working committees of Specialist Teams in the form of panels are established to deal with decision-making in respect of investigations in terms of section 196 (4) (f) of the Constitution, in line with the Rules and the delegations framework.

## 4. Communication

- (a) The Chairperson will be the primary communicator at national level and provincial commissioners at provincial level.
- (b) All communication protocols must be read in conjunction with the Communication Strategy, which as a minimum must include:
  - (i) a Stakeholder Management Framework of the Commission;
  - (ii) protocols;
  - (iii) internal communication;
  - (iv) external communication; and
  - (v) dissemination strategy.
- (c) Information must be exchanged and shared between the Chairperson and commissioners, commissioners themselves and commissioners and the Office of the Commission.
- (d) Communication and stakeholder engagement must be co-ordinated and should be undertaken in a manner consistent with the Stakeholder Management Framework approved by the Commission.
- (e) The Commission must convey information on various digital platforms.
- (f) The Office of the Commission must provide technical assistance and advice to the Commission in its interaction with stakeholders.

## 5. Planning

- (a) The Commission must give direction for overall strategic planning and must ensure alignment with the Framework for Strategic Plans and Annual Performance Plans, issued in terms of the Public Finance Management Act.
- (b) The annual work plans must be approved by the Commission and the MTEF must be dealt with in terms of the annual National Treasury guidelines for the preparation of budget submissions.
- (c) Nationally and Provincially based commissioners must conduct a review annually to inform the planning session for the drafting of work plans and the MTEF.

- (d) Where necessary, the Commission must hold strategic sessions to, amongst others, reprioritise programs to align them with demands on the implementation of the mandate of the Commission.

## **6. Reporting**

- a) Reports must be compiled –
  - (i) at least once a year in compliance with sections 196 (4)(e) and 196(6) of the Constitution to the National Assembly and in respect of its activities in a province, to the legislature of that province;
  - (ii) in line with the annual Workplan and as required in terms of section 196 (4)(f)(i); and
  - (iii) in compliance with the requirements of section 40(1)(e) the Public Finance Management Act.

## **7. Role of the Director-General: Office of Commission**

- (a) The Director-General: Office of the Commission is in accordance with applicable legislation responsible for:
  - (i) ensuring that administrative, including secretarial, logistical and legal support is provided towards the effective functioning of the Commission;
  - (ii) the efficient management and administration of the Office of the Commission, subject to the control and directions of the Commission; and
  - (iii) ensuring that provincially based commissioners are adequately supported to carry out their Constitutional powers and functions,

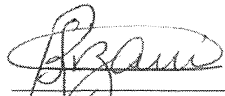
## **8. Amendment to the Rules**


- (a) As the environment within which the public service operates is complex and subject to change, the Commission may review its rules from time to time to ensure that these remain relevant.





## 9. Date of Implementation

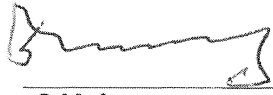
- (a) These Governance Rules were duly adopted at this Plenary meeting, held on 18 February 2015 and will be implemented with effect from 01 April 2015.


  
RK Sizani  
Deputy Chairperson  
Date: 30/03/2015


  
SS Nkosi  
Date: 30/03/2015


  
CP Nzimande  
Date: 30/03/2015


  
LV Sizani  
Date: 30/03/2015


  
S Mafanya  
Date: 30/03/2015

  
WH Boshoff  
Date: 30/03/2015

  
DS Mkhwanazi  
Date: 30/03/2015

  
GG Woods  
Date: 30/03/2015

  
MH Seloane  
Date: 30/03/2015

  
MD Sejosingoe  
Date: 30/03/2015

**SCHEDULE A: LIST OF RULES MADE IN RESPECT OF SECTION 11 (A) OF THE PUBLIC SERVICE COMMISSION ACT**

- (a) Rules for Dealing with Grievances of Employees in the Public Service, published in Government Gazette No.25209 dated 25 July 2003  
([http://www.psc.gov.za/documents/docs/government gazettes](http://www.psc.gov.za/documents/docs/government%20gazettes))
  - (b) Rules for the summoning of witnesses in connection with inquiries and investigations of the Public Service Commission, published in Government Gazette No.23267 dated 28 March 2002 ([http://www.psc.gov.za/documents/docs/government gazettes](http://www.psc.gov.za/documents/docs/government%20gazettes))
  - (c) Rules of the Public Service Commission: Lodging of complaints regarding the Public Service, published in Government Gazette No 23635 dated 19 July 2003  
([http://www.psc.gov.za/documents/docs/government gazettes](http://www.psc.gov.za/documents/docs/government%20gazettes))
  - (d) Rules for dealing with grievances of members of the Senior Management Service, including Heads of Department, published in Government Gazette No 33540 of 17 September 2010  
(<http://www.psc.gov.za/documents/docs/legislation>)
  - (e) Rules of the Public Service Commission: Managing Conflicts of Interest identified through the Financial Disclosure Framework for Senior Managers, published in Government Gazette No 32298 of 12 June 2009 (<http://www.psc.gov.za/documents/docs/legislation>)
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