

PUBLIC SERVICE COMMISSION STAATSDIENSKOMMISSIE

No. 519

19 June 2015



SCHEDULE B: DELEGATION OF POWERS TO PROVINCIALLY BASED COMMISSIONERS

Section 196 (13) of the Constitution of the Republic of South Africa, Act 108 of 1996, provides that a commissioner appointed by a province may perform the functions of the Commission (herein after referred to as the commission) in that province as prescribed by national legislation.

Section 11 (b) of the Public Service Commission Act (the Act), 2007 further empowers the commission to make rules regarding the delegation or assignment of any power and duty entrusted to the commission by or under the Act, the Constitution or the Public Service Act to any provincial commissioner.

This document constitutes delegation of powers by the commission to the provincially based commissioners as envisaged in section 11 (b) of the Act and such other matters related thereto.

All powers not directly delegated to provincially based commissioners remain within the commission.

DELEGATED POWER	CONDITIONS	LEGISLATION: POWERS & FUNCTIONS
Management and investigations of grievances and complaints timeously in the provinces	- Must be done in line with the rules and protocols of the commission - Must be processed through regionally constituted panels	Section 196(4) (b) of Constitution The commission must investigate, monitor and evaluate the organisation, administration and the personnel practices of the Public Service.
- Ensure that cases are timeously and thoroughly investigated - Chair constituted panels in provinces to consider the commission's findings, recommendations and directions	- To ensure rotation, the host of the meeting chairs the regionally constituted panel - Final Reports and letters must be	Section 196(4) (d) of Constitution The commission must give directions aimed at ensuring that personnel procedures relating to recruitment, transfers, promotions and dismissals comply with the values and principles set out in Section 195.

DELEGATED POWER	CONDITIONS	LEGISLATION: POWERS & FUNCTIONS
• Chair Grievance Hearing of HoDs • Sign off on the commission's findings, recommendations and directions • Sign letters and engage on the outcome of the investigations • Monitor the feedback on the decisions in respect of the commission's recommendation(s) • Sign summons for a person to appear before the commission and designate employee to serve summons • Respond to media enquiries on matters related to grievances and complaints	filed with the central database • Report to the relevant Specialist Team on a quarterly basis	Section 196(4) (i) of Constitution The PSC may either of its own accord or on receipt of any complaint, investigate and evaluate the application of personnel and public administration practices and to report to the relevant executive authority and legislature. Section 196(4) (ii) of Constitution The commission may either of its own accord or on receipt of any complaint, investigate grievances of employees in the Public Service concerning official acts or omissions and to recommend appropriate remedies. Section 9 of the Act The commission may inspect departments and other organisational components in the public service, and has access to such official documents or may obtain such information from heads of those departments or organisational components or from other officers in the service of those departments or organisational components as may be necessary for the performance of the functions of the Commission under the Constitution or the Public Service Act. Section 10 of the Act The commission may conduct an inquiry into any matter in respect of which it is authorised by the Constitution or the Public Service Act to perform any function. For the purposes of the inquiry, the commission may- (a) summons any person who may be able to give information of material importance concerning the subject of the inquiry or who has in his or her possession or custody or under his or her control any book, document or object which may have a bearing on the subject of the inquiry, to appear before the commission;

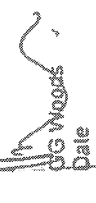
DELEGATED POWER	CONDITIONS	LEGISLATION: POWERS & FUNCTIONS
		(b) call upon and administer an oath to, or accept an affirmation from, any person present at the inquiry who has or might have been summonsed in terms of paragraph (a); (c) examine or require any person who has been called upon in terms of paragraph (b) to produce any book, document or object in his or her possession or custody or under his or her control which may have a bearing on the subject of the inquiry. A summons for a person to appear before the commission shall be— (a) in the prescribed form; (b) signed by the chairperson of the commission or any other person designated by the commission; and (c) served in the prescribed manner. Section 5(8) of the Public Service Act, 1994 (a) The commission may investigate compliance with the Act and may issue directions contemplated in section 196 (4) (d) of the Constitution in order to ensure compliance with this Act and in order to provide advice to promote sound public administration. (b) If the commission issues a direction contemplated in paragraph (a), the relevant executive authority or head of department, as the case may be, shall implement the direction as soon as possible after receipt of the written communication conveying the direction but, in any event, within 60 days after the date of such receipt. Section 35 of the Public Service Act, 1994 For the purposes of asserting his or her right to have his or her complaint or grievance concerning an official act or omission investigated and considered by the commission, an employee may lodge that complaint or grievance with

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		the relevant executive authority under the prescribed circumstances, on the prescribed conditions and in the prescribed manner, and if that complaint or grievance is not resolved to the satisfaction of such an employee, that executive authority shall submit the complaint or grievance to the commission in the prescribed manner and at the prescribed time or within the prescribed period. After the commission has investigated and considered any such complaint or grievance, the commission may recommend that the relevant executive authority acts in terms of a particular provision or particular provisions of this Act or any other law if, having regard to the circumstances of the case, the commission considers it appropriate to make such a recommendation. For the purposes of subsection (1), the powers conferred upon the commission by section 11 of the Act shall be deemed to include the power to make rules which are not inconsistent with the provisions of this section as to the investigation of complaints or grievances concerning official acts or omissions, and 'prescribed' means prescribed by the commission by rule under the Act.
Conducting announced and unannounced inspections • Notification to stakeholder • Inspecting departments and other organizational components in the Public Service • Sign off on the inspection report with findings and recommendations • Sign letters and engage on the outcome of the inspections	• Must be done in line with the rules and protocols of the commission • Concurrence by relevant Specialist Team • Approval by Plenary • Availability of human and financial resources within the province • Report to Specialist Team on a quarterly basis	Section 196(4) (a) of Constitution The commission must promote the values and principles, as set out in Section 195, throughout the Public Service. Section 9 of the Act The commission may inspect departments and other organisational components in the public service, and has access to such official documents or may obtain such information from heads of those departments or organisational components or from other officers in the service of those departments or organisational components as may be necessary for the performance of the functions of the commission under the Constitution or the Public Service Act.

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• Monitor the feedback on the decisions of EAs and/ or HoDs in respect of the commission's recommendation(s) • Sign summons for a person to appear before the commission and designate employee to serve summons • Respond to media enquiries on matters related to inspections		Section 10 of the Act The commission may conduct an inquiry into any matter in respect of which it is authorised by the Constitution or the Public Service Act to perform any function. For the purposes of the inquiry, the commission may— (a) summons any person who may be able to give information of material importance concerning the subject of the inquiry or who has in his or her possession or custody or under his or her control any book, document or object which may have a bearing on the subject of the inquiry, to appear before the commission; (b) call upon and administer an oath to, or accept an affirmation from, any person present at the inquiry who has or might have been summonsed in terms of paragraph (a); (c) examine or require any person who has been called upon in terms of paragraph (b) to produce any book, document or object in his or her possession or custody or under his or her control which may have a bearing on the subject of the inquiry. A summons for a person to appear before the commission shall be— (a) in the prescribed form; (b) signed by the chairperson of the commission or any other person designated by the commission; and (c) served in the prescribed manner.
Identify, plan, propose and carry out relevant provincial research in line with the mandate of the commission • Project identification and planning • Project approval	• Must be done in line with the Rules and protocols of the commission • Concurrence by relevant Specialist Team • Approval by Plenary	Section 196(4) (b) of Constitution The PSC must investigate, monitor and evaluate the organisation, administration and the personnel practices of the Public Service. Section 196(4) (c) of Constitution The PSC must propose measures to ensure effective and efficient performance within the Public Service.

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• Implementation • Project evaluation (monitoring) • Sign off on the research report with findings and recommendations • Monitor the feedback on the decisions of EAs and/ or HoDs in respect of the commission's recommendation(s) • Respond to media enquiries on matters related to projects	• Availability of human and financial resources within the province • Report to Specialist Team on a quarterly basis	Section 196(4) (a) of Constitution The PSC must promote the values and principles, as set out in Section 195, throughout the Public Service. Section 196(4) (e) of Constitution The PSC must report on its activities and the performance of its functions, including any finding it may make and directions and advice it may give, and to provide an evaluation of the extent to which the values and principles set out in Section 195 are complied with. Section 5(8) of the Public Service Act, 1994 (a) The commission may investigate compliance with this Act and may issue directions contemplated in section 196 (4) (d) of the Constitution in order to ensure compliance with this Act and in order to provide advice to promote sound public administration. (b) If the commission issues a direction contemplated in paragraph (a), the relevant executive authority or head of department, as the case may be, shall implement the direction as soon as possible after receipt of the written communication conveying the direction but, in any event, within 60 days after the date of such receipt.
Management of the financial disclosure framework within the province • Verify information regarding a registrable interest of a designated employee • Consult with the designated employee	• Must be done in line with the rules and protocols of the commission • Concurrence by relevant Specialist Team • Approval by Plenary • Availability of human and financial resources within the province	Section 196(1) (a) of Constitution A high standard of professional ethics must be promoted and maintained. Section 196(4) (a) of Constitution The commission must promote the values and principles, as set out in Section 195, throughout the Public Service.

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Refer a matter to the executive authority	Report to Specialist Team on a quarterly basis	Public Service Regulations, as amended, Chapter 3: Financial Disclosure Framework, paragraphs G1 and 2 If the commission is of the opinion that a registrable interest of a designated employee disclosed in terms of regulation C of this Chapter conflicts or is likely to conflict with the execution of any official duty of that employee, it shall verify the information regarding that interest and consult with the employee in question. If, after such verification and consultation, the commission is of the opinion that there is such conflict or that such conflict is likely to occur, it shall refer the matter to the relevant executing authority.
Interface with all relevant stakeholders of commission in the provinces - Development of stakeholder engagement plan for the province - Implementation of stakeholder engagement plan for the province - Notification of Stakeholders - Conduct Stakeholder Engagement - Monitor the feedback in respect of the commission's recommendation(s)	- Must be done in line with the rules and protocols of the commission - Concurrence by relevant Specialist Team - Approval by Plenary - Availability of human and financial resources within the province - Report to Specialist Team on a quarterly basis	Section 196(4) (a) of Constitution The commission must promote the values and principles, as set out in Section 195, throughout the Public Service

	
RK Sizani	CP Nzimande
Deputy Chairperson	
Date	Date
	
LV Siza	WH Boshoff
Date	Date
	
DS Mkhwanazi	MH Seleane
Date	Date
	
MD Sepeingoe	S Malanya
Date	Date
	
	GG Woods
	Date
	
	M Marais-Martin
	Date