

# **Government Gazette**

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## **GOVERNMENT NOTICE**

### **OFFICE OF THE PUBLIC SERVICE COMMISSION**

#### **RULES FOR DEALING WITH COMPLAINTS AND GRIEVANCES OF OFFICIALS IN THE PUBLIC SERVICE**

The Public Service Commission has under section 11 of the Public Service Commission Act, 1997 (Act No. 46 of 1997), read with section 196 (4) (f) (iii) of the Constitution of the Republic of South Africa, 1996 (Act No. 108 of 1996), made the Rules in the Schedule.

Thus done and signed at Pretoria on this the 1st day of July 1999.

**S. S. SANGWENI**  
**Chairperson**  
**Public Service Commission**

#### **SCHEDULE**

##### **A. General**

###### **1. Definitions**

In these Rules, unless the context otherwise indicates, a word or expression defined in the Public Service Act, 1994 (Proclamation No. 103 of 1994), bears the same meaning.

###### **2. Application**

The Rules shall apply in respect of all officers referred to in section 2 of the Public Service Act, 1994, with the exception of those persons referred to in section 2 (2) of the said Act.

##### **B. Rules**

1. (a) If an officer is dissatisfied or discontented with an official act or omission, he or she may raise the matter with his or her supervisor.
  - b. It is the responsibility of the supervisor to determine the cause of the dissatisfaction or discontent.
  - c. After the supervisor has interviewed the officer he or she shall, if it is in his or her power and within his or her competence to dispose of the dissatisfaction, take active steps in the matter within five working days.
  - d. Supervisors should also be prepared to listen to complaints about official acts or omissions of their own which harm or may harm the material or spiritual well-being of the officers under their supervision or the interests of the State.
  - e. If the supervisor finds that the dissatisfaction or discontent has arisen from a matter which it is not in his or her power or within his or her competence to deal with, he or she shall, within five working days of the interview referred to in paragraph (c), inform the officer concerned of his or her right to make representations about the matter to a higher authority.
  - f. If the supervisor finds that the dissatisfaction or discontent has arisen from a matter which it is in his or her power or within his or her competence to deal with, but he or she does not succeed in disposing of the complaint, he or she shall, if the officer concerned has notified him or her that he or she is still dissatisfied or discontented, inform the latter within five working days of such notification of his or her right to make representations about the matter to a higher authority.

- g. In the circumstances mentioned in paragraphs (e) and (f), the supervisor shall give the officer the assurance that such representations will be accorded objective consideration and that this right to make representations to a higher authority will be recognised at all times, provided they are made through the correct official channels and in accordance with the procedure laid down in these rules.
- 2.** (a) If an officer's complaint concerns a matter which cannot be dealt with by his or her supervisor, or if he or she has a complaint about the supervisor him- or herself, or if the circumstances contemplated in subrule 1 (f) are present, he or she may make representations about the matter to the officer in the department's staff section or another competent senior officer specially designated by the head of department to deal with complaints and grievances.
- b. The designated officer contemplated in paragraph (a) shall--
    - i. act without delay as stipulated in subrules 1 (b), (c), (e) and (f) or, within 10 working days of the receipt of such representations, refer the matter to an officer who is empowered to act as stipulated in the said subrules; and
    - ii. satisfy him- or herself that the provisions of subrule 1 (g) have been complied with and that the aggrieved officer has been fully informed of his or her rights.
  - c. If the designated officer contemplated in paragraph (a), or the officer to whom the representation have been referred in accordance with paragraph b (i), is not stationed at the same place as the officer making the representations, the procedure laid down in subrules 1 (b), (e), and (f) may be pursued by correspondence or through the agency of a local or other supervisor designated for this purpose by the head of department, in which case the periods determined in subrules 1 (c), (e) and (f) may be extended by a maximum of 10 working days.
- 3.** (a) If the officer's complaint cannot be disposed of to his or her satisfaction in accordance with the procedure laid down in subrules 1 and 2, or within the periods specified therein, he or she may make written representations about the matter to the designated officer contemplated in subrule 2(a).
- b. The written representation shall contain the following information:
    - i. The name and rank of the officer.
    - ii. Full details of the reasons for his or her dissatisfaction or discontent.
    - iii. The steps already taken to dispose of the complaint and the outcome.
    - iv. Statements by other persons or other evidence, if any, in support of the contention of the officer concerned.
  - c. Within 10 working days of receiving the written representation, the designated officer contemplated in subrule 2 (a) shall submit such representation together with any comments, explanations, statements or evidence that may be required, via the aggrieved officer's office or divisional head, to the head of department.
  - d. (i) On receipt of the representations the head of department shall within 10 working days and in writing notify the officer making the representations that an investigation is being made into his or her complaint, giving the names of three officers not involved in the matter concerning which representations are being made, one of whom may be chosen by the officer to be designated by the head of department to undertake the investigation.  
  
(ii) The officer shall exercise his or her right to choose within 10 working days of receiving the notification and shall notify the head of department of his or her choice in writing.  
  
(iii) If the officer fails to do so, the head of department may designate any one of the three officers mentioned in the notification to undertake the investigation.  
  
(iv) Should the officer who is appointed to investigate the representations, (hereinafter referred to as the investigating officer), become unfit or for some reason or other be unable to continue the investigation, another person may be designated in the same manner as described above, to continue with the investigation.
  - e. (i) Upon being designated, the investigating officer shall begin or continue the investigation of

the complaint within 5 working days and shall complete the investigation within a period to be specified by the head of department, who may extend such period.

(ii) The investigating officer shall be permitted to peruse relevant official documents and files and to obtain from officers information necessary for the investigation.

(iii) The investigation officer shall verbally or in writing request the officer who has made the representations to indicate whether he or she wishes to furnish further information and may also, if necessary, obtain further information from him or her.

(iv) The aggrieved officer may, if he or she so desires, be assisted or represented during the investigation by any officer, or an official or office-bearer of a staff association or trade union which are recognised at central or departmental level and of which the officer is a member.

(v) The investigating officer shall keep detailed minutes of the investigation and of the information obtained during the investigation.

(vi) After the investigating officer has thoroughly investigated the complaint, he or she shall record his or her findings and submit them, together with the minutes of the investigation, evidence (if any) and his or her recommendations on the matter, to the head of department within the period determined by the head of department in terms of paragraph (e)(i).

f. (i) On receipt of the documents referred to in paragraph (e) (vi), the head of department shall come to a decision in regard to the representations without delay and advise the officer who made the representations accordingly in writing.

(ii) If the head of department decides that the complaint is without foundation or that for some reason the representations have to be rejected, the reasons for the decision shall be given to the officer concerned in as much detail as possible and he or she shall be informed of his or her right to demand that his or her representations be submitted to the Commission.

(iii) All documents and evidence relating to the investigation and to the decisions taken in the matter shall be retained in a separate supplement to the officer's personnel file.

4. (a) If an officer's complaint cannot be disposed of to his or her satisfaction by following the procedures laid down in subrule 3, he or she may within ten working days of receipt of the notification referred to in subrule 3 (f) (i) demand, that all the documents relating to the complaint be submitted to the Commission. Such a demand shall be in writing and shall be submitted to the head of department through the official channels within ten working days.

b. Within ten working days of receiving the demand the head of department shall forward all the files and documents referred to in subrule 3 (f) (iii) to the Commission and advise the officer that this has been done.

c. The Commission shall--

i. consider the said files and documents and, if it is deemed expedient, designate, in terms of section 13 of the Public Service Commission Act, 1997, one of its members or an officer to investigate the matter within a period to be specified by the Commission, which may extend such period; and

ii. advise the head of department and the officer who has made the complaint accordingly through the official channels.

d. (i) The investigating officer thus designated, who shall have the powers contemplated in section 10 of the Public Service Commission Act, 1997, shall commence his or her investigation within five working days of his or her being informed of his or her designation and shall complete his or her investigation within the period determined by the Commission in terms of paragraph (c) (i). If the investigating officer becomes incapacitated for some reason or if he or she is not available to complete the investigation, the Commission shall, within ten working days of its being informed thereof, designate another member or officer to proceed with the investigation.

- (ii) The investigating officer shall keep detailed minutes of the investigation and of the information obtained from the aggrieved officer
  - (iii) The investigating officer shall keep detailed minutes of the investigation and of the information obtained during the investigation.
  - (iv) After the investigation officer has thoroughly investigated the complaint, he or she shall record his or her findings and submit them, together with the minutes of the investigation, evidence (if any) and his or her recommendations on the matter, to the Commission within the period determined by the Commission in terms of paragraph (c) (i).
- e. On receipt of the documents referred to in paragraph (b) and, if further investigation has been ordered in terms of paragraph (c) (i), the documents mentioned in paragraph (d) (iv), the Commission shall
- i. decide on the representations, and make a recommendation in terms of section 196 (4) (f) (ii) of the Constitution of the Republic of South Africa, 1996, and advise the aggrieved officer through the official channels that a recommendation has been so made; or
  - ii. refer the matter to the investigating officer for further investigation.
- 5.** After the department concerned has made a decision regarding the recommendation by the Commission contemplated in subrule 4, the head of department shall advise the Commission and the aggrieved officer accordingly.

### **C. Savings**

Notwithstanding the repeal of Public Service Regulation A22, any complaint or grievance instituted or commenced under Public Service Regulation A22 shall be continued and concluded as if Public Service Regulation A22 had not been repealed.