



MINISTRY
PUBLIC SERVICE AND ADMINISTRATION
REPUBLIC OF SOUTH AFRICA

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TO ALL EXECUTIVE AUTHORITIES AND HEADS OF NATIONAL/PROVINCIAL
DEPARTMENTS AND PROVINCIAL ADMINISTRATIONS

**LACK OF COMPLIANCE WITH SECTION 35(1) OF THE PUBLIC SERVICE ACT,
1994 READ WITH SECTION 11 OF THE PUBLIC SERVICE COMMISSION ACT, 1997:
FAILURE TO ADHERE TO PRESCRIBED TIMEFRAMES AS SET OUT IN THE
RULES FOR GRIEVANCES OF EMPLOYEES IN THE PUBLIC SERVICE**

1. Grievances in the public service are managed and dealt with in terms of section 35(1) of the Public Service Act, 1994 read with the Rules for dealing with grievances of employees in the public service issued by the Public Service Commission in terms of section 11 of the Public Service Commission Act, 1997 (Act 46 of 1997). These rules were informed by the provisions of a collective agreement, PSCBC Resolution 14 of 2002, concluded between labour and the employer.
2. 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 *inter alia* to give effect to section 196(4)(f)(ii) of the Constitution of the Republic of South Africa; to promote speedy, impartial and equitable handling of grievances and to promote resolution of grievances at the lowest possible level in the department.
3. Recent trends in the public service indicate that the number of disputes is rising astronomically year on year. The trends of grievance management in the public service show an unacceptably high rate of non-compliance to timeframes in dealing with and managing grievances by national departments and provinces. This

statistical analysis is derived from routine enquiries and dispute resolution statistics of the PSCBC on disputes which emanate from grievances.

4. The findings reveal that national and provincial departments and provincial administrations fail to adhere to the time frames prescribed to resolve grievances and only once disputes are lodged do departments and provincial administrations react, resulting in settlement or withdrawal of disputes. This creates an unnecessary financial and administrative burden on PSCBC and the relevant sectoral councils.
5. Attention is therefore drawn to the provisions of section 16A of the Public Service Act, in terms of which an executive authority shall immediately take appropriate disciplinary steps against a head of department who does not comply with any provision of the Act, in this instance Section 35 of the Act. Section 16(A)(2)(a) further states that a head of department shall immediately take appropriate disciplinary steps against an employee of the department who does not comply with a provision of the Act or a regulation, or determination or directive made thereunder. Section 16A(3) of the Act states that the Minister may report to the Cabinet or, through the relevant Premier, to the Executive Council of the relevant province any non-compliance by an executive authority with a provision of the Act or a regulation, determination or directive made thereunder. Section 16A(4) further provides that the Minister shall at least annually submit to the relevant committees of Parliament dealing with matters relating to the public service and, through the relevant Premier, to any similar committee of the relevant provincial legislature, every non-compliance with a provision of the Act or regulation, determination or directive made thereunder.
6. National/provincial departments and provincial administrations are therefore advised to comply with the prescribed time-frames set forth in the Rules for dealing with grievances of employees in the public service issued by the Public Service Commission in accordance with section 11 of the Public Service Commission Act, read with section 35(1) of the Public Service Act when dealing with grievances. Failure to do so requires the application of section 16A of the Act.

7. Departments may approach the dpsa for any assistance in this regard.



Mr W R Baloyi, MP

MINISTER FOR PUBLIC SERVICE AND ADMINISTRATION

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