



8 February 2021

THE MILITARY VETERANS ADVISORY COUNCIL

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1. INTRODUCTION

The Advisory Council on Military Veterans was established under the Military Veterans Act 18 of 2011, to attend to the interests of military veterans. Since its establishment, the Advisory Council has never appeared before the Portfolio Committee on Defence and Military Veterans (PCDMV). The scheduled interaction between the PCDMV and the Advisory Council on 10 February 2020, therefore serves as a valuable introductory meeting and an opportunity to oversee the activities of the Council. This paper is in preparation for the PCDMV meeting on 10 February 2020, and provides an overview of the legislation guiding the Council, as well as key focus areas for engagement by Members of the PCDMV.

2. LEGAL ESTABLISHMENT OF THE ADVISORY COUNCIL

Sections 9 to 18 of the Military Veterans Act, 2011 provides for the establishment of the Advisory Council on Military Veterans. Section 9 of the Act formally constitutes the Council. Further sections provide for the following:

Section 10: Powers and duties of the Advisory Council

- (1) The Advisory Council is responsible to the Minister and must
 - (a) perform the functions provided for in this Act;
 - (b) advise the Minister on any matter relating to the policy applicable to military veterans; and
 - (c) on its own initiative or at the request of the Minister, or of the Director-General, make recommendations to the Minister or the Director-General, as the case may be, and furnish advice on all matters pertaining to military veterans and their dependants.
- (2) The Advisory Council must, within 90 days after 31 March in every year, submit a report to the Minister on its activities, and the Minister must table it in Parliament.

Section 11: Composition of the Advisory Council

The Advisory Council consists of-

- (a) the Chairperson and members appointed in terms of section 12(1); and



(b) the Director-General or an employee of the Department delegated by the Director-General.

Section 12: Appointment of members of the Advisory Council

- (1) (a) The Minister must appoint not fewer than 10 and not more than 15 persons to serve on the Advisory Council.
(b) At least 50% of the members of the Advisory Council must be military veterans.
- (2) The members of the Advisory Council must have relevant knowledge, experience or expertise that would enable the Advisory Council to perform its functions effectively and efficiently.
- (3) The members referred to in subsection (1) must be appointed from persons nominated in accordance with the procedure set out in section 13.

Section 13: Nomination procedure for Advisory Council members

- (1) The nomination procedure for members of the Advisory Council is as follows:
(a) The Minister must, by notice in at least two national newspapers, invite nominations for the appointment of the members of the Advisory Council;
(b) every nomination must be in writing and submitted to the Director-General within a period of three months after publication of the notice contemplated in paragraph (a); and
(c) every nomination must contain-
 - (i) full written personal and career particulars of every nominee;
 - (ii) full reasons and motivation for the nomination; and
 - (iii) the written and signed acceptance of the nomination by every nominee.
- (2) The Association must in the manner provided for in subsection (1)(b) and (c) nominate at least three persons for appointment.
- (3) The Director-General must forward a full report on all nominations and information received, together with motivated recommendations regarding particular nominees for appointment, to the Minister.
- (4) The Minister must-
 - (a) subject to section 12(l)(b), appoint members of the Advisory Council from the list of nominees submitted to him or her by the Director-General; and
 - (b) by notice in the *Gazette*, publish the names of the persons appointed.
- (5) The Minister must designate one of the members of the Advisory Council as the Chairperson of the Advisory Council.



Section 14: Remuneration and allowances of members of Advisory Council

The members of the Advisory Council, who are not in the full-time employment of the State, must be paid such remuneration and allowances as may be determined by the Minister in consultation with the Minister of Finance.

Section 15: Term of Office

- (1) The members of the Advisory Council serve in a part-time capacity.
- (2) The members of the Advisory Council serve for a period not exceeding five years, but are eligible for reappointment at the end of their term of office.

Section 16: Removal from Office

- (1) The Minister may remove a member of the Advisory Council from office only on the ground of misconduct, incapacity or incompetence.
- (2) A decision to remove a member of the Advisory Council from office must be based on a finding of an independent tribunal appointed by the Minister in consultation with the Association.
- (3) The Minister may suspend a member of the Advisory Council from office pending the finding of the tribunal referred to in subsection (2).

Section 17: Resignation

- (1) The Chairperson of the Advisory Council may resign by giving written notice of three months to the Minister, but the Minister may, after consultation with the Director-General, accept a shorter notice period.
- (2) Other members of the Advisory Council may resign by giving written notice of three months to the Chairperson, but the Chairperson may accept a shorter notice period.

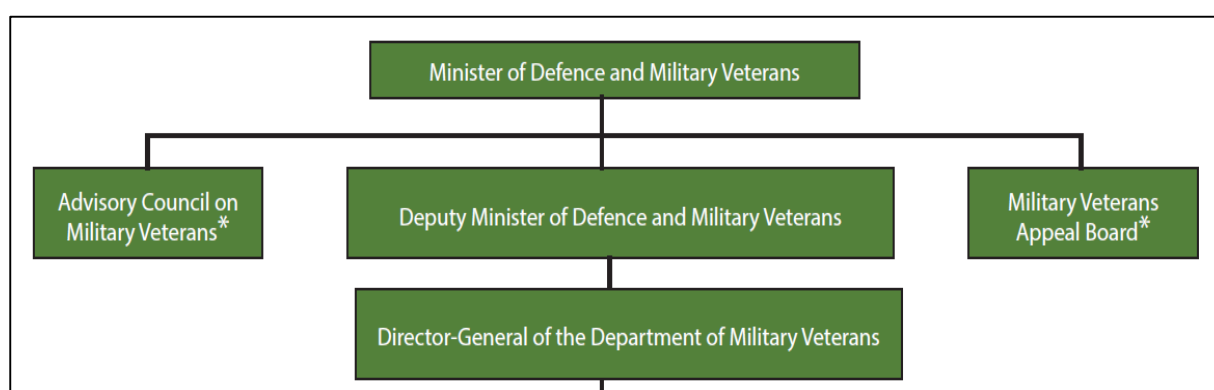
Section 18: Meetings of Advisory Council

- (1) The first meeting of the Advisory Council must be held on such a date, time and place as the Chairperson may determine.
- (2) All subsequent meetings must be held on such dates, times and places as the Chairperson may determine in consultation with the Advisory Council.
- (3) The Advisory Council must determine the rules of procedure for the conduct of business at its meetings.
- (4) A decision of the majority of the members of the Advisory Council present and forming a quorum at a meeting is binding on the Advisory Council.
- (5) The quorum for any meeting of the Advisory Council is fifty per cent of the total members of the Advisory Council plus one.
- (6) In the event of an equality of votes the Chairperson has a casting vote in addition to his or her deliberative vote.
- (7) A member who has a personal or financial interest in any matter before the Advisory Council must disclose that interest and withdraw from the proceedings of the Advisory Council when that matter is considered.



3. DMV ORGANISATIONAL MACRO STRUCTURE AND MEMBERS

In line with the legislation that establishes the mandate of the Advisory Council, it is evident from its structure that the Advisory Council on Military Veterans reports directly to the Minister of Defence. The position of the Council is reflected in the figure below and is aligned with other advisory functions in the DMV such as the Military Veterans Appeal Board. While the Appeal Board considers appeals lodged with it by a military veteran against decisions taken by an official of the DMV adversely affecting the rights of that veteran, the Advisory Council provides more direct input to the Minister of Defence and Military Veterans on matters relating to the policy applicable to military veterans.



The latest available information on the membership of the Advisory Council stems from a 2016 response to a parliamentary question. It was indicated by the Minister of Defence and Military Veterans that the following are the members of the Advisory Council and their occupation:

Name	Position
Mr Andile Apleni	MKMVA
Mr Kabelo Bokala	AZANLA
Mr Tembile Magingxa	SA National Military Veterans Association
Ms P.M. Kubu	MKMVA
Mr Mbulelo Fihla	APLA MVA
Mr Obbey Mabena	MKMVA
Ms Dudu Phama	APLA MVA
Mr Mzwandile Vena	Private Business
Ms Ntsikelelo Khwezi	MKMVA
Mr Snuki Zikalala	Cosatu
Mr Miki Xayiya	Private Business
Ms Thandi Ndlovu-Molokwane	Private Business
Ms Vuyiswa Lieta	MKMVA
Mr Alex Mahapa	Department of Public Service and Administration

Note: Members of the Advisory Council have been appointed as of 1 October 2015 for a period of five years. **As such, their term of office came to an end on 1 October 2020.**



4. PROPOSED FOCUS AREAS FOR PCDMV INQUIRY

Two aspects complicate the provision of quality analysis on the work of the Advisory Council. Firstly, the DMV Annual Reports do not contain any specific information on the working of the Advisory Council itself. Secondly, there have been no engagement between the Advisory Council and Parliament in the past. As such, the focus areas below will provide a base of information for further engagement with the Advisory Council. As a point of departure, Members may request the Advisory Council to publish information around their activities and expenditure in an annexure to the DMV's Annual Report. This will allow the Committee to follow up on its performance, ensure efficient oversight and gauge complications around the Department. For example, Section 10(2) of the Military Veterans Act, 2011 provides for the Military Veterans Advisory Council to submit an Annual Report of its activities to the Minister of Defence who, in turn, must table this report in Parliament.

Members may consider the following questions:

- What is the current status of the Advisory Council?
- Member may request an overview of key recommendations from the Council to the Minister of Defence and Military Veterans.
- (a) Is the Advisory Council satisfied with the level of engagement between the Council and the Minister and (b) are recommendations made noted and implemented?
- What determines the constitution of the Advisory Council? *The Committee may note the affiliation of members that served on the first Council and may request whether these represent the interest of all registered military veterans' associations? For example, the SACC MVA was officially recognised in 2018. Are there (or will there be) representation from this organisation on the Council?*
- What was the cost associated with the first Advisory Council over its five-year term?
- In September 2017, a Parliamentary Question to the Minister of Finance indicated that the DMV applied for a deviation to allow Business Class travel for members of the Advisory Council. The Minister of Finance indicated that Treasury reviewed the Military Veterans Act and consider members of the Council the same as those appointed in terms of section 12A of the Public Service Act, which allows for business class travel. The Committee may request further information on whether this was implemented and what the travel and subsistence expenditure for the Council was during its first five years of operation.
- The Committee should seek clarity from the outgoing Council on specific matters that may require follow-up at parliamentary level during the term of the incoming Advisory Council.
- By the time of writing this research report, it was not yet clear from the Parliamentary Paper stores whether the Council's Annual Reports were tabled in parliament by the Minister as required by the Act. Members may thus seek more clarity from the Minister and Council whether they complied with these legislative requirements.



5. REFERENCES

DMV (2013) *Department Military Annual Report 2019/20*.

PMG (2014) *Question NW2624* [Internet], Available from: <<https://pmg.org.za/committee-question/6619/>> [Accessed on 8 February 2020].

PMG (2017) *Question RNW281* [Internet], Available from: < <https://pmg.org.za/committee-question/1361/>> [Accessed on 8 February 2021].