

**MINISTRY: PUBLIC SERVICE AND ADMINISTRATION**

**REPUBLIC OF SOUTH AFRICA**

**NATIONAL ASSEMBLY**

**QUESTION FOR WRITTEN REPLY**

**DATE: 19 MAY 2017**

**QUESTION NO.: 1337**

**MR MH REDELINGHUYS (DA) TO ASK THE MINISTER OF PUBLIC SERVICE AND ADMINISTRATION:**

Has the Public Service Commission (a) referred any potential conflicts of interest in terms of section 16(1) of the South African Police Service Employment Regulations of 2008 to the Minister of Police and (b) received any report from the Minister of Police in terms of section 16(2) of the specified regulations in the (i) the 2012-13, (ii) 2013-14, (iii) 2014-15, (iv) 2015-16 and (v) 2016-17 financial years; if not, in each case, why not; if so, what are the relevant details in each case?

**NW1479E**

**REPLY:**

The PSC scrutinized financial interests of SMS members of the South African Police Service (SAPS)/Department of Police for the 2012/2013 to 2015/2016 financial years in terms of Chapter 3 G of the Public Service Regulations (PSR), 2001. Regulation 16(1) of the SAPS Employment Regulations of 2008 is a derivative of Chapter 3 of the PSR, 2001. Both PSR, 2001 and Regulation 16(1) provide that if the PSC is of the opinion that a registrable interest of a designated employee conflicts or is likely to conflict with the execution of any official duty of that employee, the PSC shall refer the matter to the relevant Executive Authority. Upon such referral, the EAs were expected to consult with the employee concerned and take appropriate steps. The EAs were also expected to report to the PSC within 30 days from the date of the referral, with information on actions taken subsequent to the referral. If no actions were taken, the EAs were supposed to provide reasons thereof.

(a)

1. No. The PSC did not refer any matter to the Minister of Police (the Minister) relating to conflicts of interest during the **2012/2013** financial year. Due to capacity constraints, the PSC could not scrutinise all the financial disclosure forms that were submitted in respect of the 2012/2013 finical year.
2. Yes. The PSC consulted with the forty (**40**) officials within the SAPS, whose registrable for the **2013/2014** were construed to be posing potential conflicts. The purpose of the consultations was to determine the following:
* The extent of the involvement of the officials in the companies.
* Whether the officials perform any remunerative work outside their normal duties for the companies.
* Whether the involvement of the officials in the companies could lead to actual conflicts of interest.

In terms of Chapter 3 G of the PSR, 2001 the PSC was supposed to refer matters to the relevant Executive Authority in cases where an opinion was held that a conflict of interest existed or was likely to occur. Subsequent to the consultations the PSC referred the forty (**40**) cases of potential conflicts of interests identified through the scrutiny of financial disclosure forms submitted for the **2013/2014** financial year to the Minister in terms of Chapter 3 G of these PSR, 2001. It was recommended to the Minister that the Minister should provide advice to the officials concerned on the following issues:

* Manage potential conflicts of interest so that they do not lead to actual conflicts of interest.
* Disclose all their registrable interests on an annual basis.
* Seek prior permission to conduct Remunerative Work Outside the Public Service.
* Refrain from conducting business with the State

A further recommendation was made that the Minister should **consult with the employees who were found to have not disclosed all their registrable interests**, to determine the reasons for not fully disclosing their registrable interests and thereafter, consider charging these officials with misconduct for not complying with Chapter 3 of the PSR. The Minister was requested to revert to the PSC within 30 days from the date of receipt of the letter from the PSC, with information on actions taken subsequent to the referral. If no actions were taken, the Minster was requested to provide the reasons thereof.

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1. Yes. The PSC consulted with the twenty seven (**27**) officials within the SAPS, whose registrable for the **2014/2015** were construed to be posing potential conflicts. The purpose of the consultation was to determine the following:
* The extent of the involvement of the officials in the companies.
* Whether the officials perform any remunerative work outside their normal duties for the companies.
* Whether the involvement of the officials in the companies could lead to actual conflicts of interest.

In terms of Chapter 3 G of the PSR, 2001 the PSC was supposed to refer matters to the relevant Executive Authority in cases where an opinion was held that a conflict of interest existed or was likely to occur. Subsequent to the consultations the PSC referred the twenty-seven (**27**) cases of potential conflicts of interests identified through the scrutiny of financial disclosure forms submitted for the **2014/2015** financial year to the Minister in terms of Chapter 3 G of these PSR, 2001. It was recommended to the Minister that the Minister should provide advice to the officials concerned on the following issues:

* Manage potential conflicts of interest so that they do not lead to actual conflicts of interest.
* Disclose all their registrable interests on an annual basis.
* Seek prior permission to conduct Remunerative Work Outside the Public Service.
* Refrain from conducting business with the State

A further recommendation was made that the Minister should **consult with the employees who were found to have not disclosed all their registrable interests**, to determine the reasons for not fully disclosing their registrable interests and thereafter, consider charging these officials with misconduct for not complying with Chapter 3 of the PSR. The Minister was requested to revert to the PSC within 30 days from the date of receipt of the letter from the PSC, with information on actions taken subsequent to the referral. If no actions were taken, the Minster was requested to provide the reasons thereof.

1. Yes. The PSCscrutinised the financial disclosure forms **in terms of Regulation 21(1) of the PSR 2016**. In terms of this Regulation, the PSC must assess compliance with the requirement to disclose all financial interests and also to establish whether the involvement of officials in any activities of the companies could lead to conflicts of interest. It was found that sixty-one (**61**) officials within the SAPS did not disclose all their registrable interests. The PSC advised the Minister to consult with the officials concerned to determine the reasons for not fully disclosing their registrable interests and thereafter, consider taking disciplinary action against these officials for not complying with the requirements of the Financial Disclosure Framework, in terms of the Disciplinary Code and Procedures, as contained in the SMS Handbook.

The scrutiny also revealed that **there were ninety-one (91) officials whose financial interests could be construed as posing potential conflicts of interest**. In view of the likelihood that these officials could use State resources to further their private interests, **the PSC advised the Minister to consult with the officials concerned to discuss the steps to** **remove the conflicts of interest in terms of Regulation 21(1)(c**). The Minister was also advised that should the officials fail to take appropriate steps to remove the conflicts of interests after such consultation had taken place, the Minister must, **in terms of Regulation 21(1)(d) cause disciplinary action to be taken against the officials concerned.**

There were officials within the SAPS, with whom the PSC had consulted in the previous financial years and was satisfied with the explanation given regarding the officials involvement in companies.The PSC advised that the involvement of these officials in companies must be tightly monitored to ensure that they do not lead conflicts of interest. The Minister was also advised that **should it transpire that such involvement poses potential conflicts of interest, the Minister should take the necessary steps in terms of Regulation 21(1)(c) and (d)** as indicated above.

The PSC also found that seven hundred and sixteen (**716**) officials within the SAPS complied with the Financial Disclosure Framework and are not involved in activities that could be construed as posing potential conflicts of interest. In view thereof, no further action was required from the Minister with regard to the said officials.

The Minister was requested, **in terms of Regulation 21(1)(e) of the PSR, 2016, to revert to the PSC within 30 days of receipt of the letter from the PSC** with an indication as to whether any steps were taken regarding the PSC’s findings. If steps were taken, a description of those steps was to be provided. If no steps were taken, the Minister was requested to kindly provide the reasons thereof.

1. No. The due date for the submission of financial disclosure forms in respect of the 2016/2017 financial year was 31 May 2017. The PSC is currently capturing statistics relating to the submission of these forms. The scrutiny of the financial disclosure forms has not been commenced with yet.

(b) No. The PSC has never received any report from the Minister of Police in terms of Chapter 3 G of the PSR, 2001 or in terms of Regulation 21 of the PSR, 2016.

**END**