

**MINISTRY: PUBLIC SERVICE AND ADMINISTRATION**

**REPUBLIC OF SOUTH AFRICA**

**NATIONAL ASSEMBLY**

**QUESTION FOR WRITTEN REPLY**

**QUESTION NO.: 3919**

**Ms A T Lovemore (DA) to ask the Minister of Public Service and Administration:**

(1) Whether persons appointed for fixed periods by government departments and paid stipends for their services, such as those who man the various victim support centres, are considered employees of the respective departments; if not, (a) why not, (b) what is the status of the specified employees, (c) for what periods are the specified employees generally employed and (d) how are the stipends calculated; if so, why are the specified employees not paid salaries;

(2) whether he has any plans in place to improve the conditions of service of the specified employees; if not, why not; if so, what are the relevant details in this regard? NW4784E

**REPLY**

(1) Where the employment is temporary in nature, the employee may be appointed under a special contract, on a casual basis or on a sessional basis.

In the Public Service, an employee is defined as a person contemplated in section 8 of the Public Service Act, 1994 (as amended). In terms of section 8(1) of the said Act, the Public Service shall consist of persons who are employed

1. in posts on the establishment of departments; and
2. additional to the establishment of departments.

Executive Authority (EA), in terms of section 9 of the Public Service Act, 1994, is vested with the powers to appoint any person in his or her Department in accordance with the Act and in such a manner and on such conditions as may be prescribed. In terms of the provisions of the Public Service Regulations 2001, an Executive Authority may appoint employees on a permanent or temporary basis, either full time or part time.

(a), (b) and (c) Persons appointed in terms of the aforesaid provisions of the Public Service Act, 1994 are employees irrespective of how their remuneration is structured.

It should be noted that the Public Service Act, 1994 is not the only legislative provision whereby departments can obtain the services of persons. In certain cases, other legislation also mandates departments to utilise/employ persons for specific needs, as may be prescribed. Whether persons not employed in terms of the Public Service Act, 1994 are employees or not will have to be derived from either the provisions of the specific legislation that mandates their employment or if no such specific legislation exists, from section 200A of the Labour Relations Act, 1995. (The latter contains general criteria whereby persons are to be deemed employees). Therefore individual departments will be best placed to answer the question pertaining to the utilisation/employment of a specific category of persons/employees in terms of the context outlined in this question.

(d) In terms of the provisions of the Public Service Regulations, an Executive Authority have the powers to determine the grade of a post and as far as possible the salary of a part-time, sessional or temporary employee should be set proportional to the salary of an equally graded full-time equivalent. Where the remuneration is determined on a basis other than job evaluation, the relevant department will be best placed to advise on the basis used to calculate the stipend.

(2) The Public Service Act, 1994, Chapter 2, section 3(5)(a) provides for departments to approach the Minister for a determination regarding the conditions of service of employees generally or categories of employees subject to the Labour Relations Act, 1995 and Collective Agreements.