**MINISTRY: PUBLIC SERVICE AND ADMINISTRATION**

**REPUBLIC OF SOUTH AFRICA**

**NATIONAL ASSEMBLY**

**QUESTION FOR WRITTEN REPLY**

**QUESTION NO.: 526**

**Mr A P van der Westhuizen (DA) to ask the Minister of Public Service and Administration:**

With reference to the rules of the Public Service Commission (PSC) dealing with meeting procedures, (a) how does the PSC deal with the leadership of meetings in the absence of the Chairperson and/or Deputy Chairperson, (b) when were the specified rules adopted, (c) when were the relevant sections of the rules that deal with vacancies in the leadership of the PSC last revised and (d) what is the exact wording of the sections that deal with the absence of the Chairperson and/or Deputy Chairperson during PSC meetings. NW632E

**REPLY**

1. Section 196 (2) of the Constitution provides that the Public Service Commission (PSC) must be regulated by national legislation. The PSC Act in section 11 (c) provides for the PSC to make Rules as to the manner in which meetings of the PSC shall be convened, the procedure to be followed at those meetings and the conduct of its business, the quorum at those meetings, and the manner in which minutes of those meetings shall be kept. Provision is therefore made in the prevailing legislation for the PSC to make Rules to ensure that the standard of our own internal deliberations and decision-making processes meet the tests of accountability, transparency and responsiveness.

The PSC’s Governance Rules provide for operational functioning of its various governance structures, as well as the secretariat function. The Governance Rules take due consideration to the second *Certification* judgment of the amended text of the Constitution[[1]](#footnote-1) which held that the PSC Commissioners will have joint responsibility for the work that it does. It provides that the Chairperson must provide overall leadership to the PSC, ensuring its effectiveness in all aspects of its role without limiting the principle of joint responsibility for the PSC’s decisions.

The Governance Rules provide for a variety of meetings. The Chairperson or Deputy Chairperson only leads the Plenary, which is the highest decision making body of the PSC. The Plenary is constituted by the 14 Commissioners. Plenary meetings are held on a quarterly basis. These meetings are held on dates determined in advance. Plenary meetings are convened and Chaired by the Chairperson or, if the Chairperson is absent or unavailable, by the Deputy Chairperson. If both are unavailable to chair a Plenary meeting or part of a meeting, nothing in the law or in the Rules prohibits the Chairperson or Deputy Chairperson to request a Commissioner to chair the meeting in their stead.

In order to execute the PSC’s mandate, subcommittees are established in the form of Specialist Teams. Each Specialist Team assigns a Convenor from amongst the Commissioners to coordinate and Chair the operations of the Specialist Team. The Chairperson and Deputy Chairperson serve on Specialist Teams in their capacity as Commissioners.

The Specialist Teams provide strategic oversight on the key performance areas of the PSC and make findings and recommendations on behalf of the PSC in line with the Delegations Frameworks, providing for the delegation of powers by the PSC to provincially based commissioners as envisaged in section 11 (b) of the Act and the delegation of powers and assignment of duties by the PSC to Commissioners as envisaged in section 13 of the PSC Act.

Working committees of Specialist Teams in the form of panels are established to deal with decision-making in respect of investigations in terms of section 196 (4)(f) of the Constitution, in line with the Governance Rules and the Delegations Frameworks mentioned above.

(b) The specified rules were adopted in March 2005. Amendments to the Governance Rules were adopted in February 2015 and implemented with effect from 01 April 2015.

(c) There are no Rules in relation to the management of vacancies. However, the process for appointment of Commissioners is prescribed in section 196 (7) of the Constitution, read with section 4 of the PSC Act, which state that:

* Five nationally based commissioners are appointed by the President in terms of section 196(7)(a) of the Constitution of the Republic of South Africa, 1996 (Act No. 108 of 1996), following the approval of the National Assembly after a public notice process and a recommendation by a committee of the National Assembly.
* One commissioner for each province is appointed by the President in terms of section 196(7) (b) of the Constitution of the Republic of South Africa, 1996 (Act No. 108 of 1996), in the PSC following a nomination by the Premier of the province after a public notice process and a recommendation by a committee of the provincial legislature and approved by that legislature.

(d) Rule E.1 (b) of the Governance Rules provide that *“Plenary meetings are convened and chaired by the Chairperson or, if the Chairperson is absent or unavailable, by the Deputy Chairperson.”* This Rule must be read in conjunction with section 11 (c) of the PSC Act, the Certification Judgements, as well as the Delegations Frameworks, providing for the delegation of powers by the PSC to provincially based commissioners as envisaged in section 11 (b) of the Act and the delegation of powers and assignment of duties by the PSC to Commissioners as envisaged in section 13 of the PSC Act.

1. Certification of the amended text of the Constitution of the Republic of South Africa, 1996 (Case CCT 37/96) [↑](#footnote-ref-1)