GENERAL NOTICE

NOTICE 1227 OF 2013

INDEPENDENT COMMISSION FOR THE REMUNERATION OF PUBLIC OFFICE BEARERS

EXPLANATORY MEMORANDUM FOR ANNUAL RECOMMENDATIONS FOR 2013/2014

INTRODUCTION

1. The Independent Commission for the Remuneration of Public Office Bearers ("the Commission") is statutorily obliged by virtue of Section 8 (4) and (5) of the Independent Commission for the Remuneration of Public Office Bearers Act, 1997 (Commission Act), to make annual recommendations relating to the salaries, benefits, allowances, and the resources required by public office bearers to enable them to perform their respective duties effectively.

PART 1

ANNUAL REMUNERATION RECOMMENDATIONS FOR 2013/2014

2. The Commission at its meetings of 07 June 2013 and 15 July 2013 discussed the Annual Remuneration Recommendations for 2013/2014. Subsequent to these meetings, the Commission consulted with the Minister of Finance, the Minister of Justice and Constitutional Development, the Chief Justice, and the Lower Courts Remuneration Committee (in terms of the provisions of Section 2 of the Judges Remuneration and the Conditions of Service Act No. 47 of 2001 and Section 12 of the Magistrates Act No. 90 of 1993). Consultation was also extended to the Minister of Cogta and the Minister of DPSA.

3. The Commission at its meeting of 14 September 2013 discussed at length the stakeholders' responses on the Commission's Annual Remuneration Recommendation for 2013/2014 as received.

4. The Commission during the meeting noted the comments and inputs from the relevant stakeholders and considered other factors that are within its mandate in finalizing its Annual Remuneration Recommendations for 2013/2014.

5. In terms of Section 8 (3B) (a) the Chairperson of the Commission recused himself from this deliberations given his conflicted position.

6. The Commission considered the following factors in arriving at its annual remuneration recommendation for 2013/2014:

   - Section 8(6) of the Commission Act
   - The level of the Consumer Price Index (CPI) and its forecast
   - Market salary increases during the past year
   - Forecasted salary increases for the year ahead

Commissioners: Judge LW Seriti (Chairperson); Vacant (Deputy Chairperson); Dr MHR Bussin; Prof MP Sithole; Mr C Economou; Adv HFN Sephoti; Mr AG Matheba, Dr LW Matlhape

Head of Secretariat: PM Makapan

- The economic and social environment
- Past recommendations together with the President's determinations
- The inputs from key stakeholders in terms of the mandatory consultation requirements
- Other relevant factors

6.1 Section 8 (6) of the Commission Act

6.1.1 In relation to Section 8 (6) (i) of the Commission Act, the Commission is of the view that the roles, status, duties, functions and responsibilities of the public office bearers were considered during the last Major Review Report and the Commission will advise all stakeholders of its intention for any future review of all public office bearers remuneration, benefits and allowances.

6.1.2 In respect of the current financial year, the Commission is not considering a total review of the remuneration, benefits and allowances of public office bearers as this would require significant financial resources to address. During the year, the Commission has received inadequate financial resources and this has a negative impact in its ability to deal with stakeholders' requests especially on the review of public office bearers' remuneration.

6.2 The level of the Consumer Price Index (CPI) and its forecast

6.2.1 Inflation can be defined as the increase in the general level of prices of goods and services in an economy over a period of time. When the general price level rises, each unit of currency buys fewer goods and services. Consequently, inflation also reflects erosion in the purchasing power of money – a loss of real value in the internal medium of exchange and unit of account in the economy.

6.2.2 The economics of inflation and remuneration are interrelated. High inflation demands increase in remuneration to maintain the current lifestyle at higher prices. As is commonly known, people expect higher remuneration increases with higher inflation. When remuneration is increased it further fuels the existing inflation by increasing the demand of commodities.

6.2.3 the below table indicates the annual average change in CPI, Producer Price Inflation (PPI), Gross Domestic Product (GDP) and interest rate data from 2006 to 2012.

YEAR	CPI	PPI	GDP	PRIME INTEREST RATE
2006	4.6%	7.7%	5.8%	12.5%
2007	6.5%	11.0%	5.7%	14.5%
2008	11.3%	14.3%	3.43%	15.0%
2009	7.1%	0.2%	-1.48%	10.5%
2010	4.3%	6.0%	2.98%	9.0%
2011	4.5%	7.4%	3.05%	9.0%
2012	5.7%	5.4%	3.20%	8.5%

6.2.4 The inflation level from January to August 2013 reflected an average amount of 5.9% as depicted by the table below:

ANNUAL INFLATION (CPIX) BETWEEN JANUARY – MAY 2013									
MONTHLY CPIX									
Year	**JAN**	**FEB**	**MAR**	**APR**	**MAY**	**JUN**	**JUL**	**AUG**	**AVG**
2013	5.4%	5.9%	5.9%	5.9%	5.6%	5.5%	6.3%	6.4%	5.9%

6.2.5 According to a ***South African Reserve Bank (SARB)*** publication dated 18 July 2013, inflation is expected to average 0.1% and 0.3% points higher in 2013 and 2014 at 5.9% and 5.5% respectively, while the forecast for 2015 has been raised from 5.0% to 5.2%. A temporary breach of the upper end of the target range is still expected in the third quarter of 2013, but at a higher average level of 6.3% (6.1% previously), followed by a return to within the target range by the final quarter of the year.

6.2.6 According to ***Reuters Survey*** inflation reflects expectations of an average of 5.9% in 2013 and moderating to 5.6% and 5.4% in 2014 and 2015 respectively.

6.2.7 The survey conducted by the ***Bureau for Economic Research (BER)*** in the second quarter of 2013 reflect expected inflation to average 6% in 2013 and 6.1% in 2014 and 2015.

6.2.8 Chapter 2 of the ***National Treasury Budget Review of 2012*** projected the Consumer Price Index (CPI) to increase from an average of 5% in 2011 to 6.2% in 2012 as a result of high food prices, rising administered prices and higher prices of imported goods due to the weaker rand. After temporarily rising above the upper limit of the 3-6% target band, inflation is forecast to fall to 5.3% in 2013 and 5.1% in 2014.

6.2.9 The ***National Treasury MTEF Guidelines*** on preparation of Expenditure Estimates for 2013 projects the CPI inflation for 2013/14 at 5.3% and for 2014/15 at 4.9%.

6.2.10 The **South Africa's big banks have** indicated their inflation forecasts as follows:

Bank	**2012 Forecast**	**2013 Forecast**	**2014 Forecast**
ABSA	5.7%	6.1%	5.7%
First National Bank	5.0%	5.1%	4.6%
Nedbank	5.7%	6%	5.8%
Standard Bank	5.5%	5.8%	5.4%
SARB	5.6%	5.9%	5.5%
Average	**5.5%**	**5.78%**	**5.4%**

6.3 Market salary increases during the past year

6.3.1 Senior Management Services (SMS) and Public Service Employees

6.3.1.1 Senior Managers in public service received a 5% cost-of-living-adjustment in January 2011. In January 2012 they received a 4.5% increase with an additional 0.5% adjustment on 01 April 2012. For 2013/14 SMS received a 5.6% increase.

6.3.1.2 Employees on salary levels 1 to 12 in the public service have received the cost-of-living adjustment of 6.8% and 7% in 2011/12 and 2012/13 respectively. For 2013/14 they received an adjustment based on the National Treasury's average projected CPI for the financial year plus 1% which is 6.6%.

6.3.2 Local Government

6.3.2.1 Parties in the South African Local Government Bargaining Council signed the multi-year Salary and Wage Collective Agreement for the period 2012 to 2015. The agreement indicated, amongst other things, a cost-of-living-adjustment in 2012/13 of 6.5% and 0.5% implemented in two phases. The increase for 2013/2014 and 2014/2015 financial years will be based on an average CPI plus 1.25% and 1% respectively.

6.4 Forecasted salary increases for the year ahead

6.4.1 According to a Snap Survey Report from 21st Century Pay Solutions Group, it is anticipated that the market increases for 2013 would likely fall between 6.5% and 7.5% as CPI increases and expect the median increase to be at 7%.

6.5 The Economic and Social Environment

6.5.1 On 17 October 2012 during the ***social dialogue meeting*** on the state of the economy, parties involved in the meeting agreed that steps need to be taken urgently to address the large income inequalities in South Africa, which are a future primary risk as a sustainable and successful society. The parties involved made a call on Chief Executive Officers (CEOs), Executive Directors and Senior Executives in both private and public sectors to agree to a freeze an increase in salary and bonuses over the next 12 months, as a strong signal of a commitment to build an equitable economy.

6.5.2 Subsequent to the social dialogue, ***Cabinet*** held its ordinary meeting in Cape Town on 24 October 2012 where it demonstrated its support for the National Executive commitment to diminish salary inequalities and further endorsed that salary increases of the National Executive be frozen for the next 12 months. This was further demonstrated by the ***Forum of South African Directors-General (FOSAD)*** that resolved that Director-Generals would voluntary surrender their 2013/14 cost-of-living-adjustment. The ***SARB*** also informed the public that their Executive and Non-Executive Directors will not receive a general salary increase in the current financial year.

6.5.3 On 25 October 2012 during the Medium Term Budget Policy statement the ***Minister of Finance*** indicated that the budget provides for the continued real growth in spending on public services, though total non-interest expenditure remains broadly unchanged from the 2012 budget. This reflects the challenging economic environment and the fiscal constraints in which government is operating.

6.5.4 According to the statement of the ***Monetary Policy Committee (MPC)*** issued by the Governor of the SARB on 20 March 2013, the trend in wage settlement remains an upside risk to the inflation outlook, although recent data is somewhat contradictory. Indications from the ***Andrew Levy Employment Publications*** are that wage settlements in collective bargaining agreements picked up significantly from 7.6% in 2012 to 7.9% in the first quarter of 2013.

6.6 Past Recommendations together with the President's Determinations

6.6.1 The Commission on 26 July 2012 published its annual remuneration recommendations for cost-of-living-adjustment of 5.5% for public office bearers for 2012/2013 financial year effective from 01 April 2012. In recommending the increase the Commission considered applicable legislation and the following factors to be relevant in forming the basis for its decision:

- Consumer Price Index (CPI) and forecasted level
- Market salary increases of the past year
- Forecasted salary increases for the year ahead
- The economic and social environment
- Past recommendations and the President's determinations
- Other factors for consideration
- Inputs from key stakeholders in terms of mandatory consultation

6.6.2 The following table summarises the past cost-of-living-adjustment recommendations made by the Commission and the President determinations for all public office bearers:

Year	Commission Recommendations	President Determinations
2008/09	Major review & 11%	Major review & 11%
2009/10	8%	7%
2010/11	7%	5%
2011/12	5%	5%
2012/13	5.5%	5.5%
Average	**7.8%**	**7%**

6.7 Government Wage Bill

6.7.1 The ***Medium Term Budget Policy Statement*** of 25 October 2012 further indicated that since 2008/9, personnel spending have increased from 33% to 35% of total government expenditure. This year government and public service unions signed a three-year wage settlement. The cost of this agreement is estimated at R5.5 billion for 2012/2013 and R37.5 billion over the 2013 MTEF. Compensation of employees will be limited to 34% of total expenditure in 2015/16 as government restrains growth in personnel numbers.

6.7.2 The ***Financial and Fiscal Commission*** submission on the 2012 Medium Term Budget Policy statement indicated that the adjustment estimates are mainly driven by Improvement of Conditions of Service (ICS) to cover the cost of the public service wage settlement of 7% that was agreed to later in the year 2012 (which is higher than the initial 5% that provinces budgeted for). The continued higher than expected increase to the cost of living adjustment will put further pressure on the Government to reign in the provincial salary bill. The opportunity costs of these increases impact on the ability of resuscitating the economy through increased investment expenditure.

6.8 Other relevant factors

6.8.1 The Commission further considered the following factors for its final decision on pay action for 2013/2014:

- Purchasing Power Parity and equity
- The stakeholders' inputs and concerns
- The inflation levels at different remuneration bands
- The public perception towards Commission recommendations
- Commission independence
- The Constitutional Court verdict of 23 May 2013 on the matter between ARMSA and the President of South Africa and others

RECOMMENDATION

7. The Commission is obliged by statutory enactment to make recommendations for salary adjustment for public office bearers. After taking into account all relevant factors mentioned here above together with applicable legislations, the Commission is recommending a cost-of-living-adjustment on a sliding scale as indicated in the table below:

TOTAL REMUNERATION PACKAGE	SLIDING SCALE %
Below R 500 000	7%
Between R500 000 – R 800 000	5%
Between R800 000 – R1 000 000	4%
Above R1 000 000	0%

Commissioners: Judge LW Seriti (Chairperson); Vacant (Deputy Chairperson); Dr MHR Bussin; Prof MP Sithole; Mr C Economou; Adv HFN Sephoti; Mr AG Matheba, Dr LW Matlhape

Head of Secretariat: PM Makapan

8. These "cut-off" thresholds were determined by carefully examining the salary scales and mid-point differentials between various levels of positions. Under these "cut-offs", there are no circumstances of overlapping "salary scales" of positions.

9. The effective date for salary adjustment is 01 April 2013 and for local government is 01 July 2013. The adjustment is recommended in order to align the recommendation with the financial year of public office bearers' institutions.

10. In recommending the sliding scale, the Commission intends to:

    a) Overcome perpetual perceptions on remuneration inequities reinforced by an increase of the same percentage for all categories of public office bearers,
    b) Address a call by Commission stakeholders on the widening wage gap between the remuneration levels,
    c) Ensure gradual internal equity amongst the recipients, and
    d) Set an example to the private sector.

11. The Commission further recommends that a basic salary component equal to 60% of the total package, which constitutes the pensionable salary of ***Magistrates*** be increased to 70% with effect from 01 April 2013 similar to Senior Managers in public service.

12. Schedules for salary adjustment are attached as Annexure A.

Annexure A

SCHEDULE 1					
REMUNERATION LEVELS WITH EFFECT 01 APRIL 2013					
NATIONAL EXECUTIVE AND DEPUTY MINISTERS					
GRADE	PAY LEVEL	POSITION	01-Apr-12	01-Apr-13	
EA	1	President	2,622,561	2,622,561	Above R1 million (0%)
EB	1	Deputy President	2,360,360	2,360,360	
EC	1	Minister	2,006,292	2,006,292	
ED	1	Deputy Minister	1,652,224	1,652,224	

SCHEDULE 2					
REMUNERATION LEVELS WITH EFFECT 01 APRIL 2013					
NATIONAL EXECUTIVE AND DEPUTY MINISTERS					
GRADE	**PAY LEVEL**	**POSITION**	**01-Apr-12**	**01-Apr-13**	
PA	1	Speaker: National Assembly	2,360,360	2,360,360	Above R1 million (0%)
		Chairperson: NCOP	2,360,360	2,360,360	
PB	1	Deputy Speaker: National Assembly	1,652,224	1,652,224	
		Deputy Chairperson: NCOP	1,652,224	1,652,224	
	2	House Chairperson	1,534,248	1,534,248	
PC	1	Chief Whip: Majority Party	1,298,156	1,298,156	
		Chief Whip: NCOP	1,298,156	1,298,156	
		Parliamentary Counsellor: President	1,298,156	1,298,156	
		Parliamentary Counsellor: Deputy President	1,298,156	1,298,156	
		Leader of Opposition	1,298,156	1,298,156	
	2	Chairperson of a Committee	1,180,180	1,180,180	
PD	1	Deputy Chief Whip: Majority Party	1,062,203	1,062,203	
		Chief Whip: Largest Minority Party	1,062,203	1,062,203	
		Leader of a Minority Party	1,062,203	1,062,203	
	2	Whip	985,671	1,025,097	Between R 800 000 and R1 million (4%)
PE	1	Member: National Assembly	889,383	924,958	
		Permanent Delegate: NCOP	889,383	924,958	

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SCHEDULE 3					
REMUNERATION LEVELS WITH EFFECT 01 APRIL 2013					
PROVINCIAL EXECUTIVES AND LEGISLATURES					
GRADE	PAY LEVEL	POSITION	01-Apr-12	01-Apr-13	
LA	1	Premier	1,888,315	1,888,315	Above R1 million (0%)
LB	1	Member of Executive Council	1,652,224	1,652,224	
		Speaker	1,652,224	1,652,224	
LC	1	Deputy Speaker	1,298,156	1,298,156	
		Chief Whip: Majority Party	1,180,180	1,180,180	
	2	Chairperson of Committees	1,062,204	1,062,204	
		Leader of Opposition	1,062,204	1,062,204	
		Chairperson of a Committee	1,062,204	1,062,204	
	3	Deputy Chairperson of Committees	999,347	1,039,321	Between R800 000 and R1 million (4%)
		Deputy Chief Whip: Majority Party	999,347	1,039,321	
		Chief Whip: Largest Minority Party	999,347	1,039,321	
		Leader of a Minority Party	999,347	1,039,321	
LD	1	Parliamentary Counsellor to a King	889,383	924,958	
		Whip	889,383	924,958	
	2	Member of Provincial Legislature	860,787	895,218	

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SCHEDULE 4					
REMUNERATION LEVELS WITH EFFECT 01 JULY 2013					
LOCAL GOVERNMENT					
GRADE	**PAY LEVEL**	**POSITION**	**01-Apr-12**	**01-Apr-13**	
MA	1	Executive Mayor	1,045,626	1,045,626	Above R1 million (0%)
		Mayor	1,045,626	1,045,626	
MB	1	Deputy Executive Mayor	847,525	881,426	Between R800 000 and R1 million (4%)
		Speaker/Chairperson	847,525	881,426	
		Deputy Mayor	847,525	881,426	
MC	2	Member of Executive Committee	798,069	837,972	Between R500 000 and R800 000 (5%)
		Member of Mayoral Committee	798,069	837,972	
		Chairperson of a Sub-council	798,069	837,972	
		Whip	798,069	837,972	
MD	1	Municipal Councillor	401,866	429,997	Below R500 000 (7%)

SCHEDULE 5					
REMUNERATION LEVELS WITH EFFECT 01 APRIL 2013					
JUDGES					
GRADE	**PAY LEVEL**	**POSITION**	**01-Apr-12**	**01-Apr-13**	
JA	1	Chief Justice	2,360,360	2,360,360	Above R1 million (0%)
JB	1	Deputy Chief Justice	2,124,269	2,124,269	
		President: Supreme Court of Appeal	2,124,269	2,124,269	
JC	1	Deputy President: Supreme Court of Appeal	2,006,292	2,006,292	
	2	Judge: Constitutional Court	1,888,315	1,888,315	
		Judge: Supreme Court of Appeal	1,888,315	1,888,315	
	3	Judge President: High/Labour Court	1,770,339	1,770,339	
	4	Deputy Judge President: High/Labour Court	1,652,224	1,652,224	
	5	Judge: High/Labour Court	1,534,248	1,534,248	

Commissioners: Judge LW Seriti (Chairperson); Vacant (Deputy Chairperson); Dr MHR Bussin; Prof MP Sithole; Mr C Economou; Adv HFN Sephoti; Mr AG Matheba, Dr LW Matlhape

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SCHEDULE 6 REMUNERATION LEVELS WITH EFFECT 01 APRIL 2013 MAGISTRATES					
GRADE	**PAY LEVEL**	**POSITION**	**01-Apr-12**	**01-Apr-13**	
JD	1	Special Grade Chief Magistrate	1,062,203	1,062,203	Above R1 million (0%)
		Regional Court President	1,062,203	1,062,203	
JE	1	Regional Magistrate	944,089	981,852	Between R800 000 and R1 million (4%)
		Chief Magistrate	944,089	981,852	
JF	1	Senior Magistrate	778,866	817,810	Between R500 000 and R800 000 (5%)
JG	1	Magistrate	708,136	743,542	

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SCHEDULE 7

REMUNERATION LEVELS WITH EFFECT 01 APRIL 2013

TRADITIONAL LEADERS

GRADE	PAY LEVEL	FULL TIME POSITIONS	01-Apr-12	01-Apr-13	
TA	1	King	978,321	1,017,454	Between R800 000 and R1 million (4%)
TB	1	Chairperson: NHTL	693,216	727,877	Between R500 000 and R800 000 (5%)
	2	Full time Chairperson: PHTL	570,957	599,505	
	3	Deputy Chairperson: NHTL	530,204	556,714	
	4	Full time Deputy Chairperson: PHTL	489,313	523,564	Below R500 000 (7%)
TC	1	Full time Member: NHTL	285,409	305,388	
	2	Full time Member: PHTL	244,656	261,782	
TD	1	Senior Traditional Leader	179,451	192,013	
TE	1	Headmen / Headwomen	75,584	80,875	
		PART TIME POSITIONS*	1 APRIL 2012 (Per Day)		
		Part time Member: NHTL	1,028	1,100	7%
		Part time Chairperson: PHTL	1,223	1,308	
		Part time Deputy Chairperson: PHTL	1,100	1,177	
		Part time Member: PHTL	852	912	

*** In addition to sitting allowances, part time members are entitled to their salaries as Traditional Leaders, as well as subsistence costs (reasonable and actual expenses) and transport costs (Department of Transport tariffs for the use of privately owned vehicles), for their attendance of official meetings, seminars, workshops and conferences of the respective Houses)**

Commissioners: Judge LW Seriti (Chairperson); Vacant (Deputy Chairperson); Dr MHR Bussin; Prof MP Sithole; Mr C Economou; Adv HFN Sephoti; Mr AG Matheba, Dr LW Matlhape

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PART 2

RECOMMENDATIONS OF AMENDMENT OF PENSION BENEFIT CAP FOR MEMBERS OF PARLIAMENT AND PROVINCIAL LEGISLATURES

Introduction

1. The Independent Commission for the Remuneration of Public Office-Bearers (the Commission) in terms of Section 8 (4) (a) and (b) of the Independent Commission for the Remuneration of Public Office-Bearers Act, No. 92 of 1997 (the Commission Act) shall publish in Government Gazette recommendations concerning, amongst others, the benefits of any office-bearer as defined in Section 1 (a), (b), (c), (d) and (e). The benefits may include the pension benefits as prescribed by Section 8 of the Remuneration of Public Office-Bearer Act, No. 20 of 1998 (the Remuneration Act).

2. Section 8 (1) of the Remuneration Act provides that pension benefit shall be paid out of and as a charge against the pension fund of which an office bearer is a member, such pension and other benefits as may be determined in terms of the law or rules governing such pension fund.

3. Section 8 (2) of the Remuneration Act prescribes that the amount of the contribution to be made to the pension fund by the national government, of which a Deputy President, a Minister, a Deputy Minister, a member of the National Assembly or a permanent delegate is a member, shall be determined by the Minister of Finance after taking into consideration the recommendations of the Commission, and such amount shall annually be paid from monies appropriated by Parliament for that purpose.

4. Section 8(3) *(a)* of the Remuneration Act prescribes that the upper limit of the contribution to be made to the pension fund of which a Premier is a member, shall be determined by the President by proclamation in the *Gazette* after taking into consideration the recommendations of the Commission.

5. Section 8 (4) *(a)* of the Remuneration Act prescribes that the upper limit of the contribution to be made to the pension fund of which a member of the Executive Council or a member of a provincial legislature is a member, shall be determined by the President by proclamation in the *Gazette* after taking into consideration the recommendations of the Commission.

6. During 2008 the Commission published its Second Major Review Report that dealt with, amongst others, the pension benefits for office-bearers. In relation to members of National Executive, Parliament, Provincial Executive and Provincial Legislatures the following pension contributions were recommended on pensionable salary:

Member Contribution	7.5%
Employer contribution to retirement	37.0 %
Employer contribution to Additional Service Benefit	12.0%
Employer contribution to Risk Benefits and Administration expenses	5.5%
Total Employer Contribution	**54.5%**

7. The remuneration packages in respect of members of Parliament and Provincial Legislatures includes an allocation of 22.5% to fund employer pension benefit contributions and the remaining 32% of the contribution is therefore not part of the total remuneration package. The state contributes cash on an annual basis into the pension fund in respect of members.

8. All members will cease to contribute after 15 years and for younger members, the contribution is maintained by the State until the benefit cap of 92.5% of pensionable salary is fully funded for.

9. This arrangement aims to recognise that many members who were part of the struggle did not have adequate resources set aside for the provision of retirement benefits. This older generation will therefore retire after 15 years on a comprehensive pension benefit.

Political Office-Bearers Pension Fund

10. The Political Office-Bearers Pension Fund (the "fund") was established on 27 April 1994 with the objective to provide retirement and other benefits for members and deferred beneficiaries as well as for their beneficiaries in the event of their service termination.

11. The pension benefits of members are contained in the fund rules after consideration of Section 8 of the Remuneration Act. In terms of the fund rules, the pension benefit payable during termination is that which is purchasable from the accumulation of the members' credit in the Fund, subject to a maximum of 92.5% of a member's final average salary at retirement. For purposes of calculating the value of the maximum, the Fund uses a "conversion" or "annuity" factor which assumes a "profit annuity capitalised at a rate of 4% per annum without any guarantee period".

12. The total pension contributions payable (in total of at least 54.5% of pensionable salary for each Member), are significantly higher in relation to those typically seen amongst other funds offered in the private and public sectors (by between 2.5 times and 5 times higher).

13. These benefit arrangements were implemented in 2009 following the Commission's Second Major Review Report. In its Second Major Review Report, the Commission recommended significant enhancements to the then-benefits, largely to address the historical reality that most, if not all, political office bearers, were facing before the dawn of the democracy in the country, or never had the resources available to them, to fund adequately for their retirement years.

14. Unfortunately, the consequence of these pension arrangements introduced significant complexity and a general lack of understanding and appreciation of the benefit arrangements on offer by stakeholders.

15. The workings of the retirement arrangement, too, meant that after some 20 years of service, or four terms (roughly speaking and also depending on age and service), the benefit cap, of 92.5% of pensionable salary, would "kick in". This was administered by effectively reducing the Member's Fund Credit at retirement, by limiting the extent of the Equalisation Reserve payable in respect of each member for whom such cap took effect.

16. It would appear that the communication of this arrangement has been reasonably ineffective and somewhat unfortunate, as from a presentation point of view; it looks as though members are being prejudiced. In fact, what is in essence being recommended as a benefit is the maximum pension to a member of 92.5% of the member's pensionable salary at retirement, which by any standard of measure is a very attractive pension benefit design.

17. A further concern is that these benefit arrangements are extremely generous, and in fact, seek to address the inadequacy of benefit arrangements for those who historically were involved in the struggle, and who never had the resources available to fund appropriately for their retirement. The reality is that younger political office-bearers do not have this same problem, and more appropriate benefit structures, and importantly, simpler ones, need to be introduced for them.

Legislative Sector Forum Presentation

18. In 2011, the Commission was approached by the Legislative Sector Forum (LSF), with a request to reconsider the 92.5% of maximum benefit cap in terms of the rules of the Fund. The LSF was specifically requesting the Commission to review the method of determining the "Cap".

19. The LSF submission addressed the challenge faced by Members who were approaching the "benefit cap" or had already reached it. They mentioned that Members over the age of 60 who had in excess of 17 years' service were particularly at risk of reaching the cap during 2012 (notwithstanding the design to reach the cap after 20 years of service) before the next general elections scheduled to take place in 2014.

20. Many affected members were retiring in advance of the General Election and their services and experience are at risk of being lost. Their proposals were aimed at changing the determination of the benefit cap and hopefully retaining the services of those experienced members.

21. The LSF recommended the following options for the Commission to consider:

21.1 Option 1: Using annuity factors in determining the Cap which provide for guaranteed annual inflation-linked increases, a 75% surviving spouse pension and a 10 year guarantee period.

21.1.1 In calculating the cap, the member's 92.5% of pensionable salary is capitalised using an annuity factor determined on a "with profit" basis, capitalised at a net rate of interest of 4% per annum, without any regard to a minimum period of pension payment. In terms of this approach, the benefit is also somewhat smaller, based on current conditions, than that offered on an inflation linked basis (this is not necessarily always the case and is a function of prevailing bond yields)).

21.1.2 The introduction of a guarantee recognises the requirements that people retiring and passing away shortly thereafter do not lose the provision that had been accumulated in respect of them over the years prior to their retirement.

21.1.3 *It is the Commission's view that this would represent a reasonable basis to adjust the benefit arrangements, as ideally, members should strive for a benefit arrangement that is linked to inflation, and which provides a guaranteed payment term. This is consistent with retirement industry best practice standards.*

21.1.4 An important point is that this change is achieved without altering in principal the scheme as designed by the Commission in 2008. It is more of a "technical" refinement of the original proposals. There was never any reason to believe the discount rate and the annuity factors should be set in stone. It is also important that interest rates take account of prevailing market conditions. A consequence of this change would be the potential for interest rates to increase (and therefore for the cap to bite sooner too).

21.2 Option 2: Excluding the Additional Service Benefit when determining the Cap.

21.2.1 In terms of this option, no account is taken of the Additional Service Benefit when calculating the impact of the benefit cap.

21.2.2 The Commission is not in favour of this approach, as it believes this benefit arrangement cannot be ignored. It is a current retirement related benefit arrangement, and whilst it is still in force, should be contemplated.

21.2.3 A further point to make is that this arrangement is one which, when introduced, was a "bridge" towards a more appropriate long term benefit arrangement. For new members, it seems unreasonable to allow for, which talks to the point of the need to reconsider the benefit arrangements that are appropriate for newly elected (and significantly younger members).

21.3 Option 3: Redefine pensionable salary to be equal to 70% of total package.

21.3.1 Adjusting the member's pensionable pay packages 70% of total package was also considered, and seemed to be favoured by the LSF.

21.3.2 The Commission is not in favour of this approach. There are a number of complications, the most significant of which is their expectation that such change could trigger a more fundamental scheme review. It is also unlikely that such process will address the concerns of the members in the current term exposed to the effects of the benefit cap. The pensionable pay percentage could be addressed holistically through a wider review of the benefit arrangements, and such change would have unexpected implications on other benefit arrangements, and would require significant consultations and discussions with all stakeholders.

21.3.3 In terms of the Rules of the Fund, any such improvements need to be backdated to 1994, except for the pensionable salary definition change.

Actuarial Financial Costing

22. In response to the options presented, the Commission felt that the options needed to be supported by the requisite actuarial costs of implementation and recommended that the LSF approach the Fund's actuaries to perform such calculations, given their knowledge and immediate access to data and information. The Fund was of the opinion that they should avoid any potential conflicts of interest and suggested that LSF appoint its own actuaries whom would be provided with the necessary data and assistance by the Fund's actuary.

23. A detailed report was presented to the Commission, which set out the proposed actuarial costing. The financial implication of the LSF proposed benefit improvements was made up in three parts, namely:

- The "***past service cost***" which is the increase in the accrued liability.
- The "***future service cost***" which is the increase in the required contribution rate to be made to the Equalisation Amounts and/or the Additional Service Benefits or, on the other hand, a reduction in the employer contribution holiday that could otherwise have been enjoyed by the utilisation of the surplus released from the Equalisation Amounts.
- The one-off "***cost of backdating***" the improvement which is the additional amounts required to be paid to those who have left the POBPF before 31 March 2011. These calculated costs are best estimates as complete and accurate historic data of exited members is not available.

24. It should also be noted that the contribution to the Equalisation Amounts is fixed at 20% of pensionable salary. This means that the benefit paid from the Equalisation Amounts towards an individual member's Fund Credit is limited to a maximum of 20% of his/her pensionable salary and cannot exceed this. Not all members qualify for the maximum contribution resulting in an accumulation of a surplus in the Equalisation Amounts.

25. This surplus, in terms of the rules, can be used to subsidise the State's contributions. Therefore, any benefit change which has an impact in the accumulation of this surplus is expressed as a future service cost to the Equalisation Amounts. This is not an increase in the 20% fixed contribution rate but rather a reduction in the contribution holiday the State could enjoy due to the decrease in future surplus accumulations. A summary of the costs provided by the actuaries as at 31 March 2011 are set out below:

Option 1	
Increase in Additional Service Benefits	R 0,0m
Increase in Equalisation Amounts	R 25,3m
Increase in Data Error Reserve	R 0,5m
Increase in contribution i.r.o. the Equalisation Amounts	0,3% of pensionable salaries
Cost of backdating the improvement	R 15,7m
Option 2	
Increase in Additional Service Benefits	R 0,0m
Increase in Equalisation Amounts	R 17,6m
Increase in Data Error Reserve	R 0,4m
Increase in contribution i.r.o. the Equalisation Amounts	0,2% of pensionable salaries
Cost of backdating the improvement	R 10,9m
Option 3	
Increase in Additional Service Benefits	R 97,7m
Increase in Equalisation Amounts	R 19,6m
Increase in Data Error Reserve	R 2,3m
Increase in contribution i.r.o. the Additional Service Benefits	2,2% of pensionable salaries
Increase in contribution i.r.o. the Equalisation Amounts	3,3% of pensionable salaries
Cost of backdating the improvement	*Not applicable*

Commission recommendations on pension benefit of members of Parliament and Legislatures including National and Provincial Executives

26. For the reasons set out above, the Commission recommends the implementation of **Option 1**. That is, when calculating the value of the benefit cap, the Member's maximum pension of 92.5% of pensionable salary will be capitalised using an annuity which ensures the benefit escalates in line with inflation, and has, included a minimum benefit payment period of 10 years. Based on current market conditions, this has the effect of increasing the value of the cap, meaning that it lessens the chance of a Member's Current Fund Credit having to be reduced by limiting the value of the Equalisation Reserve payable in respect of each member.

27. This option is furthermore consistent with the principles recommended during the Second Major Review in 2008 by the Commission and does not alter the benefit arrangement payable to the Member. It is also in line with the best practice in retirement industry and its cost does not appear to be insurmountable.

28. The current benefit arrangements for members are extremely generous and this view is informed by the consequence of the shortfall in previous arrangements to deal with the newly elected members following the 1994 election. The benefit arrangements as they stand currently are, in the Commission's view, inappropriate and unduly generous for newly elected members. The arrangements are also extremely complex and therefore not valued by Members. The Commission believes that a more sustainable, and significantly simpler, and reasonable benefit arrangement is needed for newly elected POBs which should be addressed as part of a further major review.

PART 3

Once-off Gratuity or Ex-gratia payment to public office-bearers

Introduction

1. Following the publication of the Commission's recommendations on 17 April 2008, Legislative Sector Forum made representation to the President for the payment of a "once-off gratuity" to a Member of Parliament or Provincial Legislature at the end of a term in the instance where such member is not re-elected following an election. The representation proposed a gratuity of 13.33% of final pensionable salary for each year of service to assist the member to pay off debts such as mortgage bond and car loan. As part of cost-mitigation, this would be capped after 15 years and this would be de-linked from pensions to ensure that exiting members have access to cash-on-hand without having to sacrifice any part pension benefits.

The Commission previous recommendations on once-off gratuity

2. The President forwarded the request to the Commission for consideration. Following a consultation process with the Minister of Finance, the Commission concurred to the payment of "once-off gratuity". On 15 October 2008 the Commission made a recommendation on the payment of a "once-off gratuity" for a member of Parliament or Provincial Legislature who has served five years or more and whose term of office has ended be entitled to "once-off gratuity" equals to four months pensionable salary for every five years of service or pro rata of the five year period. The Commission's recommendation was endorsed by the President determinations as published on 12 November 2008.

3. In May 2011, the Commission was again approached by certain stakeholders, this time the Minister of Cooperative Governance and Traditional Affairs as well as Salga, for the payment of a similar "once-off gratuity" (although this time it was 3 months pensionable salary) to non-returning Councillors, following 2011 Local Government elections. The gratuity benefit at the time was motivated as remuneration needed by non-returning Councillors to "bridge" their remuneration shortfalls and consequent financial constraints following their non-election, whilst making alternative employment arrangements or waiting for the processing of their retirement benefits.

4. The Commission consulted with various relevant stakeholders and the Commission was assured by the Minister of Finance that such gratuity was affordable, and agreed to the request. On 29 August 2011 the Commission recommended to the President a "once-off gratuity" for non-returning Local Councillors who have served a full term from 01 March 2006 to 18 May 2011 should be paid a once-off gratuity of three months pensionable salary from National Fiscus. The Commission's recommendation was endorsed by the Minister of Cogta on 06 December 2011. The stakeholders within local government were informed of the payment of once-off gratuity through Departmental circulars dated 17 February 2012 and 27 March 2012.

Current request from stakeholders

5. On 15 July 2013 the National Department of Traditional Affairs and National House of Traditional Leaders made the presentation to the Commission on "Ex-gratia" payment for traditional leaders serving in various houses of traditional leaders.

6. Their submission indicated that currently there is no uniformity in respect of the payment of gratuities to traditional leaders serving in the various houses of traditional leaders at the end of their term. Such payments are largely dependent on the discretion of the relevant authority. Furthermore, there have been instances where members would receive "Ex-gratia" payments from both the National and Provincial House of Traditional Leaders.

7. The National Department of Traditional Affairs and National House of Traditional Leaders proposed the following to the Commission:

   - A three months' pensionable salary for any full-time member who served a five year term and is not returning for a consecutive term;
   - An equivalent of three months of sitting allowances calculated on the average of the allowances paid to a part-time member during the last year of his or her term;
   - A member who receives a gratuity or sitting allowances from the National House of Traditional Leaders, is not entitled to a gratuity or sitting allowances from the provincial or local house, and a person who is not a members of the National House but receives a gratuity or sitting allowances from the relevant provincial house, is not entitled to a gratuity of sitting allowance from the local house;
   - A full-time or part-time member who does not serve the full period of five year will receive a pro-rata gratuity or sitting allowances.

The Commission recommendations on once-off gratuity / ex-gratia payment

8. The Commission at its recent meeting held on the 14 September 2013 resolved that the payment of "once-off gratuity / ex-gratia " is <u>not</u> a benefit arrangement that should feature as part of its Recommendations. Commission could not at this stage motivate such benefit arrangement as presumably future non-returning public office bearers would ensure, through proper planning, that their financial affairs are in order at the time of their possible non re-election to Parliament, Legislature and National and Provincial House of Traditional Leaders.

9. Whilst a precedent appears to have been established for the payment of "once-off gratuity / ex-gratia" benefits payable to members of Parliament, Legislature and National and Provincial House of Traditional, as well as to Local Government Councillors. Circumstances at the time were different, for example, the retirement arrangements in place for public office bearers in 2008 were substantially different to those in place currently.

10. The Commission could consider such request in future, if properly motivated by stakeholders, and subject to proper and full consultation with the Minister of Finance for purposes of establishing affordability.

Commissioners: Judge LW Seriti (Chairperson); Vacant (Deputy Chairperson); Dr MHR Bussin; Prof MP Sithole; Mr C Economou; Adv HFN Sephoti; Mr AG Matheba, Dr LW Matlhape

Head of Secretariat: PM Makapan

Signed at PRETORIA **on the 17 December 2013.**

1. Judge WL Seriti :...

2. Mr G Matheba :...

Commissioners: Judge LW Seriti (Chairperson); Vacant (Deputy Chairperson); Dr MHR Bussin; Prof MP Sithole; Mr C Economou; Adv HFN Sephoti; Mr AG Matheba, Dr LW Matlhape

Head of Secretariat: PM Makapan