

REPUBLIC OF SOUTH AFRICA

INDEPENDENT COMMISSION FOR THE REMUNERATION OF PUBLIC OFFICE-BEARERS BILL

(As amended by the Portfolio Committee on Constitutional Affairs (National Assembly))

(MINISTER FOR PROVINCIAL AFFAIRS AND CONSTITUTIONAL DEVELOPMENT)

[B 112B—97]

REPUBLIEK VAN SUID-AFRIKA

WETSONTWERP OP DIE ONAFHANKLIKE KOMMISSIE VIR DIE BESOLDIGING VAN OPENBARE AMPSBEKLEËRS

*(Soos gewysig deur die Portefeuljekomitee oor Staatkundige Aangeleenthede
(Nasionale Vergadering))*

(MINISTER VIR PROVINSIALE SAKE EN STAATKUNDIGE ONTWIKKELING)

[W 112B—97]

ISBN 0 621 27518 2

No. of copies printed 3 000

BILL

To provide for the establishment of the Independent Commission for the Remuneration of Public Office-bearers to make recommendations concerning the salaries, allowances and benefits of office-bearers; and for matters connected therewith.

BE IT ENACTED by the Parliament of the Republic of South Africa, as follows:—

Definitions

1. In this Act, unless the context indicates otherwise—
- (i) “Commission” means the Independent Commission for the Remuneration of Public Office-bearers established by section 2; (iii) 5
 - (ii) “Constitution” means the Constitution of the Republic of South Africa, 1996 (Act No. 108 of 1996); (ii)
 - (iii) “office-bearer” means—
 - (a) any member of the Cabinet, any Deputy Minister, any member of the National Assembly, any permanent delegate to the National Council of Provinces, any member of the Council of Traditional Leaders, any member of any provincial house of traditional leaders or any traditional leader; 10
 - (b) any member of the Executive Council of a province, any member of any provincial legislature or any member of any Municipal Council of any category or type of municipality. (i) 15

Establishment of Commission

2. There is hereby established a commission to be known as the Independent Commission for the Remuneration of Public Office-bearers. 20

Constitution of Commission

3. (1) The Commission shall consist of seven members appointed by the President.
(2) Subject to the provisions of section 4, the President shall appoint fit and proper persons as members of the Commission on the ground of their knowledge of, or experience in, matters relating to the functions of the Commission. 25
(3) A member of the Commission shall serve in a part-time capacity.
(4) The President shall designate one member as chairperson and another as deputy chairperson of the Commission.
(5) If the chairperson is absent or for any reason unable to act as chairperson, the deputy chairperson shall act as the chairperson of the Commission. 30

Persons not qualified to be members of Commission

4. (1) No person shall be appointed as a member of the Commission if—
 - (a) that person is an office-bearer;
 - (b) that person holds office in any political party or political organisation;
 - (c) that person is an unrehabilitated insolvent; 35
 - (d) that person has been convicted of any offence for which that person has been sentenced to imprisonment without the option of a fine for a period of not less

than twelve months, unless a period of at least five years has expired after the date on which the sentence was served.

(2) For the purposes of subsection (1)(d), no person shall be deemed to have been sentenced until an appeal against the conviction or sentence has been disposed of or until the period has expired within which an appeal may be lodged, as the case may be. 5

Conditions of appointment, term of office and filling of vacancies

5. (1) The President may from time to time determine the conditions of appointment of the chairperson, the deputy chairperson and any other member of the Commission, and such conditions of appointment shall not be altered to a member's detriment during the member's term of office. 10

(2) Subject to the provisions of subsection (3) and section 13, a member of the Commission shall be appointed for a non-renewable term of office of five years.

(3) Any casual vacancy in the Commission shall be filled by the appointment of a member for the unexpired portion of the term of office of the member in whose stead the first-mentioned member is appointed. 15

Vacation of office

6. The office of a member of the Commission shall be vacated—

- (a) if that member becomes subject to any disability mentioned in section 4;
- (b) if that member becomes of unsound mind;
- (c) if that member resigns by lodging a resignation in writing with the President. 20

Meetings of Commission

7. (1) A meeting of the Commission shall be held at least once in every year at a time and place determined by the chairperson of the Commission.

(2) Five members of the Commission shall form a quorum for a meeting of the Commission. 25

(3) The decision of a majority of the members of the Commission present at a meeting of the Commission shall constitute a decision of the Commission, and, in the event of an equality of votes on any matter, the person presiding at the meeting concerned shall have a casting vote in addition to that person's deliberative vote.

Functions of Commission 30

8. (1) The Commission may exercise the powers and shall perform the duties entrusted to the Commission by this Act, section 219 of the Constitution or any other law.

(2) (a) The Commission may conduct an inquiry into any matter in respect of which it is authorised by this Act, section 219 of the Constitution or any other law to perform any function. 35

(b) For the purposes of the inquiry, the Commission shall have the powers contemplated in section 3 of the Commission Act, 1947 (Act No. 8 of 1947), and the provisions of subsections (3) and (4) of the said section 3 shall apply in respect of a person who gives evidence before the Commission or who has been summonsed to attend any meeting of the Commission as a witness or to produce any book, document or object. 40

(3) The Commission may conduct or cause to be conducted such research or obtain such information from the Secretary to Parliament, the secretary to any provincial legislature, the secretary to the Council of Traditional Leaders, the secretary to any provincial house of traditional leaders, the chief executive officer of any municipality or any office-bearer as may be necessary for the performance of the functions of the Commission under this Act, section 219 of the Constitution or any other law. 45

(4) The Commission shall publish annually in the *Gazette* recommendations concerning— 50

- (a) the salary, allowances and benefits of any office-bearer as defined in paragraph (a) of the definition of “office-bearer” in section 1;
- (b) the upper limits of the salary, allowances or benefits of any office-bearer as defined in paragraph (b) of the definition of “office-bearer” in section 1; and
- (c) the resources which are necessary to enable an office-bearer to perform the office-bearer’s functions effectively. 5

Investigations for specific purposes

9. The Commission shall at the request of the President investigate and consider any matter relating to the salaries, allowances and benefits, including pension and medical aid benefits, of office-bearers, and shall make recommendations to the President in regard thereto. 10

Annual report

10. (1) The Commission shall within two months after 31 December of each year submit to the President a report on its activities during that year.
(2) The President shall cause a copy of the report submitted in terms of subsection (1) to be tabled in Parliament as soon as may be practicable. 15

Administration of Commission

11. (1) The Director-General: Office of the President shall, after consultation with the Commission, designate such officers in the Office of the President as may be necessary to perform the work incidental to the exercise or performance of the powers and duties of the Commission. 20
(2) The expenditure incidental to the exercise or performance of the powers and duties of the Commission shall be defrayed from moneys appropriated by Parliament for that purpose.

Repeal of Act 37 of 1994, and savings 25

12. (1) The Commission on the Remuneration of Representatives Act, 1994, is hereby repealed.
(2) Anything done under the law repealed by subsection (1) and which could be done under a provision of this Act, shall be deemed to have been done under that provision.

Interim constitution of Commission 30

13. (1) Notwithstanding the repeal of the Commission on the Remuneration of Representatives Act, 1994 (Act No. 37 of 1994), by this Act, any person who immediately before the date of commencement of this Act was a member of the Commission on the Remuneration of Representatives shall be deemed as from that date to be appointed under this Act as a member of the Commission for a term of office which expires on 5 April 1998. 35
(2) Any casual vacancy in the Commission on the Remuneration of Representatives immediately before the date of commencement of this Act shall be filled by the appointment of a member in accordance with the provisions of this Act for the unexpired portion of the term of office referred to in subsection (1). 40

Short title and commencement

14. This Act shall be called the Independent Commission for the Remuneration of Public Office-bearers Act, 1997, and shall come into operation on a date fixed by the President by proclamation in the *Gazette*.

**MEMORANDUM ON THE OBJECTS OF THE INDEPENDENT
COMMISSION FOR THE REMUNERATION OF PUBLIC OFFICE-
BEARERS BILL, 1997**

Section 219(2) of the Constitution of the Republic of South Africa, 1996 (Act No. 108 of 1996), provides that national legislation must establish an independent commission to make recommendations concerning the salaries, allowances and benefits of the specified office-bearers. The most important objects of the Bill are to make provision for—

- * the establishment of the Independent Commission for the Remuneration of Public Office-bearers, its constitution and functions and the conditions of appointment of its members; and
- * the abolition of the existing Commission on the Remuneration of Representatives, subject to the transitional arrangement that the members of the latter Commission remain in office for a period which expires on 5 April 1998.

In the view of the Department and the State Law Adviser, the Bill must be dealt with in accordance with the procedure prescribed by section 76(1) of the said Constitution.