

REPUBLIC OF SOUTH AFRICA

REMUNERATION OF PUBLIC OFFICE BEARERS BILL

(Referred back to the National Assembly by the President in terms of section 79 of the Constitution, and amended by the Portfolio Committee on Constitutional Affairs (National Assembly))

(MINISTER FOR PROVINCIAL AFFAIRS AND CONSTITUTIONAL DEVELOPMENT)

[B 16H—98]

REPUBLIEK VAN SUID-AFRIKA

WETSONTWERP OP DIE BESOLDIGING VAN OPENBARE AMPSBEKLEËRS

(Deur die President ingevolge artikel 79 van die Grondwet na die Nasionale Vergadering terugverwys, en gewysig deur die Portefeuljekomitee oor Staatkundige Aangeleenthede (Nasionale Vergadering))

(MINISTER VIR PROVINSIALE SAKE EN STAATKUNDIGE ONTWIKKELING)

[W 16H—98]

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BILL

To provide for a framework for determining the salaries and allowances of the President, members of the National Assembly, permanent delegates to the National Council of Provinces, Deputy President, Ministers, Deputy Ministers, traditional leaders, members of provincial Houses of Traditional Leaders and members of the Council of Traditional Leaders; to provide for a framework for determining the upper limit of salaries and allowances of Premiers, members of Executive Councils, members of provincial legislatures and members of Municipal Councils; to provide for a framework for determining pension and medical aid benefits of office bearers; to provide for the repeal of certain laws; and to provide 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) “allowances” means any allowance, including out of pocket expenses, which forms part of an office bearer’s conditions of service, other than a salary and benefits; (viii) 5
 - (ii) “benefits” means in respect of a traditional leader, a member of a provincial House of Traditional Leaders and a member of the Council of Traditional Leaders those benefits which the President may determine in terms of section 5(3), and in respect of all other office bearers, the contributions contemplated in sections 8(2) and (5) and 9(2) and (5); (xii) 10
 - (iii) “Commission” means the Independent Commission for the Remuneration of Public Office-bearers established in terms of the Independent Commission for the Remuneration of Public Office-bearers Act, 1997; (iv) 15
 - (iv) “Deputy President” includes Executive Deputy Presidents; (i)
 - (v) “Executive Council” means the Executive Council of a province concerned; (x)
 - (vi) “members of the Cabinet” means the persons referred to in section 91(1) of the Constitution; (v) 20
 - (vii) “Minister” means the Minister for Provincial Affairs and Constitutional Development; (vi)
 - (viii) “office bearer” means a Deputy President, a Minister, a Deputy Minister, a member of the National Assembly, a permanent delegate, a Premier, a member of an Executive Council, a member of a provincial legislature, a traditional leader, a member of a provincial House of Traditional Leaders, a member of the Council of Traditional Leaders and a member of a Municipal Council; (ii) 25
 - (ix) “pension fund” means any fund established and registered in terms of, and subject to, any law governing the registration and control of pension funds in the Republic of South Africa and to which an office bearer contributes or any pension scheme approved by Parliament for such office bearers so approved; (vii) 30
 - (x) “permanent delegate” means a permanent delegate to the National Council of Provinces contemplated in section 60(2)(b) of the Constitution; (xi)
 - (xi) “the Constitution” means the Constitution of the Republic of South Africa, 1996 (Act No. 108 of 1996); (iii) 35
 - (xii) “traditional leader” means any person identified in terms of section 5(4). (ix)

Salary, allowances and benefits of President

2. (1) The President shall be paid, apart from any privilege which he or she may enjoy, such salary and allowances as may be determined from time to time by resolution of the National Assembly, after taking into consideration—
- (a) the recommendations of the Commission; 5
 - (b) the role, status, duties, functions and responsibilities of the President;
 - (c) the affordability of different levels of remuneration of political office bearers;
 - (d) current principles and levels of remuneration in society generally; and
 - (e) inflationary increases.
- (2) Section 8(1)(d) of the Income Tax Act, 1962 (Act No. 58 of 1962), shall apply to such portion of the remuneration of the President as the National Assembly may from time to time determine by resolution, as if such portion was an allowance granted as contemplated in that section. 10
- (3) The National Assembly may determine different portions under subsection (2) in respect of different amounts of remuneration. 15
- (4) The salary and allowances to which the President is entitled in terms of this section, apart from any other privilege that he or she may enjoy, are paid to him or her in monthly instalments, the first month to be reckoned from the date on which he or she assumes office as contemplated in section 87 of the Constitution.
- (5) (a) Upon his or her retirement, the President shall be paid such pension and other pension benefits as may be determined from time to time by resolution of the National Assembly, after taking into consideration the recommendations of the Commission. 20
- (b) On the President's death, such pension and other pension benefits as may from time to time be determined by resolution of the National Assembly, shall be paid to his or her widow, widower, dependant or nominee, including his or her estate, as he or she may elect. 25
- (6) The State shall contribute to a medical aid scheme of which the President, a former President or his or her widow or widower or dependant is a member, such an amount as may be determined by resolution of the National Assembly.
- (7) Any amount payable to the President, or any other person or institution, in terms of this section, is paid out of and as a charge against the National Revenue Fund. 30
- (8) Any money paid to the President in terms of a resolution of Parliament as contemplated in section 79 of the Constitution of the Republic of South Africa, 1993 (Act No. 200 of 1993), prior to the coming into operation of this Act, is regarded as having been determined under this Act. 35

Salaries and allowances of members of National Assembly and permanent delegates

3. (1) Members of the National Assembly, excluding members of the Cabinet and Deputy Ministers, and permanent delegates shall be entitled to such salaries and allowances as the President may from time to time determine by proclamation in the *Gazette*, after taking into consideration— 40
- (a) the recommendations of the Commission;
 - (b) the role, status, duties, functions and responsibilities of different members of the National Assembly and different permanent delegates;
 - (c) affordability of different levels of remuneration of office bearers; 45
 - (d) current principles and levels of remuneration in society generally; and
 - (e) inflationary increases.
- (2) Despite the provisions of subsection (1), a member of the National Assembly or a permanent delegate who holds different public offices simultaneously, is only entitled to the salary, allowances and benefits of such office for which he or she earns the highest income. 50
- (3) Section 8(1)(d) of the Income Tax Act, 1962 (Act No. 58 of 1962), applies to such portion of the remuneration of a member of the National Assembly or a permanent delegate as the President may from time to time determine, as if that portion was an allowance granted as contemplated in that section. 55

(4) The President may, in terms of subsection (3), determine different portions in respect of different amounts of remuneration.

(5) The payment of salaries and allowances of members of the National Assembly and permanent delegates is subject to the rules and orders of the National Assembly and the National Council of Provinces, respectively. 5

(6) Subject to subsection (5), the Secretary to Parliament shall pay in monthly instalments to every member of the National Assembly or every permanent delegate who has begun to perform his or her functions in terms of section 48 or 62(6) of the Constitution, as the case may be, excluding members of the Cabinet and Deputy Ministers, the salaries and allowances to which such a member or delegate is entitled in terms of this section, the first month to be reckoned— 10

(a) in the case of a member of the National Assembly—

(i) designated in terms of item 16 of Schedule 2 to the Constitution of the Republic of South Africa, 1993 (Act No. 200 of 1993), as amended by Annexure A to Schedule 6 to the Constitution, from the date of the publication of the lists of names of representatives as contemplated in subitem (3) of that item; 15

(ii) nominated in terms of item 23(1) of the said Schedule 2 to fill a vacancy, from the date on which the previous member vacated his or her seat in the National Assembly or the date of receipt of the nomination by the Speaker of the National Assembly, whichever is the later date; and 20

(b) in the case of a permanent delegate, from the date of his or her appointment in terms of section 61(2)(b) of the Constitution or in terms of section 2(3) of the National Council of Provinces (Permanent Delegates Vacancies) Act, 1997 (Act No. 17 of 1997), as the case may be. 25

(7) The amount payable in respect of salaries and allowances to a member of the National Assembly and a permanent delegate shall annually form a charge against the National Revenue Fund, and the provisions of this subsection shall be deemed to be an appropriation of every such amount.

(8) Any money paid to a member of the National Assembly or a permanent delegate in terms of the Payment of Members of Parliament Act, 1994 (Act No. 6 of 1994), prior to the coming into operation of this Act, shall be deemed to have been determined as such under this Act. 30

Salaries and allowances of Deputy President, Ministers and Deputy Ministers

4. (1) The Deputy President, Ministers and Deputy Ministers shall be entitled to such salaries and allowances as may be determined by the President from time to time by proclamation in the *Gazette*, after taking into consideration— 35

(a) the recommendations of the Commission;

(b) the role, status, duties, functions and responsibilities of a Deputy President, a Minister and a Deputy Minister; 40

(c) the affordability of different levels of remuneration of political office bearers;

(d) current principles and levels of remuneration in society generally; and

(e) inflationary increases.

(2) Despite the provisions of subsection (1), a Deputy President, a Minister or a Deputy Minister who holds different public offices simultaneously is only entitled to the salary, allowances and benefits of such office for which he or she earns the highest income. 45

(3) Section 8(1)(d) of the Income Tax Act, 1962 (Act No. 58 of 1962), shall apply to such portion of the remuneration of a Deputy President, a Minister or a Deputy Minister as the President may from time to time determine, as if that portion was an allowance granted as contemplated in that section. 50

(4) The President may determine different portions under subsection (3) in respect of different amounts of remuneration.

(5) Every Deputy President, Minister and Deputy Minister shall be paid the salary and allowances to which such office bearer is entitled in terms of this section in monthly instalments, the first month to be reckoned from the date on which such office bearer begins to perform his or her functions as contemplated in section 95 of the Constitution. 55

- (6) The amount payable in respect of salaries and allowances shall—
- (a) in respect of a Deputy President annually form a charge against the National Revenue Fund, and the provisions of this subsection shall be deemed to be an appropriation of every such amount; and
 - (b) in respect of a Minister and Deputy Minister be paid from monies appropriated by Parliament for that purpose. 5
- (7) Any money paid to a Deputy President, a Minister or Deputy Minister in terms of the Remuneration and Allowances of Executive Deputy Presidents, Ministers and Deputy Ministers Act, 1994 (Act No. 53 of 1994), prior to the coming into operation of this Act, shall be deemed to have been determined as such under this Act. 10

Salaries, allowances and benefits of traditional leaders, members of provincial Houses of Traditional Leaders and members of Council of Traditional Leaders

5. (1) Traditional leaders, members of any provincial House of Traditional Leaders and members of the Council of Traditional Leaders shall, despite anything to the contrary in any other law contained, be entitled to such salaries and allowances as may from time to time be determined by the President after consultation with the Premier concerned by proclamation in the *Gazette*, after taking into consideration— 15
- (a) any recommendations of the Commission;
 - (b) the role, status, duties, functions and responsibilities of different categories of traditional leaders, different members of the Houses of Traditional Leaders in the various provinces and different members of the Council of Traditional Leaders; 20
 - (c) the affordability of different levels of remuneration of public office bearers;
 - (d) the current principles and levels of remuneration in society generally;
 - (e) the need for the promotion of equality and uniformity of salaries and allowances for equal work performed; 25
 - (f) the enhancement of co-operation, unity and understanding between traditional communities nationally;
 - (g) the extent of the role and functions of traditional leaders across provincial borders; and 30
 - (h) inflationary increases.
- (2) Despite the provisions of subsection (1) a traditional leader is, in addition to his or her salary as a traditional leader, entitled to an allowance as determined by the President by proclamation in the *Gazette*, in respect of his or her membership of a provincial House of Traditional Leaders, the Council of Traditional Leaders and a Municipal Council, taking into account the criteria listed in paragraphs (a) to (h) of subsection (1). 35
- (3)(a) The President may, if he or she deems it expedient after consultation with the Minister and the Premier concerned, by proclamation in the *Gazette* determine any benefits to which a traditional leader, a member of any Provincial House of Traditional Leaders or a member of the Council of Traditional Leaders shall be entitled, subject to such conditions as the President may prescribe. 40
- (b) If the President decides to determine such benefits, the criteria listed in paragraphs (a) to (h) of subsection (1) shall be applicable, with the necessary changes.
- (4) The amount payable in respect of salaries and allowances to traditional leaders, members of provincial Houses of Traditional Leaders and members of the Council of Traditional Leaders shall be paid from monies appropriated for that purpose by Parliament in respect of the Council of Traditional Leaders and by a provincial legislature in respect of traditional leaders and members of provincial Houses of Traditional Leaders, as the case may be. 45
- (5) A traditional leader is a person identified by the Minister after consultation with the Premier concerned by notice in the *Gazette* for the purposes of this Act. 50
- (6) Despite the provisions of subsection (1), a member of the Council of Traditional Leaders shall be entitled to an allowance as determined by the President by proclamation in the *Gazette* for actual work performed with effect from 10 April 1997 until a determination is made in terms of subsection (1). 55

Upper limit of salaries and allowances of Premiers, members of Executive Councils and members of provincial legislatures

6. (1) The upper limit of salaries and allowances of a Premier, members of an Executive Council and members of a provincial legislature shall from time to time be determined by the President by proclamation in the *Gazette*, after taking into consideration— 5
- (a) the recommendations of the Commission;
 - (b) the role, status, duties, functions and responsibilities of a Premier, members of an Executive Council and the different members of a provincial legislature;
 - (c) the affordability of different levels of remuneration of political office bearers; 10
 - (d) the current principles and levels of remuneration in society generally;
 - (e) the need for the promotion of equality and uniformity of salaries, allowances and benefits for equal work performed;
 - (f) the provision of uniform norms and standards nationally to address disparities; and 15
 - (g) inflationary increases.
- (2) Despite the provisions of subsection (1), a Premier, a member of an Executive Council or a member of a provincial legislature who holds different public offices simultaneously is only entitled to the salary, allowances and benefits of such office for which he or she earns the highest income. 20
- (3) Within 30 days of publication of a proclamation referred to in subsection (1)—
- (a) each Premier must, having regard to the provisions of subsection (1) and the upper limit as set out in the said proclamation, determine the salaries and allowances of members of the Executive Council and the different members of the provincial legislature by notice in the *Provincial Gazette*; 25
 - (b) the provincial legislature must by resolution, if the provincial legislature is then sitting, or if it is in recess, within 30 days of its next ensuing sitting, having regard to the provisions of subsection (1) and the upper limit as set out in the said notice, determine the salary and allowances of the Premier concerned. 30
- (4) Section 8(1)(d) of the Income Tax Act, 1962 (Act No. 58 of 1962), shall apply to such portion of the remuneration of a Premier, a member of the Executive Council and a member of the provincial legislature concerned as the President may from time to time determine.
- (5) The President may determine different portions in terms of subsection (4) in respect of different amounts of remuneration. 35
- (6) The payment of salaries and allowances to members of a provincial legislature is subject to the rules and orders of the provincial legislature concerned.
- (7) Subject to subsection (6), the Secretary to the Provincial Legislature concerned shall pay in monthly instalments to the Premier, each member of the Executive Council and each member of the provincial legislature who has begun to perform his or her functions in terms of section 107 of the Constitution, the salary and allowances to which such office bearer is entitled in terms of this section, the first month to be reckoned— 40
- (a) in the case of a member of a provincial legislature—
 - (i) designated in terms of item 16 of Schedule 2 to the Constitution of the Republic of South Africa, 1993 (Act No. 200 of 1993), as amended by Annexure A to Schedule 6 to the Constitution, from the date of the publication of the lists of names of representatives as contemplated in subitem (3) of that item; 45
 - (ii) nominated in terms of item 23(1) of the said Schedule 2 to fill a vacancy, from the date on which the previous member vacated his or her seat in the provincial legislature concerned or the date of receipt of the nomination by the Speaker of the provincial legislature, whichever is the later date; 50
 - (b) in the case of a Premier and a member of the Executive Council, from the date on which such office bearer begins to perform his or her functions as contemplated in sections 129 and 132(2) of the Constitution, respectively; and 55

- (c) in the case of a former senator who was not appointed as a permanent delegate to the National Council of Provinces, from the date on which he or she elected to become a member of the provincial legislature as contemplated in Item 8 of Schedule 6 to the Constitution.

(8) The salary and allowances payable to a Premier, a member of the Executive Council or a member of the provincial legislature shall annually form a charge against the Provincial Revenue Fund, and the provisions of this section shall be deemed to be an appropriation of every such amount. 5

(9) Any salary, allowances or benefits paid in terms of a law to a Premier, a member of the Executive Council or a member of the provincial legislature prior to the coming into operation of this Act, shall be deemed to have been determined as such under this Act. 10

Upper limit of salaries and allowances of members of Municipal Councils

7. (1) The upper limit of salaries and allowances of the different members of Municipal Councils shall from time to time be determined by the Minister, after consultation with the member of the Executive Council responsible for local government in each province, by notice in the *Gazette* after taking into consideration— 15

- (a) the recommendations of the Commission;
- (b) the respective role, status, duties, functions and responsibilities of the different members of Municipal Councils; 20
- (c) the different categories or types of municipalities, having regard to their respective powers, duties and functions;
- (d) the gross income, the area of jurisdiction and the nature of settlement of each municipality;
- (e) the affordability of different levels of remuneration of public office bearers; 25
- (f) the current principles and levels of remuneration in society generally;
- (g) the need for the promotion of equality and uniformity of salaries, allowances and benefits for equal work performed;
- (h) the provision of uniform norms and standards nationally to address disparities; and 30
- (i) inflationary increases.

(2) Subject to the provisions of subsection (1), a member of a Municipal Council is, in addition to his or her salary as a member of the Municipal Council to which he or she has been directly elected, entitled to an allowance in respect of his or her membership of any other Municipal Council, and such allowance shall be determined by such other Municipal Council by resolution with a supporting vote of the majority of its members, in consultation with the member of the Executive Council responsible for local government in the province concerned. 35

(3) The salary and allowances of a member of a Municipal Council is determined by that Municipal Council by resolution of a supporting vote of a majority of its members, in consultation with the member of the Executive Council responsible for local government in the province concerned, having regard to— 40

- (a) the provisions of subsection (1);
- (b) the upper limit as set out in the said notice; and
- (c) the financial year of Municipal Councils. 45

(4) The salaries and allowances of members of Municipal Councils shall annually form a charge against and be paid from the budget of a municipality concerned.

(5) The salaries and allowances paid to and the benefits paid on behalf of a member of a Municipal Council in terms of a law, prior to the coming into operation of this Act, shall be deemed to have been determined under this Act. 50

Pension benefits

8. (1) There 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.

(2) 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 55

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.

(3) (a) 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

(b) The provincial legislature concerned shall by resolution, if the provincial legislature is then sitting, or if it is in recess, within 30 days of its next ensuing sitting, determine the amount of the contribution and such amount shall annually be paid from monies appropriated for that purpose by the provincial legislature concerned. 10

(4) (a) 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.

(b) The Minister of Finance shall determine the amount of the contribution by notice in the *Gazette* and such amount shall annually form a charge against the Provincial Revenue Fund. 15

(5) (a) The upper limit of the contribution to be made to the pension fund of which a member of a Municipal Council is a member, shall be determined by the Minister after consultation with the pension fund concerned and after taking into consideration the recommendations of the Commission. 20

(b) The Minister, after consultation with the pension fund concerned, shall determine the amount of the contribution and such amount shall annually form a charge against and be paid from the budget of the municipality concerned.

(6) The provisions of this section shall, subject to section 5(3), not apply to a traditional leader, a member of a provincial House of Traditional Leaders and a member of the Council of Traditional Leaders. 25

Medical aid benefits

9. (1) An office bearer shall be entitled to be a member of a medical aid scheme duly established and registered in terms of a law and such office bearer shall be entitled to receive such medical aid benefits from the medical aid scheme to which he or she contributes as may be determined by the rules of such medical aid scheme. 30

(2) The amount of the contribution to be made to the medical aid scheme 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, subject to any law, be determined by the Minister of Finance after taking into consideration the recommendations of the Commission, and such amount shall annually form a charge against the National Revenue Fund or be paid from monies appropriated by Parliament for that purpose, as the case may be. 35

(3) (a) The upper limit of the contribution to be made to the medical aid scheme 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. 40

(b) The provincial legislature concerned shall by resolution, if the provincial legislature is then sitting, or if it is in recess, within 30 days of its next ensuing sitting, determine the amount of the contribution and such amount shall annually form a charge against the Provincial Revenue Fund. 45

(4) (a) The upper limit of the contribution to be made to the medical aid scheme 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. 50

(b) The Minister of Finance shall determine the amount of the contribution by notice in the *Gazette* and such amount shall annually form a charge against the Provincial Revenue Fund.

(5) (a) The upper limit of the contribution to be made to the medical aid scheme of which a member of a Municipal Council is a member, shall be determined by the Minister after consultation with the medical aid scheme concerned and after taking into consideration the recommendations of the Commission. 55

(b) The Minister, after consultation with the medical aid scheme concerned, shall

determine the amount of the contribution and such amount shall annually form a charge against and be paid from the budget of the municipality concerned.

(6) The provisions of this section shall, subject to section 5(3), not apply to a traditional leader, a member of a provincial House of Traditional Leaders and a member of the Council of Traditional Leaders.

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Repeal of laws

10. The Payment of Members of Parliament Act, 1994 (Act No. 6 of 1994), the Remuneration and Allowances of Executive Deputy Presidents, Ministers and Deputy Ministers Act, 1994 (Act No. 53 of 1994), and the Remuneration of Traditional Leaders Act, 1995 (Act No. 29 of 1995), are hereby repealed.

10

Short title

11. This Act shall be called the Remuneration of Public Office Bearers Act, 1998.

