

REPUBLIC OF SOUTH AFRICA

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**REMUNERATION OF PUBLIC  
OFFICE BEARERS SECOND  
AMENDMENT BILL**

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*(As presented by the Portfolio Committee on Provincial and Local Government (National Assembly)) (The English text is the official text of the Bill)*

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(MINISTER FOR PROVINCIAL AND LOCAL GOVERNMENT)

[B 23—2000]

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REPUBLIEK VAN SUID-AFRIKA

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**TWEEDE  
WYSIGINGSWETSONTWERP OP  
DIE BESOLDIGING VAN  
OPENBARE AMPSBEKLEËRS**

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*(Soos voorgelê deur die Portefeuljekomitee oor Provinsiale en Plaaslike Regering (Nasionale Vergadering) (Die Afrikaanse teks is die amptelike vertaling van die Wetsontwerp)*

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(MINISTER VIR PROVINSIALE EN PLAASLIKE REGERING)

[W 23—2000]

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**GENERAL EXPLANATORY NOTE:**

- [                    ]    Words in bold type in square brackets indicate omissions from existing enactments.
- Words underlined with a solid line indicate insertions in existing enactments.
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## **BILL**

**To amend the Remuneration of Public Office Bearers Act, 1998, so as to correct a cross-reference in respect of a definition; to make fresh provision regarding the payment of salaries and allowances of traditional leaders holding more than one public office simultaneously and the payment of allowances to traditional leaders; to exempt the Minister from consulting with the pension funds and medical aid schemes concerned when the upper limits of the contributions to the pension funds and medical aid schemes are determined; to provide that a Municipal Council determines the amount of the contribution to a pension fund and medical aid scheme to which its members belong; and to make certain textual alterations; and to provide for matters connected therewith.**

**B**E IT ENACTED by the Parliament of the Republic of South Africa, as follows:—

**Amendment of section 1 of Act 20 of 1998**

1. Section 1 of the Remuneration of Public Office Bearers Act, 1998 (Act No. 20 of 1998) (hereinafter referred to as the principal Act), is amended by the substitution for the definition of “traditional leader” of the following definition: 5

“‘traditional leader’ means any person identified in terms of section 5[(4)](5).”.

**Amendment of section 5 of Act 20 of 1998**

2. Section 5 of the principal Act is amended—  
(a) by the substitution for subsection (2) of the following subsection: 10

“(2) Despite the provisions of subsection (1), a traditional leader, a member of a provincial House of Traditional Leaders or a member of the National House of Traditional Leaders who holds different public offices simultaneously, is only entitled to the salary, allowances and benefits of the public office for which he or she earns the highest income, but— 15  
(a) this subsection shall not preclude the payment of out of pocket expenses for the performance of functions other than those for which such office bearer receives such highest income; and  
(b) where only an allowance has been determined in terms of subsection (1) in respect of a traditional leader’s membership of a provincial House of Traditional Leaders or the National House of Traditional Leaders, such a traditional leader shall be entitled to such an allowance in addition to his or her salary, allowances and benefits as a traditional leader.”; and 20

- (b) by the substitution in subsection (4) for the words “salaries and allowances” of the words “salaries, allowances and benefits”.

**Amendment of section 7 of Act 20 of 1998**

3. The English text of section 7 of the principal Act is amended by the substitution in subsection (2) for the words “Subject to” of the word “Despite”. 5

**Amendment of section 8 of Act 20 of 1998**

4. Section 8 of the principal Act is amended by the substitution for subsection (5) of the following subsection:

“(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. 10

(b) The [**Minister**] Municipal Council, 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.”. 15

**Amendment of section 9 of Act 20 of 1998**

5. Section 9 of the principal Act is amended by the substitution for subsection (5) of the following subsection:

“(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. 20

(b) The [**Minister**] Municipal Council, 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.”. 25

**Substitution of expression in Act 20 of 1998**

6. The principal Act is amended by the substitution for the expression “Council of Traditional Leaders”, wherever it occurs, of the expression “National House of Traditional Leaders”. 30

**Short title**

7. This Act shall be called the Remuneration of Public Office Bearers Second Amendment Act, 2000.

## **MEMORANDUM ON THE OBJECTS OF THE REMUNERATION OF PUBLIC OFFICE BEARERS SECOND AMENDMENT BILL, 2000**

1.1 Section 5 of the Remuneration of Public Office Bearers Act, 1998 (Act No. 20 of 1998) (hereinafter referred to as “the Remuneration Act”), establishes a framework for determining the salaries, allowances and benefits of traditional leaders, members of provincial Houses of Traditional Leaders and members of the National House of Traditional Leaders. Although section 5(1) of the Remuneration Act allows the President to determine salaries and allowances in respect of the above-mentioned office bearers, section 5(2) only allows an allowance to be determined in respect of a traditional leader’s membership of a provincial House of Traditional Leaders or the National House of Traditional Leaders. In view of the Cabinet decision that certain members of the National House of Traditional Leaders are to be remunerated as full-time members of that House, it is necessary to allow salaries to be determined in respect of a traditional leader’s membership of a House of Traditional Leaders or a Municipal Council, which in turn requires the introduction of a measure that will prevent the public office bearer concerned from receiving more than one salary.

1.2 In terms of sections 8 and 9 of the Remuneration Act, respectively, the Minister may only determine the upper limit of the contributions to be made to pension funds and medical aid schemes of which municipal councillors are members, after the Minister has consulted every pension fund and medical aid scheme concerned. It has been practically impossible for the Minister to engage in such consultations due to the number of pension funds and medical aid schemes, and the number of councillors. This has necessitated the amendments to these sections to provide for the consultations to be done by the Municipal Councils concerned, and not by the Minister. The effect is that the Minister only needs to take the recommendations of the Independent Commission for the Remuneration of Public Office-bearers into account in determining the upper limits of contributions to pension funds and medical aid schemes, whilst the respective Municipal Councils have to consult the relevant pension funds and medical aid schemes when the actual contributions are determined.

1.3 Irreconcilable differences between the two official texts of the Remuneration Act, as well as incorrect cross-references, are corrected.

2.1 Clause 1 of the Bill amends section 1 of the Remuneration Act by correcting an incorrect cross-reference.

2.2 Clause 2 of the Bill amends section 5 of the Remuneration Act by introducing the principle that a public office bearer who holds different public offices simultaneously shall be entitled to the salary, allowances or benefits of such office for which he or she receives the highest income.

2.3 Clause 3 of the Bill amends section 7 of the Remuneration Act by correcting irreconcilable differences between the two texts of the Remuneration Act.

2.4 Clauses 4 and 5 of the Bill amends sections 8 and 9 of the Remuneration Act to exempt the Minister from consulting with the pension funds and medical aid schemes concerned when the upper limits of contributions to the pension funds and medical aid schemes to which councillors belong are determined. Provision is made for Municipal Councils to determine the actual amount of such contributions. Irreconcilable differences between the two texts of section 9 of the Remuneration Act are also corrected.

2.5 Clause 6 of the Bill amends the Remuneration Act to reflect the change of the name “Council of Traditional Leaders” to “National House of Traditional Leaders”.

### **Bodies/Organisations consulted**

National House of Traditional Leaders  
MINMEC on Traditional Affairs

### **Implications for Provinces**

None

**Implications for Municipalities**

Municipal Councils will have to consult with the relevant pension funds and medical aid schemes before determining the actual amount of the contributions to be made to pension funds and medical aid schemes to which the councillors concerned belong.

**Parliamentary Procedure**

The Department of Provincial and Local Government and the State Law Advisers are of the opinion that the Bill must be dealt with in accordance with the procedure prescribed by section 76 of the Constitution.