

REPUBLIC  
OF  
SOUTH AFRICA



REPUBLIEK  
VAN  
SUID-AFRIKA

# Government Gazette Staatskoerant

Vol. 387

PRETORIA, 12 SEPTEMBER 1997

No. 18273

## GENERAL NOTICE

### NOTICE 1329 OF 1997

MINISTRY FOR PROVINCIAL AFFAIRS AND  
CONSTITUTIONAL DEVELOPMENT

REMUNERATION OF PERSONS HOLDING  
PUBLIC OFFICE BILL, 1997

1. 1, Mohammed Valli Moosa, Minister for Public Affairs and Constitutional Development, under section 154(2) of the Constitution of the Republic of South Africa, 1996 (Act No. 108 of 1996), hereby publish the Remuneration of Persons Holding Public Office Bill, 1997.
2. Comments must please be submitted in writing to:  
The Director-General  
Attention: Mr A. D. Venter  
Department of Constitutional Development  
Private Bag X804  
PRETORIA  
0001.
3. Comments may also be faxed to facsimile number (012) 44-2200 or (012) 341-8523 at the above address.
4. Comments must be received by not later than 15 **October 1997**.

# REMUNERATION OF PERSONS HOLDING PUBLIC OFFICE BILL, 1997

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 Presidents, 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 or benefits of Premiers, members of an Executive Council, members of provincial legislatures and members of Municipal Councils of the different categories and types of municipalities; to provide for a framework for determining pension and medical aid benefits of public office bearers; to provide for the repeal of certain laws; and to provide for matters incidental thereto

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

## Definitions

1. In this Act, unless the context indicates otherwise--

“**allowances**” means the contributions contemplated in sections 8(2) and 9(2);

“**benefits**” means any benefit other than a salary and an allowance which forms part of a public office bearer’s conditions of service;

“**Commission**” means the Independent Commission on the Remuneration of Persons Holding Public Office established in terms of the Independent Commission on the Remuneration of Persons Holding Public Office Act, 1997;

“Deputy President” includes, until 30 April 1999, also Executive Deputy Presidents;

“**Executive Council**” means the Executive Council of a province concerned;

“**members of the Cabinet**” means those persons referred to in section 91(1) of the Constitution;

“**Minister**” means the Minister for Provincial Affairs and Constitutional Development;

“**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 a public office bearer contributes;

“**permanent delegate**” means a permanent delegate contemplated in section 60(2)(b) of the Constitution;

“**public 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 Waders, a member of the Council of Traditional Leaders, and a member of a municipal council;

"traditional leader" means ~~any~~ person serving a community in his or her capacity as a King or a Paramount Chief (Ingonyama, Ingwenyama, Ikumkani, or Morena e Moholo), and a Chief (Morena, Kgosi, Inkosi, Hosi or Ikosi) recognised in terms of a law;

"the Constitution" means ~~the~~ Constitution of the Republic of South Africa, 1996 (Act No. 108 of 1996);

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;
- (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.

(3) The National Assembly ~~may~~ determine different portions under subsection (2) in respect of different amounts of remuneration.

(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.

(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.

(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 or widower or dependent or nominee, including his or her estate, as he or she may elect.

(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 dependent 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.

(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.

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—

- (a) the recommendations of the Commission;
- (b) the role, status, duties, functions and responsibilities of members of the National Assembly and permanent delegates;
- (c) the views of the National Assembly and the National Council of Provinces regarding the recommendations contemplated in paragraph (a);
- (d) affordability of different levels of remuneration of political office bearers;
- (e) current principles and levels of remuneration in society generally; and
- (f) inflationary increases.

(2) Notwithstanding 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.

(3) Section 8(1 )(d) of the Income Tax Act, 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.

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

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

(6) Subject to subsection (5), the Secretary to Parliament shall pay to every member of the National Assembly or a permanent delegate, 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 in monthly installments, the first month to be reckoned—

- (a) in the case of a member of the National Assembly from the date on which the letter of nomination in respect **of** such member is received by the Speaker;
- (b) in the case of a member of the National Assembly nominated to fill a vacancy, from the date on which the letter of nomination in respect of such member is received by the Speaker;
- (c) in the case of a permanent delegate. from the date on which such delegate is appointed by the provincial legislature concerned;
- (d) in the case of a permanent delegate nominated to fill a vacancy, from the date on which such delegate is **appoi**nted by the provincial legislature concerned.

(7) The amount payable to a member of the National Assembly and a permanent delegate in respect of salary and allowances 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.

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—

- (a) the recommendations of the Commission;
- (b) the views of the National Assembly regarding the recommendations contemplated in paragraph (a);
- (c) the **role, status**, duties, functions and responsibilities of a Deputy President, a Minister and a Deputy Minister;
- (d) the affordability of different levels of remuneration of political office bearers;
- (e) current principles and levels of remuneration in society generally; and
- (f) inflationary increases.

(2) Notwithstanding 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.

(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.

(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 is paid the salary and allowances to which such a person is entitled in terms of this section in monthly installments, the first month to be reckoned—

- (a) in the case of a Deputy President, from the date on which he or she assumes office as contemplated in section 91 of the Constitution read with Item 9(1) of Schedule 6 to the Constitution;
- (b) in the case of a Minister and a Deputy Minister, from the date on which he or she **assumes** office as Minister or Deputy Minister, as the case may be, as contemplated in section 91 and section 93 of the Constitution read with Item 9(1) of Schedule 6 to the Constitution, respectively.

(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.

(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,

Salaries and allowances of traditional leaders, members of provincial Houses of Traditional Leaders and members of the **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 be entitled to such salaries and allowances as may from time to time be determined by the President by proclamation in the Gazette, after taking into consideration—

- (a) any recommendations of the Commission;
- (b) any recommendations which the Council of Traditional Leaders, after consultation with the respective Houses of Traditional Leaders in the various provinces, may present;
- (c) the role, status, duties, functions and responsibilities of traditional leaders, members of the Houses of Traditional Leaders in the various provinces and members of the Council of Traditional Leaders;
- (d) the affordability of different levels of remuneration of political office bearers;
- (e) the current principles and levels of remuneration in society generally;
- (f) the need for the promotion of equality and uniformity of salaries, allowances and benefits for equal work performed;
- (g) the enhancement of co-operation, unity and understanding between traditional communities across the nation; and
- (h) the extent of the **role and functions** of traditional leaders across provincial borders.

(2) Notwithstanding the provisions of subsection (1), a traditional leader, a member of a provincial House of Traditional Leaders or a member of the Council of Traditional Leaders 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: provided that the provisions of 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 a salary, allowances and benefits.

(3) The amount payable to traditional leaders, members of provincial Houses of Traditional Leaders and members of the Council of Traditional Leaders in terms of this Act shall be paid from monies appropriated for that purpose by Parliament or a Provincial legislature, as the case may be.

Upper limit of salaries and **allowances** Of a Premier, 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 provincial legislatures shall from time to time be determined by the President by proclamation in the Gazette, after taking into consideration—

- (a) the recommendations of the Commission;
- (b) the views of provincial legislatures regarding the recommendations contemplated in paragraph (a);
- (c) the role, status, duties, functions and responsibilities of a Premier, members of an Executive Council and members of provincial legislatures;
- (d) the affordability of different levels of remuneration of political office bearers;
- (e) the current principles and levels of remuneration in society generally;
- (f) 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 across the nation to address disparities; and
- (g) inflationary increases.

(2) Notwithstanding 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.

(3) Within 30 days of the publication of a notice 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 notice, determine the salaries and allowances of members of the Executive Council and members of the provincial legislature by notice in the *Provincial Gazette*;
- (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.

(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,

(6) The salaries and allowances of 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 to the member of the provincial legislature, the salary and allowances to which such a member is entitled in terms of this Act in monthly installments, the first month to be reckoned—

- (a) in the case of a member of the provincial legislature, from the date on which the letter of nomination in respect of such member is received by the Speaker of such provincial legislature;

- (b) in the case of a member of the provincial legislature nominated to fill a vacancy, from the date on which the letter of nomination in respect of such member is received by the Speaker;
- (c) in the case of a former senator who is not appointed as a permanent delegate to the National Council of Provinces, from the date on which he or she elects to become a member of the provincial legislature as contemplated in Item 8 of Schedule 6 to the Constitution.

(8) The salaries and allowances in respect of 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.

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

**Upper limit of salaries and allowances of members of Municipal Councils of different categories**

7. (1) The upper limit of salaries and allowances of members of municipal councils of the different categories shall from time to time be determined by the Minister by notice in the Gazette, after taking into consideration—

- (a) the recommendations of the Commission;
- (b) the views of the national organisation contemplated in the Organised Local Government Act, 1997;
- (c) the different categories and types of municipalities, having regard to their respective powers, duties and functions;
- (d) the respective role, status and responsibilities of members of municipal councils;
- (e) the time necessarily spent on attending meetings of municipal councils;
- (f) the gross income and the number of inhabitants of each municipality;
- (g) the affordability of different levels of remuneration of political office bearers;
- (h) the current principles and levels of remuneration in society generally;
- (i) the need for the promotion of equality and uniformity of salaries; allowances and benefits for equal work performed; and
- (j) inflationary increases.

(2) Notwithstanding the provisions of subsection (1), any member of a municipal council 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.

(3) The Member of the Executive Council responsible for local government in the province concerned must within 30 (thirty) days after the publication of a notice contemplated in subsection (1) and having regard to the provisions of subsection (1) and the upper limit as set out in the said notice, by notice in the *Provincial Gazette* determine the salaries and allowances of members of municipal councils of the different categories in that province.

(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, allowances and benefits paid to a member of a municipal council in terms of a law, prior to the coming into operation of this Act, shall be deemed to be determined under this Act.

#### Pension benefits

8. (1) There shall be paid out of and as a charge against the pension fund of which a public office bearer is a member such pension and other benefits as may be determined in terms of the law governing such pension fund.

**(2)** A contribution to be made to the pension fund of which a public office bearer is a member, the amount to be determined by the Minister of Finance by notice in the Gazette, shall annually form a charge—

(a) in the case of a Premier, a member of an Executive Council and a member of a provincial legislature, against the Provincial Revenue Fund; and

(b) in the case of all other public office bearers, against the National Revenue Fund.

(3) For purposes of this section, a traditional leader is excluded from the definition of public office bearer.

#### Medical Aid Benefits

9. (1) A public 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 public 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.

(2) A contribution shall be made to the medical aid scheme of which a public office bearer is a member, the amount to be determined by the Minister of Finance by notice in the Gazette, shall annually form a charge—

(a) in the case of a Premier, a member of an Executive Council and a member of a provincial legislature, against the Provincial Revenue Fund; and

(b) in the case of all other public office bearers, against the National Revenue Fund.

(3) For purposes of this section, a traditional leader is excluded from the definition of public office bearer.

#### Repeal of laws

10. (1) 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.

#### Short title

**11.** (1) This Act shall be called the Remuneration of Persons Holding Public Office Act, 1997, and shall come into operation on a date determined by the President by notice in the *Gazette*.

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