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## GOVERNMENT NOTICE

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### THE PRESIDENCY

No. 1061

12 November 2010

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## INDEPENDENT COMMISSION FOR THE REMUNERATION OF PUBLIC OFFICE BEARERS

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### EXPLANATORY MEMORANDUM

#### PART A

#### 1. ANNUAL REMUNERATION RECOMMENDATION FOR THE PUBLIC OFFICE-BEARERS FOR 2010/2011

1.1 The Independent Commission for the Remuneration of Public Office Bearers (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, to make annual recommendations relating to the salaries, benefits and allowances, and the resources required by public office bearers to enable them to perform their respective duties effectively.

1.2 The Commission in their meeting of the 27 March 2010 resolved to make the annual remuneration recommendations of public office bearers for 2010/2011 financial year. The Commission considered, amongst others, the following factors to be relevant in forming the basis for its decision:

##### 1.2.1 THE PREVIOUS REMUNERATION RECOMMENDATIONS

1.2.1.1 The Commission recommended its First Major Review Report of Public Office Bearer remuneration in March 2007. The review report was initially not approved in 2007; however, with effect from 1 April 2008 the Commission recommended the Second Major Review Report, which incorporated a further 11% cost-of-living-adjustment on the First Major Review Report. The First and Second Major Reviews were proclaimed by the President in 2008 and implemented by public office-bearer institutions.



1.2.1.2 This review provided a major improvement of public office-bearers remuneration and it brought significant changes to the pension and medical aid benefits of public office-bearers which was incorporated in their total packages and resulted in the adoption of a total cost to employer approach. The main reason for this review was due to the remuneration levels of public office-bearers not being on par with the rest of the market, not only nationally, but even internationally.

## 1.2.2 THE INFLATION OUTLOOK

1.2.2.1 The most recent central forecast of the SA Reserve Bank predicts that inflation is expected to continue along its downward trend. The CPI forecast of the South African Reserve Bank (Central Bank) indicates an improved inflation outlook during 2010 and a relatively unchanged outlook for 2011. Inflation is expected to average 5,3 per cent and 5,4 per cent in 2010 and 2011 respectively, and to reach a low point at an average of 4,9 per cent during the third quarter of 2010.

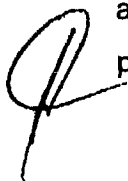
1.2.2.2 The Bureau for Economic Research (BER) at Stellenbosch University published the Survey of Inflation Expectations that shows a significant improvement in the first quarter of 2010, although expectations remain on average above the upper end of the target range. Average headline CPI inflation expectations in respect of 2010 declined from 7,7 per cent during the final quarter of 2009 to 6,5 per cent during the first quarter of 2010. Inflation expectations in respect of 2011 declined from 7,7 per cent to 6,7 per cent, and the expectation for 2012 is 6,8 per cent.

1.2.2.3 According to the outcome of the *Andrew Levy Wage Settlement Survey*, the level of wage settlements amounted to 8,4 per cent in the first quarter of 2010, after averaging 9,3 per cent in 2009 and 9,8 per cent in 2008. The settlements in the first quarter of 2010 ranged from 7 per cent in the health/education sector to 10 per cent in the retail sector. In 2009 the

settlements ranged from 5 per cent in the paper/printing sector to 12,3 per cent in the food/agriculture sector, with 5,6 per cent of settlements falling in the 9–10,9 per cent.

### **1.2.3 PUBLIC OFFICE-BEARERS REMUNERATION AND MARKET SALARY INCREASES**

- 1.2.3.1 In 2009, the Commission recommended an 8% cost-of-living-adjustment for Public Office Bearers. However, the President determined the annual remuneration adjustment for all public office-bearers by 7% for 2009/2010 after considering other factors.
- 1.2.3.2 The Monetary Policy Committee of the Central Bank indicated that the wage settlements continue to indicate some moderation but remain positive in real terms in its statement dated 25 March 2010. The ratio of total compensation of employees to real GDP declined from 10,1 per cent in the year to the third quarter of 2009 to 9,2 per cent in the year to the fourth quarter. Nominal unit labour costs increased from 5,7 per cent in the third quarter to 8,8 per cent in the fourth quarter of 2009, but this figure was distorted by significant once-off adjustments to some public sector pay scales.
- 1.2.3.3 The Public Service received a 10.5% cost-of-living-adjustment with effect from 1 July 2008 and 1 January 2009 for the Senior Management Service respectively. On 1 July 2009 the Public Service received a cost-of-living-adjustment on a sliding scale between 13% and 10%. However, the Senior Management Service only received a 6% increase with effect from 1 January 2010. The Department of Public Service and Administration's (DPSA) approach in the past has generally been that of CPI plus 1% and many private sector companies also follow this approach.



1.2.3.4 It is anticipated that the average market increases in 2010 would be between 7% and 8%. The CPI for January 2010 was 6.2% and for February 2010 it was 5.7%. The average so far for the year is 6.0%. If the traditional approach of CPI plus 1% is followed, then it does make sense to recommend an average percentage of cost-of-living-adjustment with effect from 1 April 2010 for Public Office Bearers.

1.2.3.5 If a reduced percentage point is adopted, it would imply that Public Office Bearers will fall behind the market for two consecutive years. If this approach is followed next year, it will compel the Commission to recommend a third major review of Public Office Bearer remuneration levels. It should certainly not be the intention of the Commission to play catch-up every three to four years.

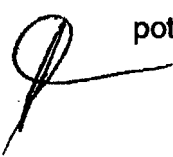
## **2. ANNUAL REMUNERATION RECOMMENDATIONS FOR 2010/2011**

2.1 The Commission consulted, as it is statutorily mandated to do, with the Minister of Finance and Minister of Justice and Constitutional Development, as well as with the Chief Justice of South Africa, before compiling its annual recommendations to the President.

2.2 The Commission further made courtesy consultations with the Minister of Public Service and Administration and Minister of Cooperative Governance and Traditional Affairs.

2.3 The Commission considered the inputs received from the Ministers and the Chief Justice and resolved to recommend the annual adjustment of public office bearers by 7%.

2.4 The Commission viewed their constitutional mandate as independent from other potential distractions in making its recommendations.



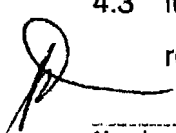
- 2.5 The Commission attached its recommendations, which reflect the general percentile increase of 7% in the total remuneration packages of all Public Office-Bearers for the 2010/2011 fiscal year.

### **3. REMUNERATION OF THE HEADMEN/HEADWOMEN**

- 3.1 The Commission resolved not to make remuneration recommendations of the Headmen/Headwomen. The Commission experienced difficulties in making final recommendation due to uncertainty about affordability and the cited uncertainty by government as to the actual number of Headmen/Headwomen that we have in the country.
- 3.2 The Commission resolved that a meeting should be convened with all relevant stakeholders in order to map out a way forward in addressing the difficulties experienced and enable the Commission to finalize its recommendations on the remuneration of Headmen/Headwomen.

### **4. TOOLS OF TRADE**

- 4.1 The Commission is statutorily obliged to publish recommendations relating to the resources which are necessary to enable an office-bearer as defined in paragraphs (a), (b), (c) and (e) of the definition of "office-bearer" in section 1 to perform the office-bearer's functions effectively. These resources are commonly known as "tools of trade".
- 4.2 The Commission embarked on a major research exercise of tools of trade for Public Office Bearers since 2008. The information received from public-office bearers institutions assisted the Commission in drafting its provisional recommendations of tools of trade for public office bearers. The Commission will circulate its provisional recommendations to stakeholders for comments and consultation before year end.
- 4.3 It is anticipated that the Commission will be in a position to make recommendations regarding the tools of trade during 2011/2012.



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Members: Mr Justice LW Seriti (Chairperson), Ms AM Mokgabudi (Deputy Chairperson), Mr BK Mosley-Lefatola, Dr MHR Bussin, Dr MP Sithole, Mrs P Buthelezi, Mr R Martin, Ms N Newton-King  
Head of Secretariat: Mr P Makapan

**PART B****RECOMMENDATIONS ON THE PENSION AND OTHER PENSION BENEFITS OF THE FORMER PRESIDENT, MR KGALEMA MOTLANTHE, IN TERMS OF THE RESOLUTION PASSED BY THE NATIONAL ASSEMBLY ON 26 SEPTEMBER 2008**

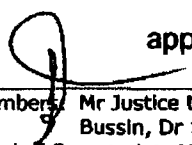
- 1 The Commission is, amongst other things, required, in terms of section 2(5)(a) and (b) and section 2(6) of the Remuneration of Public Office Bearers Act, 1998, to make recommendations to the National Assembly on the pension, other pension benefits and medical aid benefit payable to the President upon his or her retirement. In turn, the National Assembly bears the responsibility to determine such benefits in terms of existing law.
- 2 The Commission's recommendations to the National Assembly on the pension and medical aid benefits of a retired President was published on 17 April 2008 under Government Notice No. 439 in *Government Gazette* No. 30982.
- 3 The National Assembly passed a resolution ("the September 2008 resolution") on 26 September 2008, after considering the recommendations of the Commission. The National Assembly resolved amongst other things, that in terms of section 2(5)(a) of the Remuneration of Public Office Bearers Act, 1998 (Act No 20 of 1998), upon the President's retirement from office with effect from the day following the day that he vacated office, a taxable pension benefit be paid to him equal to 100% of the total annual remuneration (salary and allowance) payable to him the day prior to his retirement, such pension benefit to be increased annually in keeping with the pension increases granted to public office bearers.
- 4 In terms of section 9 of the Independent Commission for the Remuneration of Public Office-bearers Act, 1997, as amended, 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 with regard thereto.



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Members: Mr Justice LW Seriti (Chairperson), Ms AM Mokgabudi (Deputy Chairperson), Mr BK Mosley-Lefatola, Dr MHR Bussin, Dr MP Sithole, Mrs P Buthelezi, Mr R Martin, Ms N Newton-King  
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- 5 Subsequent to the 2009 general elections the Commission received media enquiries regarding the pension benefit and remuneration of the former President who is currently the Deputy President. The former President served as President of the Republic from 25 September 2008 until the current President was appointed on 06 May 2009. The former President is currently appointed as the Deputy President of the Republic.
- 6 On 13 August 2009 the Presidency delivered a letter to the Commission requesting the Commission's advice on the pension benefits that are to be paid to the former President. Since the former President is currently employed as a public office bearer, the Commission's advice was requested on the applicability and implementation of the National Assembly's resolution passed on 26 September 2008.
- 7 After due consideration of the applicable legislation, the September 2008 resolution, the legal opinions obtained by the Commission and the Commission deliberations on this matter, the Commission makes the following recommendations to the President and National Parliament on the applicability and implementation of the September 2008 resolution:
- 7.1 The September 2008 resolution applies to all retired Presidents.
- 7.2 The Commission considered what "retirement" meant and resolved that it is when the term of office of a President ends upon a vacancy occurring or when the person next elected President by the National Assembly assumes office.
- 7.3 There currently exists no provision in the Constitution or any legislation that precludes former Presidents from engaging in remunerative work after his/her office comes to an end.
- 7.4 The Commission resolved that the September 2008 resolution is consistent requiring no change to be effected and is applicable to all retired Presidents including the former President who is currently appointed as the Deputy President of the Republic.

  
Members: Mr Justice LW Seriti (Chairperson), Ms AM Mokgabudi (Deputy Chairperson), Mr BK Mosley-Lefatola, Dr MHR Bussin, Dr MP Sithole, Mrs P Buthelezi, Mr R Martin, Ms N Newton-King  
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- 7.5 The Commission further resolved that the current Deputy President is entitled to pension and other pension benefits payable to former President on retirement. This accrued to him on the date that the sitting President was elected the President.
- 8 As far as his salary as Deputy President, the Commission after due consideration of all relevant factors that includes amongst others, applicable legislation, fairness, equity, available resources of the State and affordability, and any other factor relevant to the Commission such as a benefit of receiving a remuneration of a Deputy President and a pension of a former President as accrued to him on the date that the sitting President was elected the President, the Commission recommends that the current Deputy President shall receive the pension benefits as determined by the National Assembly resolution of 26 September 2008 and no salary for his services as Deputy President, except those benefits and privileges which are necessary to enable the Deputy President to carry out his functions.
- 9 In light of the conclusion, the Commission has had to reach on this matter, the National Assembly may wish to review section 2(5) (a) of the Remuneration of Public Office Bearers Act, 1998 regarding the benefits of a former President who does not serve a full term as President or who continues to serve in another capacity in the public service after serving as President.

Signed at Cape Town on this 11th day of November 2010.

  
**Judge LW Seriti**  
**Chairperson**

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Members: Mr Justice LW Seriti (Chairperson), Ms AM Mokgabudi (Deputy Chairperson), Mr BK Mosley-Lefatola, Dr MHR Bussin, Dr MP Sithole, Mrs P Buthelezi, Mr R Martin, Ms N Newton-King  
Head of Secretariat: Mr P Makapan



SCHEDULE 1				
REVISED REMUNERATION LEVELS ADJUSTED BY 7% WITH EFFECT FROM 1 APRIL 2010				
NATIONAL EXECUTIVE AND DEPUTY MINISTERS				
GRADE	PAY LEVEL	POSITION	TOTAL REMUNERATION 1 APRIL 2009	RECOMMENDED TOTAL REMUNERATION 1 APRIL 2010
EA	1	President	2,254,730	2,412,561
EB	1	Deputy President	2,029,304	2,171,356
EC	1	Minister	1,724,897	1,845,639
ED	1	Deputy Minister	1,420,489	1,519,923



SCHEDULE 2				
REVISED REMUNERATION LEVELS ADJUSTED BY 7% WITH EFFECT FROM 1 APRIL 2010				
NATIONAL PARLIAMENT				
GRADE	PAY LEVEL	POSITION	TOTAL REMUNERATION 1 APRIL 2009	RECOMMENDED TOTAL REMUNERATION 1 APRIL 2010
PA	1	Speaker: National Assembly	2,029,304	2,171,356
		Chairperson: NCOP	2,029,304	2,171,356
PB	1	Deputy Speaker: National Assembly	1,420,489	1,519,923
		Deputy Chairperson: NCOP	1,420,489	1,519,923
	2	House Chairperson	1,319,060	1,411,394
PC	1	Chief Whip: Majority Party	1,116,082	1,194,207
		Chief Whip: NCOP	1,116,082	1,194,207
		Parliamentary Counsellor: President	1,116,082	1,194,207
		Parliamentary Counsellor: Deputy President	1,116,082	1,194,207
		Leader of Opposition	1,116,082	1,194,207
	2	Chairperson of a Committee	1,014,652	1,085,678
PD	1	Deputy Chief Whip: Majority Party	913,223	977,148
		Chief Whip: Largest Minority Party	913,223	977,148
		Leader of a Minority Party	913,223	977,148
	2	Whip	847,424	906,744
PE	1	Member: National Assembly	764,641	818,166
		Permanent Delegate: NCOP	764,641	818,166

SCHEDULE 3				
REVISED REMUNERATION LEVELS ADJUSTED BY 7% WITH EFFECT FROM 1 APRIL 2010				
PROVINCIAL EXECUTIVES AND LEGISLATURES				
GRADE	PAY LEVEL	POSITION	TOTAL REMUNERATION 1 APRIL 2009	RECOMMENDED TOTAL REMUNERATION 1 APRIL 2010
LA	1	Premier	1,623,467	1,737,110
LB	1	Member of Executive Council	1,420,489	1,519,923
		Speaker	1,420,489	1,519,923
LC	1	Deputy Speaker	1,116,082	1,194,207
		Chief Whip: Majority Party	1,014,652	1,085,678
	2	Chairperson of Committees	913,223	977,148
		Leader of Opposition	913,223	977,148
		Chairperson of a Committee	913,223	977,148
	3	Deputy Chairperson of Committees	859,182	919,325
		Deputy Chief Whip: Majority Party	859,182	919,325
		Chief Whip: Largest Minority Party	859,182	919,325
		Leader of a Minority Party	859,182	919,325
LD	1	Parliamentary Counsellor to a King	764,641	818,166
		Whip	764,641	818,166
	2	Member of Provincial Legislature	740,056	791,860

SCHEDULE 4				
REVISED REMUNERATION LEVELS ADJUSTED BY 7% WITH EFFECT FROM 1 APRIL 2010				
LOCAL GOVERNMENT				
GRADE	PAY LEVEL	POSITION	TOTAL REMUNERATION 1 APRIL 2009	RECOMMENDED TOTAL REMUNERATION 1 APRIL 2010
MA	1	Executive Mayor	898,970	961,898
		Mayor	898,970	961,898
MB	1	Deputy Executive Mayor	728,654	779,660
		Speaker/Chairperson	728,654	779,660
		Deputy Mayor	728,654	779,660
MC	2	Member of Executive Council	686,134	734,164
		Member of Municipal Council	686,134	734,164
		Chairperson of a Sub-council	686,134	734,164
		Whip	686,134	734,164
MD	1	Municipal Councillor	345,502	369,687

SCHEDULE 5				
REVISED REMUNERATION LEVELS ADJUSTED BY 7% WITH EFFECT FROM 1 APRIL 2010				
JUDGES				
GRADE	PAY LEVEL	POSITION	TOTAL REMUNERATION 1 APRIL 2009	RECOMMENDED TOTAL REMUNERATION 1 APRIL 2010
JA	1	Chief Justice	2,029,304	2,171,356
JB	1	Deputy Chief Justice	1,826,326	1,954,169
		President: Supreme Court of Appeal	1,826,326	1,954,169
JC	1	Deputy President: Supreme Court of Appeal	1,724,897	1,845,639
	2	Judge: Constitutional Court	1,623,467	1,737,110
		Judge: Supreme Court of Appeal	1,623,467	1,737,110
	3	Judge President: High/Labour Court	1,522,038	1,628,580
	4	Deputy Judge President: High/Labour Court	1,420,489	1,519,923
	5	Judge: High/Labour Court	1,319,060	1,411,394

SCHEDULE 6				
REVISED REMUNERATION LEVELS ADJUSTED BY 7% WITH EFFECT FROM 1 APRIL 2010				
MAGISTRATES				
GRADE	PAY LEVEL	POSITION	TOTAL REMUNERATION 1 APRIL 2009	RECOMMENDED TOTAL REMUNERATION 1 APRIL 2010
JD	1	Special Grade Chief Magistrate	913,223	977,148
		Regional Court President	913,223	977,148
JE	1	Regional Magistrate	811,674	868,491
		Chief Magistrate	811,674	868,491
JF	1	Senior Magistrate	669,625	716,499
JG	1	Magistrate	608,815	651,432

SCHEDULE 7				
REVISED REMUNERATION LEVELS ADJUSTED BY 7% WITH EFFECT FROM 1 APRIL 2010				
TRADITIONAL LEADERS				
GRADE	PAY LEVEL	FULL TIME POSITIONS	TOTAL REMUNERATION 1 APRIL 2009	RECOMMENDED TOTAL REMUNERATION 1 APRIL 2010
TA	1	King	841,105	899,983
TB	1	Chairperson: NHTL	595,988	637,707
	2	Full time Chairperson: PHTL	490,876	525,238
	3	Deputy Chairperson: NHTL	455,839	487,748
	4	Full time Deputy Chairperson: PHTL	420,683	450,131
TC	1	Full time Member: NHTL	245,379	262,555
	2	Full time Member: PHTL	210,342	225,066
TD	1	Senior Traditional Leader	154,282	165,082
		PART TIME POSITIONS*	SITTING ALLOWANCE 1 APRIL 2009 (Per Day)	RECOMMENDED TOTAL REMUNERATION 1 APRIL 2010 (Per Day)
		Part time Member: NHTL	884	946
		Part time Chairperson: PHTL	1,051	1,125
		Part time Deputy Chairperson: PHTL	945	1,012
		Part time Member: PHTL	733	784
* 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)				