

REPUBLIC OF SOUTH AFRICA

REMUNERATION OF PUBLIC OFFICE BEARERS AMENDMENT BILL

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

(MINISTER FOR PROVINCIAL AND LOCAL GOVERNMENT)

[B 11D—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 make fresh provision regarding the date from which a member of the National Assembly or of a provincial legislature is entitled to a salary and allowances, the date from which a permanent delegate is entitled to a salary and allowances, and the payment of salaries and allowances of a Premier and a member of the Executive Council by provincial legislatures; and to provide for matters connected therewith.

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

Amendment of section 3 of Act 20 of 1998

1. Section 3 of the Remuneration of Public Office Bearers Act, 1998 (Act No. 20 of 1998) (hereinafter referred to as the principal Act), is amended— 5
- (a) by the substitution in subsection (6)(a) for subparagraph (i) of the following subparagraph:
- “(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 10
- [date of the publication of the lists of names of representatives as contemplated in subitem (3) of that item]** first polling day of the election in question;” and
- (b) by the substitution in subsection (6) for paragraph (b) of the following 15
- paragraph:
- “(b) in the case of a permanent delegate [from the date of his or her appointment] appointed—
- (i) in terms of section 61(2)(b) of the Constitution, from the first sitting day of the provincial legislature concerned after its election; or 20
- (ii) 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] from the date of his or her appointment.”.

Amendment of section 6 of Act 20 of 1998

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2. Section 6 of the principal Act is amended—
- (a) by the substitution for subsection (7) of the following subsection:

“(7) (a) 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, excluding members of the Executive Council of that province, who swears or affirms faithfulness to the Republic as contemplated in [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]** member is entitled **[in terms of this section, the first month to be reckoned—]**. 5

[(a)](b) For the purposes of paragraph (a) the first month shall be reckoned, in the case of a member of the provincial legislature— 10

(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]** first polling day of the election in question; and 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 provincial legislature concerned or the date of receipt of the nomination by the Speaker of the provincial legislature, whichever is the later date. 20 25

[(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

(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.]”; 30

(b) by the insertion after subsection (7) of the following subsection: 35

“(7A) A Premier and a member of the Executive Council concerned shall be paid the salary and allowances to which such office bearer is entitled in monthly instalments, the first month to be reckoned from the date on which such office bearer swears or affirms faithfulness to the Republic as contemplated in sections 129 and 135 of the Constitution, respectively.”; and 40

(c) by the substitution for subsection (8) of the following subsection:

“(8) The amount payable in respect of salaries and allowances shall— 45

(a) in respect of a Premier or a member of the Executive Council be paid from monies appropriated by the provincial legislature concerned for that purpose; and

(b) in respect of other members of the provincial legislature annually form a direct charge against the Provincial Revenue Fund concerned as provided for by section 117(3) of the Constitution.”. 50

Short title and commencement

3. (1) This Act shall be called the Remuneration of Public Office Bearers Amendment Act, 2000.

(2) This Act, excluding section 2(c), shall be deemed to have come into operation on 2 June 1999.

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

1.1 Section 3 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 the determination of salaries and allowances of members of the National Assembly and permanent delegates to the National Council of Provinces. In terms of section 3(6) of the Remuneration Act, a member of the National Assembly is to be paid with effect from the date of the publication of the lists of names of representatives, while a permanent delegate is to be paid with effect from the date of his or her appointment. In order to provide for the remuneration of these office bearers during the period between the election date and the date of the publication of lists of representatives in respect of a member of the National Assembly, and the date of appointment in respect of a permanent delegate, respectively, it has become necessary to amend section 3(6) so as to provide for continuity in the payment of salaries, allowances and benefits. This continuity is attained by providing, in respect of members of the National Assembly, for the polling day of an election to be the date from which such a member is entitled to remuneration, and, in respect of a permanent delegate, for the first sitting day of the provincial legislature concerned to be the day from which a permanent delegate is so entitled.

1.2 Section 6 of the Remuneration Act provides a framework for determining the upper limit of salaries and allowances of Premiers, members of Executive Councils and members of provincial legislatures. Section 6(7) does not reflect the current financial and accounting practice that draws a distinction between salaries of Premiers and members of Executive Councils, which must be appropriated by provincial legislatures by way of an appropriation Act, and salaries and allowances of other members of provincial legislatures, which form a direct charge against the Provincial Revenue Fund of each province. It has therefore become necessary to effect an amendment to reflect the existing practice of providing for the salaries of members of the Executive Councils through their departmental budgets.

In order to attain the same continuity referred to in paragraph 1.1 above in respect of the members of provincial legislatures, provision is also made for the first polling day of an election to be the day from which a member of the provincial legislature is entitled to remuneration.

2.1 Clause 1 of the Bill amends section 3 of the Act by referring to the first polling day of an election as the date from which a member of the National Assembly is entitled to remuneration, and referring to the first sitting day of the provincial legislature concerned as the date from which a permanent delegate is so entitled.

2.2 Clause 2 of the Bill amends section 6 of the Act by providing for the salaries and allowances of members of provincial executives to be provided for through their respective departmental budgets, and the salaries and allowances of provincial legislators to annually form a direct charge against the Provincial Revenue Fund concerned. Provision is also made for the first polling day of an election to be reckoned as the date from which a member of a provincial legislature is entitled to remuneration.

Bodies/organisations consulted

National House of Traditional Leaders
MINMEC on Traditional Affairs
Department of Finance
Parliament

Implications for provinces

The effects of the proposed amendments on the provinces would be that each province would have to provide for salaries and allowances of its Premier and members of Executive Councils by way of an appropriation Act.

Implications for municipalities

None

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(1) of the Constitution. In terms of section 76(4)(b) of the Constitution, legislation “envisaged in Chapter 13 of the Constitution and which affects the financial interests of the provincial sphere of government” must be dealt with in accordance with the procedure established by section 76(1).

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