



# STAATSKOERANT

VAN DIE REPUBLIEK VAN SUID-AFRIKA

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REPUBLIC OF SOUTH AFRICA

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No. 9373

KANTOOR VAN DIE EERSTE MINISTER

OFFICE OF THE PRIME MINISTER

No. 1776.

22 Augustus 1984

Hierby word bekend gemaak dat die Staatspresident sy goedkeuring gegee het aan die onderstaande Wet wat hierby ter algemene inligting gepubliseer word:—

■. 115 van 1984: Wet op die Besoldiging van Stads-  
klerke, 1984.

No. 1776.

22 August 1984

It is hereby notified that the State President has assented to the following Act which is hereby published for general information:—

No. 115 of 1984: Remuneration of Town Clerks Act,  
1984

## REMUNERATION OF TOWN CLERKS ACT, 1984

Act No. 115, 1984

**ACT**

To provide for the determination of the remuneration and certain other service benefits of the chief executive officers of local authorities; to regulate the maximum limits of the remuneration and certain other service benefits of other employees of local authorities; and to provide for incidental matters.

*(Afrikaans text signed by the State President.)  
(Assented to 12 July 1984.)*

**BE IT ENACTED** by the State President and the House of Assembly of the Republic of South Africa, as follows:—

1. (1) In this Act, unless the context otherwise indicates—

Definitions.

- 5 (i) "Administrator" means the Administrator of a province acting on the authority of the Executive Committee of which he is a member; (i)
- (ii) "advisory committee" means the committee established by section 2; (ii)
- 10 (iii) "determination", in relation to the service benefits of a town clerk, means any determination in terms of this Act determining—
  - (a) the amount of the annual remuneration which shall be paid by a local authority to its town clerk; or
  - 15 (b) whether a benefit under a housing or motor-car scheme may be granted by a local authority to its town clerk and, if so, the maximum annual benefit which may be so granted to the town clerk; (xiii)
- (iv) "Director-General" means the Director-General: Constitutional Development and Planning; (vii)
- 20 (v) "general determination" means a determination in terms of section 9; (iii)
- (vi) "housing scheme" means any scheme or arrangement in terms of which an employee as a reward for his service—
  - 25 (a) is paid a subsidy or other assistance on any interest, capital, rent or other payment payable by him in respect of housing; or
  - (b) is provided with housing free of charge or for a consideration less than the value thereof; (iv)
- 30 (vii) "individual determination" means a determination under section 10 (1); (viii)
- (viii) "local authority" means any institution or body contemplated in section 84 (1) (f) of the Republic of South Africa Constitution Act, 1961 (Act No. 32 of 1961), in connection with which a provincial council may make ordinances, and also a regional services council established under the Regional Services Councils Act, 1984; (xi)
- 35 (ix) "Minister" means the Minister of Constitutional Development and Planning; (ix)
- 40 (x) "motor-car scheme" means any scheme or arrangement in terms of which an employee as a reward for his service—

## REMUNERATION OF TOWN CLERKS ACT, 1984

Act No. 115, 1984

- (a) is paid an allowance for or in connection with the purchase by him of a motor vehicle or in any other manner is financially assisted in any such purchase; or
- 5 (b) is provided with a motor vehicle for his private or for his private and official use free of charge or for a consideration less than the value of such private use, irrespective of whether or not the ownership in that motor vehicle is transferred to the employee; (x)
- 10 (xi) "remuneration" means any salary, wage, allowance, bonus and any other money paid to or on behalf of an employee as a reward for his service, excluding any payment—
- 15 (a) under a housing or motor-car scheme; or  
(b) excluded under subsection (2); (v)
- (xii) "service benefit" means remuneration or any benefit under a housing or motor-car scheme; (vi)
- 20 (xiii) "town clerk", in relation to a local authority, means the chief executive officer of a local authority regardless of the designation of the post occupied by that officer. (xii)
- (2) The Minister may, after consultation with the advisory committee, by notice in the *Gazette* exclude from the definition
- 25 of "remuneration" any payment of a kind specified in the notice which is made to or on behalf of an employee as a reward for his service.

2. (1) There is hereby established an advisory committee, to be known as the Advisory Committee on Remuneration and Service Benefits of Town Clerks, which shall give advice to the Minister regarding any matter referred by the Minister to the committee in terms of this Act or otherwise.

Establishment  
of advisory  
committee.

(2) The work incidental to the carrying out of the functions of the advisory committee shall be performed under the directions

35 and control of the Director-General by officers in the public service designated for such purpose by the Director-General.

3. (1) The advisory committee shall consist of—
- (a) the Director-General, *ex officio*;
- 40 (b) the Chief Officer of the Commission for Administration, *ex officio*;
- (c) the provincial secretary of each of the provinces, *ex officio*;
- (d) an officer serving in the Department of Finance and designated by the Minister of Finance;
- 45 (e) two persons as the representatives of and designated by the United Municipal Executive of South Africa;
- (f) one person as the representative of and designated by the National *ad hoc* Committee of the Association of Coloured and Indian Consultative, Local Affairs and Management Committees;
- 50 (g) two persons as the representatives of and designated by the Institute of Town Clerks of Southern Africa;
- (h) two persons as the representatives of and designated by an employers' organization or employers' organizations referred to in the Labour Relations Act, 1956 (Act No. 28 of 1956), the members of which consist of local authorities exclusively;
- 55 (i) two persons as the representatives of and designated by the Association of Chief Administrative Officers of Local Authorities;
- 60 (j) two persons as the representatives of and designated by the South African Association of Municipal Employees; and
- (k) if the Minister deems it necessary, one or more but not

Constitution  
of advisory  
committee.

## REMUNERATION OF TOWN CLERKS ACT, 1984

Act No. 115, 1984

more than four additional members designated by the Minister.

(2) (a) As often as the designation of a person as the representative in the advisory committee of an organization or organizations referred to in subsection (1) (e), (f), (g), (h), (i) or (j) becomes necessary, the Director-General shall request the organization or organizations concerned in writing to designate a person as its or their representative, as the case may be, within a period determined by the Director-General.

(b) If the organization or organizations concerned fail to designate a person as its or their representative in the advisory committee within the fixed period or such further period as the Director-General may allow, the advisory committee shall, for as long as the Minister may deem fit, consist of the persons referred to in subsection (1), excluding the said representative.

(3) For each member of the advisory committee (other than for a member referred to in subsection (1) (k)) a person shall be designated to act, during the absence of such member or his inability to act as a member, as an alternate for such member, and such person shall be so designated, in the case of an alternate for—

- (a) the Director-General, by the Director-General;
- (b) the Chief Officer of the Commission for Administration, by the Chief Officer;
- (c) a provincial secretary, by the provincial secretary concerned;
- (d) a member referred to in subsection (1) (d), (e), (f), (g), (h), (i) or (j), by the Minister by whom or the organization or organizations by which such member was designated.

4. (1) A member of the advisory committee shall hold office—

- (a) in the case of a member referred to in section 3 (1) (d), (e), (f), (g), (h), (i) or (j), at the pleasure of the Minister by whom or the organization or organizations by which that member was designated;
- (b) in the case of a member referred to in section 3 (1) (k), at the Minister's pleasure.

Period of office and allowances of members of advisory committee.

(2) To a member of the advisory committee who is not an officer in the public service there may be paid from money appropriated by Parliament for such purpose such allowances for the defrayal of transport and subsistence costs as the Minister may with the concurrence of the Minister of Finance determine.

5. (1) The Director-General shall be the chairman of the advisory committee. Chairman.

(2) Whenever the Director-General is absent or unable to act as chairman, his alternate designated in terms of section 3 (3) shall act as chairman.

6. (1) A meeting of the advisory committee shall be held at such time and place as the chairman of the advisory committee may determine. Meetings.

(2) The chairman of the advisory committee and 10 other members shall constitute a quorum for any meeting of the advisory committee.

(3) The decision of the majority of the members present at a meeting of the advisory committee shall constitute a decision of the advisory committee.

7. (1) No local authority shall—

- (a) pay its town clerk any higher or any lower remuneration than the remuneration payable to the town clerk in accordance with the determination binding in terms of this Act on that local authority; or
- (b) grant its town clerk a benefit under a housing or motor-car scheme unless such a benefit is authorized under a determination binding in terms of this Act on that local

Town clerks to be remunerated in accordance with determination.

## REMUNERATION OF TOWN CLERKS ACT, 1984

Act No. 115, 1984

authority, or grant its town clerk a greater benefit under such a scheme than the maximum benefit which may be granted to the town clerk in accordance with such a determination.

5 (2) Any agreement shall be null and void in so far as it is contrary to subsection (1).

8. (1) The Minister shall, after consultation with the advisory committee, by notice in the *Gazette* classify the local authorities of the Republic for the purposes of this Act according to grades, and in so doing he may adopt any basis of differentiation which he may deem fit (except a basis of race or colour).

Classification of local authorities according to grades.

10 (2) (a) A notice in terms of subsection (1) may at any time by notice in the *Gazette* be amended by the Minister after consultation with the advisory committee.

15 (b) An amendment under paragraph (a) shall commence on a date determined by the Minister, which may be a date prior to the date of publication of the relevant notice.

(3) Whenever the grade classification of a local authority is amended under subsection (2), the general determination binding in terms of this Act on local authorities of the grade under which that local authority is classified after the amendment, shall, subject to sections 10 and 11, be binding on that local authority with effect from the date of commencement of such amendment, and if any individual determination is binding on that local authority immediately prior to such commencement, such individual determination shall lapse on the said commencement.

9. (1) As soon as may be expedient after the publication of a notice in terms of section 8 (1) the Minister shall, after consultation with the advisory committee, in respect of local authorities of each grade make a determination of the service benefits of the town clerk.

Determinations in respect of local authorities of different grades.

(2) The Minister shall from time to time, as may be determined by him, review the determinations of service benefits of town clerks of local authorities of the different grades, and may after such review and after consultation with the advisory committee amend or make any other determination in the place of any such determination.

(3) A determination made in terms of subsection (1) or (2) or as amended under subsection (2) shall, subject to sections 10 and 11, be binding on all local authorities of the grade in respect of which the determination was made or amended.

(4) Any determination in terms of this section, or any amendment of any such determination, shall commence on a date determined by the Minister, which may be a date prior to the date on which the determination was made or amended, including, in the case of a determination in terms of subsection (1), a date prior to the commencement of this Act.

10. (1) The Minister may, after consultation with the advisory committee—

Determinations in respect of individual local authorities.

(a) in respect of any individual local authority make a determination of any service benefit of the town clerk; or  
(b) at any time amend or withdraw, or make any other determination in the place of, a determination under this subsection.

(2) An individual determination shall, for as long as it has not lapsed in terms of section 8 (3) or has not been withdrawn by the Minister under subsection (1) of this section, be binding on the local authority in respect of which such determination was made, and while such individual determination is so binding the general determination in respect of local authorities of the grade under which that local authority was classified, and any amendment or substitution of that general determination, shall not apply in re-



## REMUNERATION OF TOWN CLERKS ACT, 1984

Act No. 115, 1984

spect of that local authority in so far as that general determination is contrary to the individual determination.

(3) Any determination under subsection (1), or any amendment or withdrawal of such a determination, shall commence on a date determined by the Minister, which may be a date prior to the date on which the determination was made, amended or withdrawn, including a date prior to the commencement of this Act.

11. (1) An Administrator may upon application by a local authority in his province on which a general determination is binding, make a determination in respect of such local authority whereby the remuneration payable to the town clerk of that local authority in terms of the general determination is fixed at an amount lower than the amount of the general determination. Determinations by Administrator.

(2) An application under subsection (1) shall be decided by the Administrator in accordance with the directives issued by the Minister after consultation with the advisory committee.

(3) A local authority which lodged an application under subsection (1) or a town clerk aggrieved by the Administrator's decision in connection with any such application, may, within 60 days after it or he has been notified of the decision, appeal in writing against such decision to the Minister, and the Minister shall, after he has considered the grounds of the appeal and the Administrator's reasons for the decision, confirm, amend or set aside the decision or substitute for such decision any other decision which the Administrator in the Minister's opinion ought to have taken.

(4) A determination made by the Administrator under subsection (1) or by the Minister on appeal under subsection (3) shall—

- (a) commence on a date determined by the Administrator or the Minister, as the case may be, which may be a date prior to the date on which the determination was made, including a date prior to the commencement of this Act; and
- (b) shall for the purposes of this Act be deemed to be an individual determination made in respect of the local authority concerned.

(5) If any application under subsection (1) is lodged with the Administrator within 30 days after the local authority concerned has been notified of a general determination referred to in that subsection, that general determination, in so far as it relates to the remuneration payable to the town clerk of that local authority, shall be suspended pending the decision of the application or any appeal under subsection (3), and while that general determination is pending, such local authority shall pay its town clerk such remuneration as was paid by it immediately before the commencement of the said general determination.

12. (1) Notwithstanding the provisions of any other law to the contrary, no local authority shall as from a date fixed by the Minister by notice in the *Gazette*— Service benefits of other employees of local authorities.

- (a) pay any employee who is not the town clerk a higher remuneration (excluding any payment in respect of overtime) than an amount equal to 92,5% of the remuneration payable to the town clerk in accordance with the determination binding in terms of this Act on that local authority, or, if authorization has been granted under section 13 in respect of any particular employee, pay such employee a higher remuneration (excluding any payment in respect of overtime) than the authorized remuneration; or
- (b) grant any such employee a benefit under a housing or motor-car scheme unless such a benefit is authorized for the town clerk under a determination binding in terms of this Act on that local authority, or grant any such employee a greater benefit under such a scheme than the maximum benefit which may be granted to the town clerk in accordance with such a determination.

## REMUNERATION OF TOWN CLERKS ACT, 1984

Act No. 115, 1984

(2) Any agreement in so far as it is contrary to subsection (1) shall be null and void.

(3) Different dates may under subsection (1) be determined in respect of local authorities in the different provinces.

5 13. (1) (a) An Administrator may, upon application in writing by either a local authority in his province or an employee of such a local authority, authorize that local authority to pay any particular employee or the incumbent of any particular post on the establishment of that local authority or the employee who lodged the application, as the case may be, such remuneration (excluding any payment in respect of overtime) as may be fixed by the Administrator which is higher than an amount equal to 92,5% of the remuneration payable to the town clerk in accordance with the determination binding in terms of this Act on that local authority.

Authorization by Administrator regarding payment of higher remuneration to other employees.

10 (b) Before an employee of a local authority lodges an application under subsection (1) with the Administrator he shall notify such local authority in writing of his intention.

20 (2) An application under subsection (1) shall be decided by the Administrator in accordance with the directives issued by the Minister after consultation with the advisory committee.

25 (3) A local authority which or an employee who, or an employee in respect of whom a local authority, lodged an application under subsection (1) and which or who is aggrieved by the Administrator's decision in connection with any such application, may within 60 days after it or he has been notified of the decision appeal against such decision to the industrial court mentioned in section 17 (1) (a) of the Labour Relations Act, 1956 (Act No. 28 of 1956), in accordance with the rules of the industrial court, and the industrial court shall, after consideration of the appeal, confirm or set aside the decision or substitute for such decision any other decision which the Administrator in the industrial court's opinion, having regard to the provisions of this Act and any directives issued under subsection (2), ought to have taken.

35 (4) Any authorization under this section shall commence on a date determined by the Administrator or the industrial court, as the case may be, which may be a date prior to the date on which such authorization was granted.

45 14. (1) If a determination whereby the remuneration of a town clerk is increased is made retrospectively, any person who on or after the date of commencement of that determination but before the date on which the determination was made, retired on pension or died while holding office as the town clerk of a local authority on which that determination became binding, shall for all purposes be deemed to have retired or died, as the case may be, at a time when the increased remuneration was payable, and the difference between the remuneration paid to him and the increased remuneration shall be payable by that local authority to him or his estate, as the case may be, in respect of the period from the said commencement up to his retirement or death as aforesaid.

Effect of determinations on retired or deceased town clerks.

55 (2) For the purposes of subsection (1) any amendment of the grade classification of a local authority under section 8 having the effect of increasing the town clerk's remuneration retrospectively, shall be deemed to be a determination contemplated in the said subsection (1).

60 15. This Act shall be called the Remuneration of Town Clerks Act, 1984. Short title.