
GENERAL NOTICES • ALGEMENE KENNISGEWINGS

THE PRESIDENCY**NOTICE 160 OF 2021**

Enquiries: Mr. PM Makapan
Tel: 012 308 1706/7
Fax: 012 300 5735
E-mail: Peterm@presidency.gov.za



The Presidency
Private Bag X1000
PRETORIA
0001

INDEPENDENT COMMISSION FOR THE REMUNERATION OF PUBLIC OFFICE BEARERS

EXPLANATORY MEMORANDUM FOR ANNUAL RECOMMENDATIONS FOR 2020/2021**INTRODUCTION**

1. In terms of sections 8(4) and (5) of the Independent Commission for the Remuneration of Public Office-Bearers Act, 1997 (Act No. 92 of 199) (Commission Act), the Commission is mandated to make annual recommendations relating to the salaries and/or the upper limits of the salaries, allowances, benefits, and the resources required by POBs to enable the latter to perform their respective duties effectively.
2. This concept paper is intended to convey the Commission's remuneration recommendations of Public Office-Bearers (POBs) for 2020/2021.
3. In arriving at the annual remuneration recommendations for 2020/2021, the Commission considered the following:
 - The Commission's statutory consultations;
 - Section 8(6) of the Commission Act;
 - Various economic factors including: Fiscal affordability, historic inflation, future inflation forecasts, wage settlement data, the Commission's prior recommendations;
 - The President's determinations for 2019/20; and
 - The devastating impact of the COVID 19 on the economy of the country.

SECTION 8(6) OF THE COMMISSION ACT

4. Section 8(6) of the Commission Act enjoins that the Commission to take into account the role, status, duties, functions and responsibilities of the POBs concerned. The Commission considered these factors and concluded that it was not possible to fully address the required changes in the annual recommendations. However, the Commission has resolved to address these issues through the current remuneration reviews.

Affordability

5. The Minister of Finance, in the Budget Speech of 26 February 2020, indicated that the total consolidated government spending was expected to grow at an average annual rate of 5.1 per cent, from R1.95 trillion in 2020/21 to R2.14 trillion in 2022/23. This was mainly due to the escalating debt-service costs. The total reduction was mainly as a result of lowering programme baselines and the wage bill by R261 billion.

Commissioners: Judge MM Leeuw (Chairperson); Ms MJ Ramagaga (Deputy Chairperson); Dr SM Sibandze; Mr G Barnard Prof I Mosala; Prof M Coetzee; Dr NZ Qunta and Mr S Roopa

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6. The Minister further indicated that between 2006/07 and 2011/12, the government was able to appoint approximately 190 000 employees. However, this resulted in the significant increase of government wages. This issue was tabled by the employer at the Public Service Coordinating Bargaining Council. The major focus of the discussion was to deliberate on the question measures aimed at containing the costs in the final phase of the implementation of the current wage agreement.
7. The Minister, in the supplementary Budget review of 24 June 2020, indicated that the government's fiscal position had deteriorated. The ratio of investment to GDP declined to 17.9 per cent and this has been the lowest decline of the investment since 2005.
8. The National Treasury forecasts that the economy will decline by 7.2 per cent in 2020. Inflation will be contained in the near future due to the collapse in demand and moderate food price pressure.
9. The Minister further indicated that the 2020 outlook may deteriorate further if the global economy continues to weaken, or the economic activity is curtailed again to protect public health. After a decade of slow economic growth, the impact of COVID-19 on real income levels is likely to set the South African economy several years in recession.

Public Service remuneration levels

Senior Management Services (SMS)

10. During 2019/2020 the Minister of Public Service and Administration determined a 5.2% cost-of-living adjustment for SMS members employed in terms of the Public Service Act, 1994. This was to take effect from 01 April 2019. Furthermore, the said cost of living adjustment was to be delinked from performance. The annual adjustment for 2020/2021 is still pending.

Other Public Service Employees

11. A three-year wage agreement was signed in June 2018. The wage adjustments for 2020/2021 are aligned to the CPI as follows:
 - employees on salary levels 01 to 07 will receive increases of CPI +0.1%;
 - salary levels 8 to 10 will receive CPI + 0.5%; and
 - employees on salary levels 11 to 12 will receive increases link to CPI.
12. According to the latest media reports, unions and government are engaged in bilateral discussions to renegotiate the 2020/2021 salary increases. The Unions have approached the Courts to pronounce on the matter.

Inflation

13. In order to determine an appropriate level of inflation to be used as a starting point on which to consider any cost of living adjustments, the Commission took the following factors into account:

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South African Reserve Bank (SARB)

14. The Monetary Policy Committee (MPC) statement of 16 January 2020 indicated that the forecast of GDP growth for 2019 was revised lower to 0.4% (from 0.5%). The forecasts for 2020 and 2021 have also decreased the growth rates to 1.2% (from 1.4%) and 1.6% (from 1.7%) respectively due to lower growth than previously expected in the third and fourth quarters. The GDP forecast for 2022 is 1.9%. Against this backdrop, the MPC decided to reduce the repurchase rate by 25 basis points.
15. The MPC statement of 19 March 2020 indicated that the Bank's headline consumer price inflation forecast averages 3.8% for 2020, 4.6% for 2021, and 4.4% for 2022. The forecast for core inflation is lower at 3.9% in 2020, 4.3% in 2021, and 4.4% in 2022.
16. Expectations of future inflation have moderated further, on the back of lower services prices, modest food price inflation, and slower-growing nominal wages. Across the different surveys, the Commission looked at, inflation expectations currently averaging 4.4% for 2020, 4.6% for 2021 and 4.7% for 2022.

National Treasury and South Africa's big banks

17. The average forecasts for South Africa's big banks indicate forecast inflation to average 4.3% in 2020 while National Treasury had forecast inflation to average 4.6% in 2020.

Bureau for Economic Research (BER) – University of Stellenbosch

18. According to the BER Inflation report of 2019 Q4 as released on 16 January 2020, the average inflation expectations for 2019 have fallen by 1.5% points over three years – from 6.0% when surveyed for the first time in the first quarter of 2017 to 4.5% currently. Inflation expectations for 2020 have declined from 5.4% to 4.8% over the previous two years; and the 2021 expectations receded from 5.3% to 5.0%. The average 5-year inflation expectations declined by a further 0.1% point to 4.9%.
19. The consumer inflation was expected to average 5.1% in 2019, down from 5.6% projected previously. For 2020, the outlook is largely unchanged at 5.4%. On balance, the risk is that inflation comes in better (lower) than expected, at least in the immediate future.

Headline Inflation and Commission's base cost of living adjustment

20. While there may be a motivation for the fact that inflation affects individuals in different ways, headline inflation as measured by the change in the Consumer Price Index remains a sensible measure on which to base cost of living adjustments.
21. Year-on-year Headline Inflation (change in CPI) from January 2020 to April 2020 has averaged at 4.1%

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Available resources

22. The Minister, in the Medium Term Budget Policy Statement of 30 October 2019 indicated that the wage bill accounts for 46 per cent of tax revenue in 2019/20. This was primarily because of the above-inflation increases in average remuneration over the past decade.
23. The Minister also indicated that growth in government's compensation bill will need to be reduced and additional revenue measures may be needed. The expected savings on compensation announced in the 2019 Budget have been reversed. Compensation measures, which include early retirement without penalties, were anticipated to generate savings of R12 billion per year in 2020/21 and 2021/22.
24. During the presentation of the supplementary budget speech, the Minister indicated that this year nearly half of all consolidated revenue will go towards the compensation of workers in the public service. The government is valuing the important work public servants do. A call for balanced solution is made on the remuneration of workers within the public service which is appropriate, affordable and fair.
25. The table below shows the remuneration budget analysis:

| REMUNERATION BUDGET ANALYSIS | | | |
|--|--------------------------|-----------------------|-----------------------|
| POB Category | No. of incumbents | 2019/20 | 2020/21 |
| National Executives and Deputy Ministers | 75 | 165 028 671 | 165 028 671 |
| Members of Parliament | 383 | 476 077 259 | 476 077 259 |
| Provincial Executives and Legislatures | 429 | 614 779 581 | 614 779 581 |
| Judges | 237 | 465 843 449 | 465 843 449 |
| Magistrates | 1 620 | 1 762 465 455 | 1 762 465 455 |
| Traditional Leaders | 8 465 | 1 126 502 177 | 1 126 502 177 |
| Local Government | 9 331 | 6 964 685 173 | 6 964 685 173 |
| ICIs POBs | 47 | 63 083 565 | 63 083 565 |
| Total | 20 587 | 11 638 465 330 | 11 638 465 330 |

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26. The following table sets out National Treasury's previous CPI statistics relative to the Commission's recommendations and the President's determinations:

| Year | National Treasury CPI | Commission's Recommendations | President's Determinations | |
|----------------------------|-----------------------|--|----------------------------|------|
| 2016/2017 | 6.4% | Executive and Deputy Ministers | 0% | |
| | | National Parliament | | |
| | | Provincial Executive and Legislature | | |
| | | Judges | | |
| | | Executive Mayor to Whip | | |
| | | King/Queen to Full-time Deputy Chairperson of PHTL | | |
| | | Municipal Councillor | 4% | 4% |
| | | Magistrates | 6% | 6% |
| 2017/2018 | 5.3% | Full-time Member of NHTL to Headmen / Headwomen, and sitting allowances of all members of NHTL and PHTL | | |
| | | National Executive and Deputy Ministers | 4% | 4% |
| | | Speaker / the Chairperson of NCOP to House Chairperson | | |
| | | Provincial Executive and the Speaker of the Provincial Legislature | | |
| | | All Judges | | |
| | | Chief Whip: Majority Party to Member: National Assembly / Permanent Delegate: NCOP | 4.5% | 4.5% |
| | | Deputy Speaker to Member of Provincial Legislature | | |
| | | Executive Mayor to Deputy Mayor | | |
| | | King/Queen | | |
| | | LG: Member of Executive Council to Whip | 5% | 5% |
| | | Chairperson: NHTL to Full Time Deputy Chairperson: PHTL. | | |
| | | Magistrates | 6% | 5.5% |
| | | Local Government Municipal Councillor | | 6% |
| | | Full time member of NHTL and full-time member of PHTL and sitting allowances of all members of the NHTL and PHTL | | |
| Senior Traditional Leaders | 8% | 8% | | |
| Headmen and Headwomen | R106 106 | R106 106 | | |
| | | | | |
| | | National Executive and Deputy Ministers | 4% | 0% |

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|-----------------------|------|--|----|---|------|------|
| 2018/2019 | 5.3% | Speaker / the Chairperson of NCOP to House Chairperson | | | | |
| | | Provincial Executive and the Speaker of the Provincial Legislature | | | | |
| | | All Judges | | | | |
| | | Chief Whip: Majority Party to Member: National Assembly / Permanent Delegate: NCOP | | | | |
| | | Deputy Speaker to Member of Provincial Legislature | | | | |
| | | Executive Mayor to Deputy Mayor | | | | |
| | | King/Queen | | | | |
| | | LG: Member of Executive Council to Whip | | | | 2.5% |
| | | Chairperson: NHTL to Full Time Deputy Chairperson: PHTL. | | | | 4% |
| | | Magistrates | | | | |
| | | Local Government Municipal Councillor | | | | |
| | | Full time member of NHTL and full-time member of PHTL and sitting allowances of all members of the NHTL and PHTL | | | | |
| | | Senior Traditional Leaders | | | | |
| Headmen and Headwomen | | | | | | |
| 2019/2020 | 5.2% | POBs earning above R1 500 000 | 3% | POBs earning above R1 5m | 0% | |
| | | POBs earning less than R1 500 000 | 4% | POBs earning between R1m & below R1.5m | 2.8% | |
| | | | | POBs earning between R1m & below R500 000 | 4.5% | |
| | | | | POBs earning below R500 000 | 5.5% | |

COMMISSION'S STATUTORY CONSULTATIONS

27. In terms of the applicable legislation, the Determination of Remuneration of Office-Bearers of Independent Constitutional Institutions Laws Amendment Act 22 of 2014 (the ICI Act) and the provisions of section 12 of the Magistrates Act, 1993, the Commission is required to consult with the Minister of Justice and Correctional Services, the Minister of Finance and the Chief Justice or a person designated by him, prior to the recommendations being submitted to the President, Parliament, and the publication thereof.

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28. The Commission is required to take into account varying inputs from stakeholders and consider certain factors before making its recommendations relating to the remuneration of POBs. The Commission conducted statutory consultations with stakeholders and has received variant submissions. The summary of stakeholders' feedback is provided in the table below:

| STAKEHOLDER | SUMMARY RESPONSE |
|--|--------------------------|
| Minister of Finance | Recommendation supported |
| Minister of Justice and Correctional Services | No response |
| The Chief Justice | Not supported |
| Minister of Cooperative Governance and Traditional Affairs | Recommendation supported |
| Minister of Woman, Youth and Persons with Disabilities | No response |
| Minister of Communications and Digital Technologies | Recommendation supported |
| Minister of Home Affairs | Recommendation supported |
| Lower Courts Remuneration Committee (LCRC) | Not supported |

29. As noted above the Commission received inputs from stakeholders and some at variance with the Commission's recommendations. In general, the Ministers that were consulted supported the recommendations and are alive to the current fiscal difficulties experienced by the country and the dire financial strains that will have a negative impact on the fiscus, if salaries are increased.
30. In respect of the Judiciary, the Chief Justice at the instance of the Judges Remuneration Committee notes and other Judges Association that the POBs had to forgo any entitlement to a cost of living salary adjustment for 2019/2020 financial year as a result of the current parlous state of the economy. However, they request the Commission to consider and accept as from the financial year 2020/2021, to accept the principle that salary adjustments which, at a minimum, are based on the annual cost of living increase as established by the Treasury must be considered separately from those of other public office bearers by virtue of the constitutional prohibition against the reduction of Judges' salaries, allowances and benefits.
31. They further contend that Section 176 (3) of the Constitution¹ should be construed to ensure that Judges are automatically entitled to a determined annual cost of living adjustment based on the CPI (as determined by the Treasury), which they note has been absent from the recommendations of the Commission subsequent to the significant adjustment of judicial salaries in 2008. The Commission notes the view held by the Judges that the constitution protects their remuneration from erosion due to the effects or any other factor that may contribute to a reduction of their remuneration.
32. The Commission in relation to the remuneration of Judges is of the view that Section 176(3) protects only the nominal value of their remuneration and therefore does not guarantee inflationary adjustments. Furthermore, the Commission does and has in the past considered the Judiciary

¹ Section 176 (3) provides that: The salaries, allowances and benefits of judges may not be reduced.

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independently of other POB's and where applicable, have recommended disparate increases. However, the current financial conditions weigh heavily on the entire country and cannot be ignored.

33. The Lower Courts Remuneration Committee raises a valid concern that Public Servants and in particular Public Prosecutors have in the past few years received increases above inflation while the Magistracy within the framework of POBs, has received lower than inflation salary increments. The Commission relies on its interaction with National Treasury with regards to the fiscal affordability of any increase of salaries and has to that extent appropriately included this in the previous recommendations. It should be noted that there have been times in the past, where the Commission heeded the advice of National Treasury only for the Public Sector to receive an increment well above inflation.
34. The Commission has noted the concerns raised by the Lower Courts Remuneration Committee with regard to the disparities in remuneration between Judges and Magistrates and has in the past recommended differentiate increases for Judges and Magistrates.

ANNUAL REMUNERATION RECOMMENDATIONS FOR 2020/2021

35. The Commission has considered the fiscal condition of the country demonstrated in the previous financial years (2018/2019 and 2019/2020), the State's wage bill and the impact of POBs' salary increment on the fiscus and general economic status of the country which has been negatively affected by the Covid-19 pandemic, affordability of the fiscus, relevant legislation and all other factors referred to above.
36. As a result, the Commission recommends that there be no increment (0%) to the remuneration of all POBs' categories.

Signed at Mmabatho on 30 / 03 / 2021


JUDGE MM LEEUW
CHAIRPERSON

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