

REPUBLIC OF SOUTH AFRICA

**REMUNERATION OF PUBLIC
OFFICE BEARERS BILL**

(As introduced in the National Assembly)

(MINISTER FOR PROVINCIAL AFFAIRS AND CONSTITUTIONAL DEVELOPMENT)

[B 16—98]

REPUBLIEK VAN SUID-AFRIKA

**WETSONTWERP OP DIE
BESOLDIGING VAN OPENBARE
AMPSBEKLEËRS**

(Soos ingedien in die Nasionale Vergadering)

(MINISTER VIR PROVINSIALE SAKE EN STAATKUNDIGE ONTWIKKELING)

[W 16—98]

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BILL

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 Executive Councils, members of provincial legislatures and members of Municipal Councils; to provide for a framework for determining pension and medical aid benefits of office bearers; to provide for the repeal of certain laws; and to provide for matters connected therewith.

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

Definitions

1. In this Act, unless the context indicates otherwise—
 - (i) “allowances” means any allowance, including out of pocket expenses, which forms part of an office bearer’s conditions of service, other than a salary and benefits; (viii) 5
 - (ii) “benefits” means the contributions contemplated in sections 8(2) and 9(2); (xii)
 - (iii) “Commission” means the Independent Commission for the Remuneration of Public Office-bearers established in terms of the Independent Commission for the Remuneration of Public Office-bearers Act, 1997; (iv) 10
 - (iv) “Deputy President” includes, until 30 April 1999, Executive Deputy Presidents; (i)
 - (v) “Executive Council” means the Executive Council of a province concerned; (x) 15
 - (vi) “members of the Cabinet” means the persons referred to in section 91(1) of the Constitution; (v)
 - (vii) “Minister” means the Minister for Provincial Affairs and Constitutional Development; (vi) 20
 - (viii) “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 Leaders, a member of the Council of Traditional Leaders and a member of a Municipal Council; (ii) 25
 - (ix) “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 an office bearer contributes; (vii)
 - (x) “permanent delegate” means a permanent delegate to the National Council of Provinces contemplated in section 60(2)(b) of the Constitution; (xi) 30
 - (xi) “the Constitution” means the Constitution of the Republic of South Africa, 1996 (Act No. 108 of 1996); (iii)
 - (xii) “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), a Chief (Morena, Kgosi, Inkosi, Hosi or Ikosi) or a Headman (Morenana, Ramotse, Kgosana, Gota, Ndhuna or Isibonda) and who is recognised as such in terms of a law and entitled to receive a salary. (ix) 35

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; 5
 - (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. 10
- (3) The National Assembly may determine different portions under subsection (2) in respect of different amounts of remuneration. 15
- (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 as contemplated in section 87 of the Constitution.
- (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. 20
- (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, widower, dependant or nominee, including his or her estate, as he or she may elect. 25
- (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 dependant 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. 30
- (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. 35

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; 40
 - (b) the role, status, duties, functions and responsibilities of different members of the National Assembly and different permanent delegates;
 - (c) any recommendations which the National Assembly or the National Council of Provinces may present; 45
 - (d) affordability of different levels of remuneration of office bearers;
 - (e) current principles and levels of remuneration in society generally; and
 - (f) inflationary increases.
- (2) Despite 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. 50
- (3) Section 8(1)(d) of the Income Tax Act, 1962 (Act No. 58 of 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, in terms of subsection (3), determine different portions in respect of different amounts of remuneration. 5

(5) The payment of salaries and allowances of members of the National Assembly and permanent delegates is 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 in monthly instalments to every member of the National Assembly or every 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, the first month to be reckoned— 10

(a) in the case of a member of the National Assembly or in the case of a member of the National Assembly nominated to fill a vacancy, from the date on which such office bearer begins to perform his or her functions in the National Assembly as contemplated in section 48 of the Constitution; and 15

(b) in the case of a permanent delegate or in the case of a permanent delegate nominated to fill a vacancy, from the date on which such delegate begins to perform his or her functions in the National Council of Provinces as contemplated in section 62(6) of the Constitution. 20

(7) The amount payable in respect of salaries and allowances to a member of the National Assembly and a permanent delegate 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. 25

(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 30

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; 35
 (b) the role, status, duties, functions and responsibilities of a Deputy President, a Minister and a Deputy Minister;

(c) any recommendations which the National Assembly may present;
 (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. 40

(2) Despite 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. 45

(4) The President may determine different portions under subsection (3) in respect of different amounts of remuneration. 50

(5) Every Deputy President, Minister and Deputy Minister shall be paid the salary and allowances to which such office bearer is entitled in terms of this section in monthly instalments, the first month to be reckoned from the date on which such office bearer begins to perform his or her functions as contemplated in section 95 of the Constitution.

(6) The amount payable in respect of salaries and allowances shall— 55
 (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. 5

Salaries and allowances of traditional leaders, members of provincial Houses of Traditional Leaders and members of Council of Traditional Leaders 10

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; 15
- (b) the role, status, duties, functions and responsibilities of different categories of traditional leaders, different members of the Houses of Traditional Leaders in the various provinces and different members of the Council of Traditional Leaders;
- (c) any recommendations which the Council of Traditional Leaders, after consultation with the respective Houses of Traditional Leaders in the various provinces, may present; 20
- (d) the affordability of different levels of remuneration of public 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 and allowances for equal work performed; 25
- (g) the enhancement of co-operation, unity and understanding between traditional communities nationally; and
- (h) the extent of the role and functions of traditional leaders across provincial borders. 30

(2) Despite 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 and allowances 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 and allowances. 35

(3) The amount payable in respect of salaries and allowances to traditional leaders, members of provincial Houses of Traditional Leaders and members of the Council of Traditional Leaders shall be paid from monies appropriated for that purpose by Parliament in respect of the Council of Traditional Leaders or by a provincial legislature in respect of traditional leaders and members of provincial Houses of Traditional Leaders, as the case may be. 40

Upper limit of salaries and allowances of Premiers, members of Executive Councils and members of provincial legislatures 45

6. (1) The upper limit of salaries and allowances of a Premier, members of an Executive Council and members of a provincial legislature 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; 50
- (b) the role, status, duties, functions and responsibilities of a Premier, members of an Executive Council and the different members of a provincial legislature;
- (c) any recommendations which a provincial legislature may present;
- (d) the affordability of different levels of remuneration of political office bearers;
- (e) the current principles and levels of remuneration in society generally; 55

- (f) the need for the promotion of equality and uniformity of salaries, allowances and benefits for equal work performed;
- (g) the provision of uniform norms and standards nationally to address disparities; and
- (h) inflationary increases. 5
- (2) Despite 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 publication of a proclamation referred to in subsection (1)— 10
- (a) each Premier must, having regard to the provisions of subsection (1) and the upper limit as set out in the said proclamation, determine the salaries and allowances of members of the Executive Council and the different 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. 15
- (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. 20
- (5) The President may determine different portions in terms of subsection (4) in respect of different amounts of remuneration. 25
- (6) The payment of salaries and allowances to 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 in monthly instalments to the Premier, each member of the Executive Council and each member of the provincial legislature, the salary and allowances to which such office bearer is entitled in terms of this section, the first month to be reckoned— 30
- (a) in the case of a member of the provincial legislature or a member of a provincial legislature nominated to fill a vacancy, from the date on which such office bearer begins to perform his or her functions as contemplated in section 107 of the Constitution; 35
- (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. 40
- (8) The salary and allowances payable to 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. 45
- (9) Any salary, allowances or benefits paid in terms of a law to a Premier, a member of the Executive Council or a member of the provincial legislature prior to the coming into operation of this Act, shall be deemed to have been determined as such under this Act. 50

Upper limit of salaries and allowances of members of Municipal Councils

7. (1) The upper limit of salaries and allowances of the different members of Municipal Councils shall from time to time be determined by the Minister, after consultation with the member of the Executive Council responsible for local government in each province, by notice in the *Gazette* after taking into consideration— 55
- (a) the recommendations of the Commission;
- (b) the respective role, status, duties, functions and responsibilities of the different members of Municipal Councils;

- (c) the different categories or types of municipalities, having regard to their respective powers, duties and functions;
 - (d) any recommendations which the national and provincial organisations contemplated in the Organised Local Government Act, 1997 (Act No. 52 of 1997), may present; 5
 - (e) the gross income, the area of jurisdiction and the nature of settlement of each municipality;
 - (f) the affordability of different levels of remuneration of public office bearers;
 - (g) the current principles and levels of remuneration in society generally;
 - (h) the need for the promotion of equality and uniformity of salaries, allowances and benefits for equal work performed; 10
 - (i) the provision of uniform norms and standards nationally to address disparities; and
 - (j) inflationary increases.
- (2) Despite 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: 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. 15 20
- (3) The member of the Executive Council responsible for local government in the province concerned must, having regard to—
- (a) the provisions of subsection (1);
 - (b) the upper limit as set out in the said notice; and
 - (c) the financial year of Municipal Councils, 25
- by notice in the *Provincial Gazette* determine the salaries and allowances of members of Municipal Councils in that province: Provided that the member of the Executive Council responsible for local government in the province concerned may differentiate between different Municipal Councils as well as the different members of a Municipal Council. 30
- (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 have been determined under this Act. 35

Pension benefits

- 8.** (1) There shall be paid out of and as a charge against the pension fund of which an office bearer is a member, such pension and other benefits as may be determined in terms of the law governing such pension fund.
- (2) The amount of the contribution to be made to the pension fund by the national government, of which a Deputy President, a Minister, a Deputy Minister, a member of the National Assembly or a permanent delegate is a member, shall, subject to any law, be determined by the Minister of Finance after taking into consideration the recommendations of the Commission, and such amount shall annually form a charge against the National Revenue Fund or be paid from monies appropriated by Parliament for that purpose, as the case may be. 40 45
- (3) (a) The upper limit of the contribution to be made to the pension fund of which a Premier is a member, shall be determined by the President by proclamation in the *Gazette* after taking into consideration the recommendations of the Commission.
- (b) The provincial legislature concerned shall by resolution, if the provincial legislature is then sitting, or if it is in recess, within 30 days of its next ensuing sitting, determine the amount of the contribution and such amount shall annually form a charge against the Provincial Revenue Fund. 50
- (4) (a) The upper limit of the contribution to be made to the pension fund of which a member of the Executive Council or a member of a provincial legislature is a member, shall be determined by the President by proclamation in the *Gazette* after taking into consideration the recommendations of the Commission. 55

(b) The Premier of the province concerned shall determine the amount of the contribution by notice in the *Provincial Gazette* and such amount shall annually form a charge against the Provincial Revenue Fund.

(5) The amount of the contribution to be made to the pension fund by a Municipal Council, of which a member of a Municipal Council is a member, shall be determined by the Municipal Council concerned after taking into consideration the recommendations of the Commission, and such amount shall annually form a charge against the budget of the municipality concerned. 5

(6) For purposes of this section, but subject to the recommendations of the Commission, a traditional leader, a member of a provincial House of Traditional Leaders and a member of the Council of Traditional Leaders are excluded. 10

Medical aid benefits

9. (1) An 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 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. 15

(2) The amount of the contribution to be made to the medical aid scheme by the national government, of which a Deputy President, a Minister, a Deputy Minister, a member of the National Assembly or a permanent delegate is a member, shall, subject to any law, be determined by the Minister of Finance after taking into consideration the recommendations of the Commission, and such amount shall annually form a charge against the National Revenue Fund or be paid from monies appropriated by Parliament for that purpose, as the case may be. 20

(3) (a) The upper limit of the contribution to be made to the medical aid scheme of which a Premier is a member, shall be determined by the President by proclamation in the *Gazette* after taking into consideration the recommendations of the Commission. 25

(b) The provincial legislature concerned shall by resolution, if the provincial legislature is then sitting, or if it is in recess, within 30 days of its next ensuing sitting, determine the amount of the contribution and such amount shall annually form a charge against the Provincial Revenue Fund. 30

(4) (a) The upper limit of the contribution to be made to the medical aid scheme of which a member of the Executive Council or a member of a provincial legislature is a member, shall be determined by the President by proclamation in the *Gazette* after taking into consideration the recommendations of the Commission.

(b) The Premier of the province concerned shall determine the amount of the contribution by notice in the *Provincial Gazette* and such amount shall annually form a charge against the Provincial Revenue Fund. 35

(5) The amount of the contribution to be made to the medical aid scheme by a Municipal Council, of which a member of a Municipal Council is a member, shall be determined by the Municipal Council concerned after taking into consideration the recommendations of the Commission, and such amount shall annually form a charge against the budget of the municipality concerned. 40

(6) For purposes of this section, but subject to the recommendations of the Commission, a traditional leader, a member of a provincial House of Traditional Leaders and a member of the Council of Traditional Leaders are excluded. 45

Repeal of laws

10. 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. 50

Short title

11. This Act shall be called the Remuneration of Public Office Bearers Act, 1998, and shall come into operation on a date determined by the President by notice in the *Gazette*.

**MEMORANDUM ON THE OBJECTS OF THE REMUNERATION OF
PUBLIC OFFICE BEARERS BILL, 1998****PART I****OBJECTS AND EXPLANATION**

Section 219(1) of the Constitution of the Republic of South Africa, 1996 (Act No. 108 of 1996), provides that an Act of Parliament must establish 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 and 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. The main object of the Bill is therefore to provide for such a framework in respect of all such office bearers. A draft Bill was published for comment in the *Government Gazette* in September 1997.

PART II**CLAUSE BY CLAUSE ANALYSIS**

2.1 Clause 1 contains the necessary definitions.

2.2 Clause 2 provides for a framework for the determination of the President's salary and allowances as well as for the President's pension and medical aid benefits. This Clause also provides for the exemption of certain portions of the remuneration of the President in terms of the Income Tax Act, 1962 (Act No. 58 of 1962).

2.3 Clause 3 provides for a framework for the determination of the salaries and allowances of members of the National Assembly, excluding members of the Cabinet and Deputy Ministers, as well as for the salaries and allowances of permanent delegates to the National Council of Provinces. This Clause also prohibits such an office bearer from receiving salaries for different public offices which he or she holds simultaneously and further provides for the exemption of certain portions of the remuneration of such office bearers in terms of the Income Tax Act, 1962 (Act No. 58 of 1962). It further provides for the date on which such an office bearer becomes entitled to such salary and allowances and also contains a transitional provision with regard to the payment of salaries and allowances in terms of existing laws.

2.4 Clause 4 provides for a framework for the determination of the salaries and allowances of the Deputy President, Ministers and Deputy Ministers. This Clause also prohibits such an office bearer from receiving salaries for different public offices which he or she holds simultaneously and further provides for the exemption of certain portions of the remuneration of such office bearers in terms of the Income Tax Act, 1962 (Act No. 58 of 1962). It further provides for the date on which such an office bearer becomes entitled to such salary and allowances and also contains a transitional provision with regard to the payment of salaries and allowances in terms of existing laws.

2.5 Clause 5 provides for a framework for the determination of the salaries and allowances of traditional leaders, members of provincial Houses of Traditional Leaders and members of the Council of Traditional Leaders. This Clause also prohibits such an office bearer from receiving salaries for different public offices which he or she holds simultaneously, but does not prohibit the payment of out of pocket expenses for the performance of functions other than those for which such traditional leader receives a salary and allowances. This Clause further provides that the salaries and allowances of such office bearers are to be paid from monies appropriated by Parliament in respect of the Council of Traditional Leaders or a provincial legislature, as the case may be.

2.6 Clause 6 provides for a framework for the determination of the upper limit of salaries and allowances of a Premier, members of the Executive Councils in the

provinces concerned as well as members of the provincial legislatures. This Clause also prohibits such an office bearer from receiving salaries for different public offices which he or she holds simultaneously. It further provides that once the upper limit of the salaries and allowances has been determined by the President, the final determination of the salaries and allowances of members of the Executive Council and members of the provincial legislature are fixed by the Premier concerned by notice in the *Provincial Gazette* and the salary and allowances of the Premier by a resolution adopted by the provincial legislature concerned. This Clause also provides for the exemption of certain portions of the remuneration of such office bearers in terms of the Income Tax Act, 1962 (Act No. 58 of 1962). It further provides that the payment of salaries and allowances of such office bearers is subject to the rules and orders of the provincial legislature concerned. It also provides for the date on which such an office bearer becomes entitled to such salary and allowances and also contains a transitional provision with regard to the payment of salaries and allowances in terms of existing laws.

2.7 Clause 7 provides for a framework for the determination of the upper limit of salaries and allowances of members of Municipal Councils. This Clause provides that the upper limit will be determined by the Minister for Provincial Affairs and Constitutional Development after consultation with the Member of the Executive Council responsible for local government in each province. Once the upper limit has been determined, the Member of the Executive Council responsible for local government in each province must, having regard to the framework and the upper limit as well as the financial year of Municipal Councils, by notice in the *Provincial Gazette* determine the actual salaries and allowances of municipal councillors. This Clause also prohibits such an office bearer from receiving salaries for different public offices which he or she holds simultaneously, but does not preclude the payment of out of pocket expenses. Clause 7 further provides that the salaries and allowances of members of Municipal Councils shall annually form a charge against and shall be paid from the budget of a municipality concerned. Clause 7 finally contains a transitional provision with regard to the payment of salaries and allowances of such office bearers in terms of existing laws.

2.8 Clauses 8 and 9 provide that all office bearers, with the exclusion of traditional leaders, members of provincial Houses of Traditional Leaders and members of the Council of Traditional Leaders, are entitled to pension benefits and medical aid benefits. Both Clauses contain provisions which provide for the determination of the contributions which the State or a municipality, as the case may be, must make to the pension fund or medical aid scheme of which an office bearer is a member.

2.9 Clause 10 provides for the repeal of certain laws which have become redundant.

2.10 Clause 11 contains the short title of the Bill and commencement.

PART 3

BODIES CONSULTED

Speaker of the National Assembly
Chairperson of the National Council of Provinces
Speakers of the nine provincial legislatures
Premiers of the nine provinces
Directors-General of the nine provinces
Local Government MINMEC
Office of the President
Department of Finance
South African Local Government Association
Council of Traditional Leaders
Houses of Traditional Leaders
Steyn Commission
Municipal Councillors Pension Fund

PART 4**PARLIAMENTARY PROCEDURE**

In the opinion of the Department of Constitutional Development and State Law Advisers the Bill must be dealt with in accordance with the procedure prescribed by section 76(1) of the Constitution.

The Bill establishes a framework for the remuneration of persons holding public office and must be enacted in accordance with section 219 of the Constitution.

In terms of section 76(4)(b) of the Constitution legislation “envisaged in Chapter 13 of the Constitution” (i.e. sections 213 to 230), “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).