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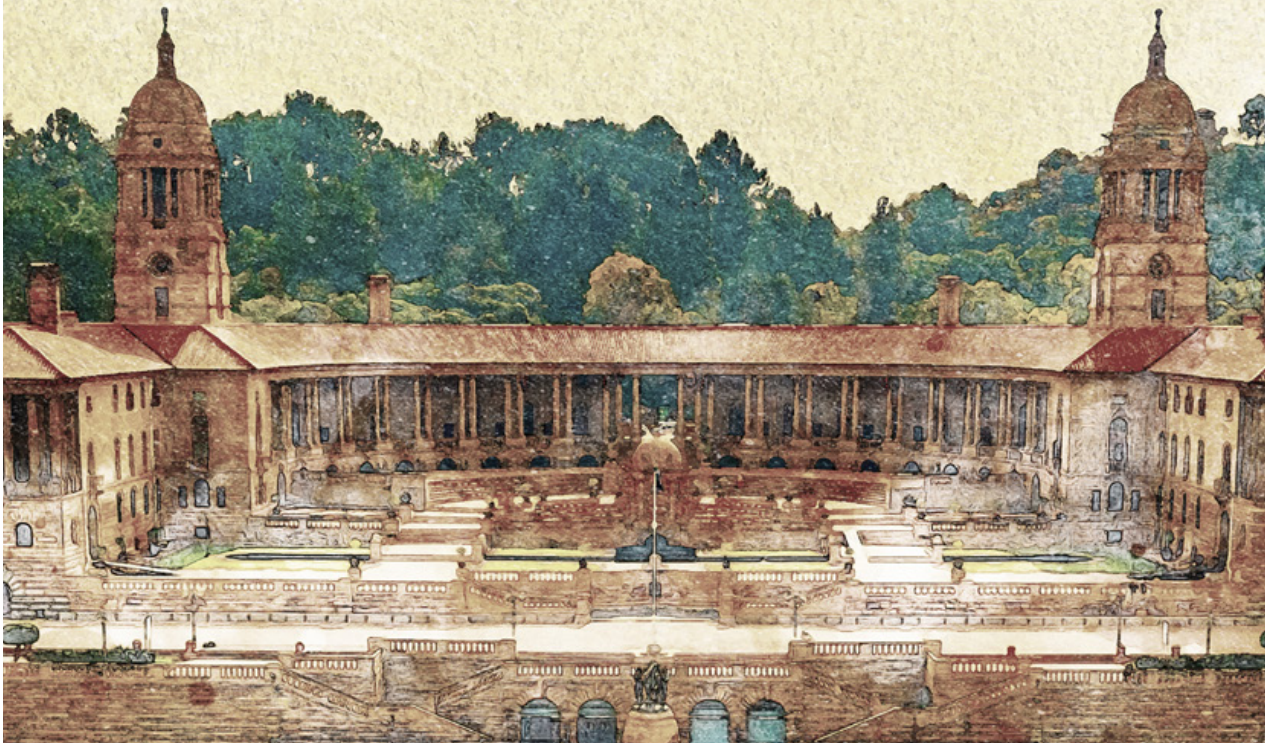
GENERAL NOTICES • ALGEMENE KENNISGEWINGS

THE PRESIDENCY

NOTICE 2786 OF 2024



CONSOLIDATED REMUNERATION REVIEW REPORT 2024



Submission of the Major Review Report to the President of the Republic of South Africa

To the President of the Republic of South Africa
His Excellency President Cyril Ramaphosa
Union Buildings
Pretoria
South Africa

Dear President,

I have the honour to submit to you, in terms of section 8(4) of the Independent Commission for the Remuneration of Public Office Bearers Act, 1997 (Act No. 92 of 1997), the recommendations of the Commission following a major review of the remuneration structures and practices relating to all public office bearer positions in the Republic of South Africa.

With kind regards

Judge Mashangu M Leeuw
Chairperson

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ABBREVIATIONS AND ACRONYMS

C&AG	Comptroller and Auditor General (C&AG)
CGE	Commission on Gender Equality
COGTA	Cooperative Governance and Traditional Affairs
CRL	Commission for the Promotion and Protection of the Rights of Cultural, Religious and Linguistic Communities
DCOG	Department of Cooperative Governance
DPP	Deputy Public Protector
DPSA	Department of Public Service and Administration
DTA	Department of Traditional Affairs
FFC	Financial and Fiscal Commission
FISD	Forum of Institutions Supporting Democracy
GEMS	Government Employees' Medical Scheme
GEPF	Government Employees' Pension Fund
HDI	Human Development Index
ICASA	Independent Communications Authority of South Africa
IEC	Independent Electoral Commission
ICI	Independent Constitutional Institution
IDP	Integrated Development Plan
ILO	International Labour Organization
LHTKL	Local House of Traditional and Khoi-San Leaders
MEC	Member of the Executive Council
NKSC	National Khoi & San Council
NHI	National Health Insurance
NHTKL	National House of Traditional and Khoi-San Leaders
NQF	National Qualifications Framework
NRR	Net replacement ratio
NYDA	National Youth Development Agency
OCJ	Office of the Chief Justice
PanSALB	Pan South African Language Board
PARMED	Parliamentary and Provincial Medical Aid Scheme
PHTKL	Provincial House of Traditional and Khoi-San Leaders
POB	Public Office-Bearers
POBPF	Political Office Bearers' Pension Fund
PTL	Principal Traditional Leader
PP	Public Protector
PSC	Public Service Commission
PTL	Principal Traditional Leader
SAHRC	South African Human Rights Commission
SALGA	South African Local Government Association
SCoF	Standing Committee on Finance
SRC	Salaries Remuneration Commission
STL	Senior Traditional Leader
TKSL	Traditional and Khoi-San Leadership

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DEFINITIONS AND KEY CONCEPTS

The compa ratio, or comparative ratio

Is a metric used in compensation management to compare an employee's current salary to the midpoint of the salary range for their job or pay grade. It helps organizations determine whether an employee is being paid fairly in relation to the market or internal pay structure.

Defined benefit fund

A fund where the benefits are defined in terms of the rules. In this type of fund, benefits are generally guaranteed and are not dependent on the investment returns of the fund or the level of member and employer contributions.

Defined contribution fund

A fund to which an employee and / or an employer contribute based on terms agreed to by both parties. The employee decides how the pension funds are to be invested and also bears the risk of loss due to poor investments.

Job grading

Job grading / evaluation is a systematic process to determine the relative value of each position in an organisational structure in relation to other positions within the same structure. The position and not the incumbent is graded, evaluating the degree of complexity of a particular job content.

Pay relativity

It refers to the relationship between different levels of payment within an organization or between different jobs. It is used to ensure that pay differences are fair, consistent, and based on objective criteria such as job responsibilities, skills required, and market rates.

Public Office-Bearer

In the ordinary meaning, a Public Office-Bearer is a person who holds any public office in government. However, throughout this report the word "Public Office-Bearer" bears the narrow meaning assigned to it by legislation. The Independent Commission for the Remuneration of Public Office Bearers Act 92 of 1997 (the Commission Act) and The Remuneration of Public Office Bearers Act 20 of 1998 (as amended) (the Remuneration Act) restrict the Commission's jurisdiction in respect of Public Office-Bearers to the following positions in public office:

- The President and Deputy President
- Members of Cabinet
- Deputy Ministers
- Members of the National Assembly
- Permanent Delegates to the National Council of Provinces
- Judges and Magistrates
- Members of the National and Provincial Houses of Traditional Leaders
- Traditional Leaders
- Premiers and Members of an Executive Council of a Province
- Members of a Provincial Legislature
- Executive Mayors/Mayors and Members of a Municipal Council
- Members of the Independent Constitutional Institution (ICI)
    - o South African Human Rights Commission (SAHRC)
    - o Auditor-General of South Africa (AGSA)
    - o Independent Communications Authority of South Africa (ICASA)
    - o Electoral Commission of South Africa (IEC)
    - o Financial and Fiscal Commission (FFC)
    - o Commission for the Promotion and Protection of the Rights of Cultural, Religious and Linguistic Communities (CRL)
    - o Commission on Gender Equality (CGE); and
    - o Public Protector and Deputy Public Protector South Africa (PP and DPP).

The following Independent Constitutional Institution (ICIs) do not fall within the purview of the Commission:

- National Youth Development Agency (NYDA); and
- The Pan South African Language Board (PanSALB).

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Remuneration

In this report the Commission considers remuneration to refer to the total monetary value of the salary, allowances and benefits of any office-bearer, as referred to in section 8(4) (a) and (b) of the Commission Act, and which is to be clearly distinguished from "tools of trade".

Role profiling

Role profiling is a critical foundational step in determining the remuneration framework. It is the accurate, realistic and current picture of what tasks constitute a job.

Stakeholders

A stakeholder is any individual, group, or entity that has an interest or concern in a particular project, organisation, or system and can either affect or be affected by the institution. Stakeholders can be internal or external to the project or organisation, and they may have varying levels of influence, investment, or involvement in the endeavour.

Tools of trade

Section 8(4) (c) of the Commission Act requires the Commission to make recommendations on the resources which are necessary to enable an office-bearer to perform his or her functions effectively. Resources or tools which assist an office-bearer to do his or her work properly are commonly referred to as "tools of trade". They do not form part of the remuneration package of an office-bearer but are furnished and paid for by the State. Common examples of tools of trade would include the following: workplace equipment and support, means of communication and technology (mobile phones and electronic communication tools), means of transport, and access to security.

Total remuneration package (total cost to employer)

The term "total remuneration package" refers to a composite, comprehensive and flexible remuneration package consisting of a set of core benefits and allowances, and a flexible portion, made up of the following:

- Basic salary;
- Medical aid;
- Retirement funding;
- Risk benefits (disability and life insurance); and
- A flexible portion to be structured in accordance with individual needs.

The core characteristic of the total remuneration package is that it represents the total amount of all cash or cash equivalents paid to the employee as compensation (basic salary and certain benefits and allowances) but does not represent a total cost to the employer. Ordinarily, it does not permit hidden remuneration costs for the employer or undisclosed monetary benefits or allowances for the office bearer. For the purposes of this report, the total remuneration package has been interpreted as consisting of the following components:

- Basic salary;
- Motor vehicle allowance;
- Employer's contribution to pension fund;
- Employer's contribution to medical aid fund; and
- Where applicable, a housing allowance, 13th cheque, and telephony allowance.

LEGISLATIVE FRAMEWORK APPLICABLE TO SECTORS

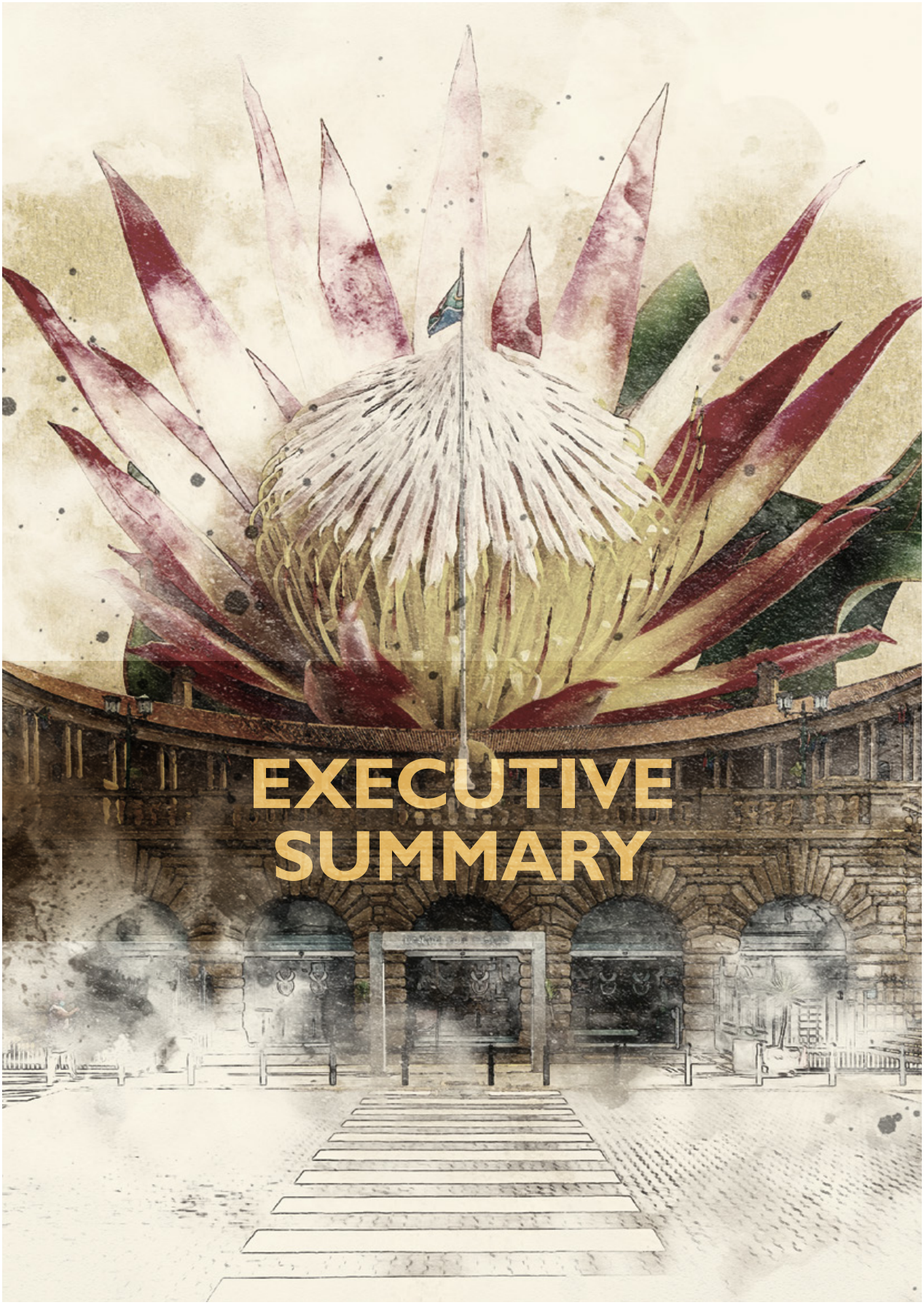
The Commission obtains its primary mandate from the following legislation:

- The Constitution of the Republic of South Africa Act 1996;
- The Independent Commission for the Remuneration of Public Office Bearers Act 92 of 1997 (as amended); and
- The Remuneration of Public Office Bearers Act 20 of 1998 (as amended).

Other related Acts include the following:

- Magistrates Act 90 of 1993;
- Judges' Remuneration and Conditions of Service Act 47 of 2001;
- Judicial Officers (Amendment of Conditions of Service) Act 28 of 2003;
- Traditional and Khoi-San Leadership Act 3 of 2019;
- Municipal Structures Act 17 of 1998;
- Municipal Systems Act 32 of 2000; and
- Determination of Remuneration of Office-Bearers of Independent Constitutional Institutions Laws Amendment Act 22 of 2014 (which came into effect on 1 April 2019).

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EXECUTIVE
SUMMARY

EXECUTIVE SUMMARY

Background to, and purpose of, the Commission

The Independent Commission for the Remuneration of Public Office-Bearers ("The Commission") is a statutory body established by section 2 of the Independent Commission for the Remuneration of Public Office-Bearers Act, 1997[1] (Commission Act).

The Commission obtains its mandate from the following legislation:

- Section 219 of the Constitution of the Republic of South Africa Act 108 of 1996 (as amended);
- The Independent Commission for the Remuneration of Public Office Bearers Act 92 of 1997 (as amended); and
- The Remuneration of Public Office Bearers Act 20 of 1998 (as amended).

Section 219 (1) of the Constitution of the Republic of South Africa[2] provides that:

> (1) An Act of Parliament must establish a framework for determining-
>
> (a) the salaries, allowances and benefits of members of the National Assembly, permanent delegates to the National Council of Provinces, members of the Cabinet, Deputy Ministers, Traditional Leaders and members of any Councils of Traditional Leaders; and
> (b) the upper limit of salaries, allowances or benefits of members of provincial legislatures, members of Executive Councils and members of Municipal Councils of the different categories.

Section 219 (2) of the Constitution prescribes that:

> (2) National legislation must establish an independent commission to make recommendations concerning the salaries, allowances and benefits referred to in subsection (1).

The Commission Act was enacted in accordance with section 219 (2) of the Constitution.
Furthermore, Section 219 (5) of the Constitution provides that:

> (5) National legislation must establish frameworks for determining the salaries, allowances and benefits of Judges, the Public Protector, the Auditor-General and members of any commission provided for in the Constitution, including the broadcasting authority referred to in section 192 of the Constitution (emphasis added).

Section 219 (5)[3] culminated in the enactment of the Judicial Officers (Conditions of Service) Amendment Act, 2003[4] and the Determination of the Remuneration of Independent Constitutional Institutions Laws Amendment Act, 2014[5] (ICI Act). These two Acts amended the Commission Act so as to extend the definition of Public Office-Bearers to include Judges, Magistrates and members of the ICIs.

The Commission's primary objective is to make recommendations to the President of the Republic of South Africa ("the President") concerning salaries, allowances, benefits of Public Office-Bearers and for other matters connected therewith such as resources that will enable Public Office-Bearers to effectively perform their respective duties[6] (tools of trade). The Commission is, however, precluded from making recommendations concerning the necessary tools of trade that will enable Judges and Magistrates to perform their functions effectively.[7]

The need to review the remuneration of Public Office-Bearers

Previously, the Commission, chaired by Justice Dikgang Moseneke (as he then was), hereinafter referred to as the Moseneke Commission, undertook its first major review and made recommendations in March 2007, regarding the salary structures of Public Office-Bearers. This major review did not include office-bearers of the ICIs who were only added as Public Office-Bearers in terms of the ICIs Act which came into operation in 2019.

1 Act 92 0f 1997, as amended.
2 The Constitution of the Republic of the South Africa, 1996.
3 Act No. 108 of 1996 last amended by the Constitution Seventeenth Amendment Act of 2012.
4 Act No. 28 of 2003, as amended.
5 Act No. 22 of 2014, as amended.
6 See section 8 (4) (a), (b) and (c) of the Commission Act and Chapter on Tools of Trade refer to paragraph 2.2.10.
7 See section 8 (4) (c) of the Commission Act, as amended.

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In April 2008, the Moseneke Commission published the second supplementary review report, which dealt with pension and medical aid benefits of Public Office-Bearers.

The third and final supplementary review report, which was published in August 2011 under the chairmanship of Judge Seriti, considered issues relating to tools of trade of Public Office-Bearers excluding the Judiciary.

Since the first major review, this Commission deemed it necessary to undertake a major review of the Public Office-Bearers albeit staggered over a period of time. The purpose is to ensure that changing conditions in our democratic project are reflected in public office bearer's conditions of service.

The accumulation of submissions received by the Commission over the years, the changes in the responsibilities borne by the Judiciary since the last major review as well as the addition of the ICIs and the Khoi-San as Public Office-Bearers, including changes in socio-economic conditions, informed the need for a major review.

The comprehensive review of the remuneration of the Public Office-Bearers provides an opportunity to revisit the scope and content of the roles, the size and complexity, as well as the appropriateness of the remuneration structure of Public Office-Bearers including the tools of trade.

In addition, the present comprehensive review has been undertaken at a time when the Republic of South Africa reflects on its thirtieth year of democracy. Since the dawn of South Africa's democracy, significant changes in the form of socio-economic factors have played a vital role in the determination of the remuneration of Public Office-Bearers. The Commission is alive to the challenges facing the country relating to the reduction of the public sector wage bill, the structural inequalities in the economy, reformation of taxation, pension and other benefits. The Commission endeavours where possible, to create parity of the Public Office-Bearers' positions and remuneration. It also strives to embrace the vast and leading practices relating to the appropriate remuneration patterns from similar global and national markets.

Section 1 of the Commission Act added ICIs in the definition of Public Office-Bearers in 2019. The purpose of the ICI Act is to bring uniformity in the procedures of determining the salaries, allowances and benefits of office-bearers where appropriate and investigate and make recommendations of their salaries, allowances, benefits and tools of trade. The ICI Public Office-Bearers are included in the review.

Section 1 of the Constitution Seventeenth Amendment Act of 2012 added subsection (6) to section 165 of the Constitution. The subsection provides that "The Chief Justice is the head of the Judiciary and exercises responsibility over the establishment and monitoring of norms and standards for the exercise of the judicial functions of all courts."

In addition, The Superior Courts Act[8] was enacted in accordance with section 165 of the Constitution, which provides, amongst others, for the administration of the judicial functions of all courts. Section 8 of the Superior Courts Act, which provides for the judicial management of judicial functions, has, amongst others, increased the responsibilities of the Chief Justice as well as those of the Heads of Court, in addition to their core functions as judicial officers.

Guiding principles

The guiding principles adopted by the Commission are underpinned by the cooperative governance principles, which enhance good governance and separation of powers[9] as entrenched in the Constitution.

Section 8(6) of the Commission Act provides that, when making annual recommendations, the Commission must take the following factors into account:

- The role, status, duties, functions and responsibilities of the Public Office-Bearers concerned when making its recommendations
- The affordability of different levels of remuneration of Public Office-Bearers
- Current principles and levels of remuneration, particularly in respect of organs of state, and in society generally
- Inflationary increases
- The available resources of the state
- Any other factor which, in the opinion of the Commission, is relevant

8 Act 10 of 2013

9 See section 41 of Act No. 108 of 1996 read with section 43, 85 and 165 of the Constitution.

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Section 8 (3A) of the Commission Act[10] behoves the Commission to have regard to the provisions of section 2 of the Judges Remuneration and Conditions of Employment Act, 2001[11] and section 12 of the Magistrates Act, 1993[12]. These provisions provide for consultations with the Minister of Finance and Chief Justice or a person designated by the Chief Justice.

Furthermore, section 8 (6) (b) of the Commission Act has added the following factors which the Commission must take into account when considering the remuneration of Independent Constitutional Institutions Public Office-Bearers. It provides, amongst others, that the Commission must, where applicable, also take the following factors into account:

1. The salary, allowances and benefits of members of other constitutional institutions;
2. Affordability in relation to the responsibilities of the constitutional institution concerned; and
3. The level of expertise and experience required of a member of the constitutional institution concerned.

The Moseneke Commission, in the first review, formulated the following underlying guiding principles to be applied in the exercise of their discretion when determining remuneration for public office bearers:

- Those whose primary object is drawn from the objectives and values of our constitutional democracy; and
- Principles that serve as a "practical guide in formulating a just remuneration dispensation".

The Commission adopts and aligns itself with the above-mentioned principles and the exposition thereof by the Moseneke Commission.[13]

This Commission echoes the views held by the Moseneke Commission that:

- The manner in which Public Office-Bearers are remunerated must not only be in accordance with the law but must be open and **justifiable** in the context of our constitutional history, legislative development, political and social contexts (see paragraph 140 of the Moseneke Report);
- Positions in each arm of state must be evaluated, graded and benchmarked vertically and internally. This is due to the fact that horizontal comparisons of roles in each arm of government presents enormous challenges (see paragraph 143 of the Moseneke Report); and that
- The conduct of Public Office-Bearers must be transparent and they should be held accountable to the people they represent: they should not abuse public power and funds; to the contrary it is their duty to ensure service delivery and proper governance to the people. Consequently, their remuneration must be justifiable and equitable in relation to all relevant factors (see paragraphs 145 and 146 of the Moseneke Commission).

Methodology

The Commission previously examined the most prevalent grading tools. The Moseneke Commission developed a customised and eclectic grading system. It adopted the appropriate job attributes measured in widely used job grading systems in the private sector. Where appropriate, the existing objective criteria were used to distinguish job sizes, the hierarchy and authority of the relevant public office bearers.

The job attributes the Commission relied upon are as follows:

- The role, status, duties and responsibilities of the office-bearer concerned;
- Problem solving and decision making;
- Job impact and consequences of decision making;
- Leadership, planning and management;
- Level of accountability;
- Policy making decisions;
- Pressure of work; and
- Knowledge, its acquisition and application.

The job profiles included a review of the following:

- Key Performance Areas;
- Key Performance Indicators;
- Competencies: knowledge, skills and job attributes;
- Minimum qualification requirements; and
- Minimum experience requirements.

10 Which was amended by section 11 of the Judicial Officers Act, and substituted by Act 22 of 2014 and came into operation in 01 November 2003 (Judicial Officers Act).
11 Act 47 of 2001.
12 Act No. 90 of 1993 came into effect 01 March 1994
13 Paragraph 137 to 176: Commission's statement of underlying principles in determining public office-bearers' remuneration, refer to Moseneke Report.

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During the international benchmarking exercise, the Commission learnt that some of the Remuneration Authorities considered the following criteria and principles as important in determining remuneration:

- A need to ensure that public services are able to attract, recruit and retain competent individuals and the skills required to execute their functions;
- That the total public compensation bill is fiscally sustainable;
- Recognition of productivity, performance and adverse economic conditions;
- Equitable remuneration by considering fair relativity with remuneration elsewhere;
- Fairness to taxpayers or ratepayers;
- The requirements of the positions;
- Transparency and fairness; and
- Other job conditions of service.

The Commission selected the Paterson job evaluation system because it:

- Is the most commonly used grading system in South Africa and Southern Africa;
- Is the most widely used methodology globally and the International Labour Organization (ILO) has accredited it;
- Focuses on the content of the job profiles;
- Is easily cross-correlated to other systems of grading / evaluation;
- Is easy to understand and communicate;
- Aims to find a method that is quick to implement and easy to update;
- Does not discriminate in terms of race, gender, religion or creed;
- Is not the intellectual property of any one entity; and
- Is non-proprietary.

Medical aid

The Commission considered the likely impact of the proposed National Health Insurance Bill on the various sectors considered in this report. Based on its reading of section 33 of the National Health Insurance Bill of 2019, the Commission is of the opinion that medical schemes will cease to exist in their current format once the National Health Insurance has been fully implemented. This is likely to affect schemes such the Government Employees Medical Scheme (GEMS), the Parliamentary and Provincial Medical Aid Scheme (PARMED) and all other medical schemes that Public Office-Bearers are subscribed to. These changes on medical schemes, which are mostly dependent on the full implementation of National Health Insurance, are expected to take several years before they are effected.

Nevertheless, the Commission is of the view that the following principles are to be considered in choosing a medical aid scheme:

Principle 1

The modern practice for the design of medical aid benefits is to primarily ensure equity in the level of contributions and then compare the scheme benefits.

Principle 2

The medical aid benefits must be easy to comprehend.

Principle 3

The affordability of proposed medical aid benefits should be carefully considered.

Principle 4

A measure of flexibility ought to be designed within medical aid schemes to cater for the different needs of individual office-bearers.

Pension fund

The Commission formulated a set of underlying remuneration principles for making recommendations about pension benefits. The principles are:

Principle 1

Benefit design should consider the needs of office-bearers and the tenure of their service.

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Principle 2

The modern practice for the design of pension benefits is to primarily ensure equity in the level of contributions and then compare the scheme benefits.

Principle 3

The pension benefits must be easy to comprehend.

Principle 4

The affordability of the proposed pension fund should be carefully considered.

Principle 5

A measure of flexibility ought to be designed within the pension fund to cater for the different needs of individual office-bearers. The extent of flexibility needs to be weighed against the risks and costs of implementation.

However, for this review, Employer Sponsored Retirement Funds are considered. The Commission distinguishes between two types of such funds, namely Defined Contribution and Defined Benefit.

- **Defined Contribution Fund:** In a defined contribution fund, each month the Fund receives contributions from the employer and the employee. Employee contributions and part of the employer contributions are allocated to retirement savings in the Fund. These contributions grow with the net investment returns (which may be positive or negative) earned by the Fund on its investments. The amount that will be available for the employee`s retirement will depend on two factors, namely:
  - The contributions that have been set aside as retirement savings.
  - The net investment returns the Fund earns on this money. These contributions and investment returns are recorded in an account under the employee`s name. This is referred to as the fund credit.

- **Defined Benefit Fund:** In a defined benefit system, the retirement benefit is determined based on a predetermined formula, typically taking into account factors such as the employee's years of service and final salary. The employer guarantees a specific retirement income or pension to employees based on the formula. The responsibility for managing the investments and ensuring the availability of funds to meet the promised benefits lies with the employer or the pension fund. This type of retirement fund provides employees with a predictable retirement income, but the financial risk and management burden is borne by the employer.

It is worth noting that, in recent years, there has been a shift from traditional defined benefit plans to defined contribution plans in South Africa, particularly in the private sector. This shift is driven by factors such as increased flexibility, cost management, and individual retirement planning.

There is currently a legislative process being established with the aim of improving the preservation of retirement savings whilst enabling some degree of access to the savings.

Tools of trade

The need for the Commission to recommend the tools of trade to public-office bearers is informed by the following:

- A statutory requirement that tools of trade recommendations must be published by the Commission;
- Various institutional source documents regulating tools of trade;
- Institutional inequities amongst public office bearer positions;
- Exclusion of the Commission from dealing with tools of trade of the Judiciary;
- Lack of transparency and clarity in respect of current tools of trade;
- Current market development trends in relation to the allocation of tools of trade; and
- Adequate feasibility of current tools of trade that will enable office-bearers to perform their duties.

The following guiding factors must be taken into account in considering allocating tools of trade to public office bearers by their institutions:

- **Accessibility:** All Public Office-Bearers should have lawful, open, adequate and fair access to tools of trade.
- **Affordability and cost control:** Efficient, economic and effective use of resources should be paramount. Public Office-Bearers should use the most cost-effective alternative tools of trade available.

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- **Equity:** The positioning of tools of trade levels within institutions should be externally comparable, and differences in the amount allocated should be informed by differences in designation, demand and a requirement of a role.
- **Flexibility:** Institutions should provide Public Office-Bearers with the opportunity to select tools of trade that meet their job output requirement, without adding to the total expenditure of the Public Office-Bearer institutions. The tools of trade should be customized to institutions and designations.
- **Simplicity:** Tools of trade arrangements should be simple to administer and easy to comprehend by the Public Office-Bearers to whom it applies.
- **Transparency and accountability:** Public Office-Bearer institutions should foster transparency and accountability by providing the public with timely, accessible and accurate information of Public Office-Bearer tools of trade to entrench good governance. Individual Public Office-Bearers should be personally responsible for the manner in which they use the public resources entrusted to them and must disclose this publicly annually.
- **Value for money:** Access to tools of trade should create appropriate value for Public Office-Bearer institutions, Public Office-Bearers and the public. Expenditure should only be incurred to further the public mandate of the Public Office-Bearers and not for personal gain.

Remuneration recommendations principles

The Commission makes recommendations in the report in the first instance for the remuneration structure of National Executive and Legislative Public Office-Bearers. The design of a remuneration structure was guided by a number of important leading principles, as well as the reality of the history and context within which the sector operates. The following principles and methodologies were used in the design of the proposed remuneration structures:

- Remuneration structures are designed to support both internal equity and external competitiveness
- Affordability
- The following features were incorporated in the design of the remuneration structure:
  - The remuneration structure should support the Commission's philosophy;
  - It is flexible enough to respond to internal and external pressures; and
  - It ensures consistent decision-making and the application of the remuneration philosophy.

Second, the Commission recommends a remuneration structure for Provincial Executive and Legislative Public Office-Bearers. The structuring of the recommended total remuneration packages include the following elements:
- Basic salary component (60% of total package) which constitutes a pensionable salary
- An amount of R120 000,00, as the amount to which section 8(1)(d) of the income Tax Act, 1962, applies; this amount is included in the basic salary
- An employer's pension benefit contribution equal to 22.5% of pensionable salary; and
- A flexible portion for the remaining amount of the total remuneration.

It is also recommended that the cost of living increases for the alignment of the remuneration structure be used in the short term with a proper benchmark exercise every three to five years, based on market movement directions and affordability.

Third, the Commission makes recommendations for a remuneration structure for Local Government Public Office-Bearers, recommending that total remuneration packages include the following elements:
- Basic salary component (60% of total package) which constitutes a pensionable salary;
- An amount not exceeding 5% of the annual package of Councillors as the amount to which section 8(1)(d) of the income Tax Act, 1962, applies; this amount is included in the basic salary;
- An employer's pension benefit contribution equal to 22.5% of the pensionable salary; and
- A flexible portion for the remaining amount of the total remuneration.

It is recommended also that the cost of living increases for the alignment of the remuneration structure be used in the short term with a proper benchmark exercise every three to five years, based on market movement directions and affordability.

Fourth, the Commission recommends a remuneration structure for Judicial Sector Public Office-Bearers that takes into account the principle of anchoring, which provides for the Chief Justice position to be an anchor, will be maintained, and as previously adopted by the 2007 Major Review report. This position is aligned to the anchor positions of the Speaker, Chairperson of the National Council of Provinces, and Deputy President.

Fifth, the Commission recommends a remuneration structure for Traditional Leadership Sector Public Office-Bearers, and sixth, for Independent Constitutional Institutions Sector Public Office-Bearers.

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Pension benefits recommendations for Executive, Legislative, Local Government and Judiciary Sectors

For Public Office-Bearers within the Executive, Legislative and Local Government Sectors the Commission recommends the following pension benefits:

- A single defined contribution fund within Political Office Bearers Pension Fund; and
- A migration of Public Office-Bearers in the Local Government Sector, which should result in the amendment of relevant legislation to accommodate current and new members.

For Public Office-Bearers within the Judicial Sector the Commission recommends the following retirement benefits:

- Judges' salary for life to continue
  - The Commission considered the tenure of Judges and service after retirement. A Judge could be called at any time after retirement to serve. As a result, Judges are not permitted to pursue business interests or any other means of earning a living. Given this unique aspect of a Judge's employment, the Commission recommends that "Salary for Life" continue as it is applied currently to Judges.
  - The Commission further does not deem it necessary to introduce a pension regime for Judges to contribute to a fund.
  - Research confirms this as international leading practice which strengthens Judicial Independence to make decisions as societal arbiters who protect democratic values absent of impartiality, fear, favour or prejudice.

- Magistrates continue to participate in the Government Employees Pension Fund
  - The Commission considered the submissions and the current pension regime for Magistrates. The analysis of the current benefit structure reveals a fair and equitable benefit on offer on a relative basis. Members benefit from National Treasury underwriting any deficits and the pension is guaranteed.
  - It is recommended that Magistrates continue with the Government Employee Pension Fund and are afforded representation on the Board of the Government Employees Pension Fund. This leads to pluralism, where a different class of members can be part of the decision-making. Currently, this is not the case.

Recommendations for the retirement benefit of Traditional Leaders are as follows:

- It is recommended that the following Traditional and Khoi-San Leaders in inherited positions should be allowed to join the Government Employees Pension Fund and pay contributions:
  - King / Queen
  - Principal Traditional Leader
  - Senior Traditional Leader
  - Senior Khoi-San Leader
  - Branch Head; and
  - Headman / Headwoman.

- This would require a legislative amendment:
  - The Presidential Proclamation of December 2009, which stipulated that members of the structural National and Provincial Houses would be eligible for pension benefits, would need to be amended to reflect the current position as articulated above and supported by the Department of Traditional Affairs.

Recommendations for the retirement benefit of Independent Constitutional Institutions are as follows:

- A defined contribution pension scheme is recommended as it is likely to be more suitable for employees employed for 5 or 7 years. However, the overall appropriateness of the scheme depends on several factors, including the employee's financial goals and the employer's contribution structure. Additional advantages of a defined contribution pension scheme are
  - The in-built preservation feature of pension funds is an important feature to ensure that retirement savings are preserved
  - It is more practical to enable portability and individual control; and
  - There are tax advantages, where contributions to pension schemes are tax-deductible, providing immediate tax benefits for Public Office-Bearers.
- The level of contribution recommended is a minimum of 7,5% employee contribution and 14,5% employer contribution as part of the total cost-to-company.

Funeral benefit recommendations

The Commission is of the view that the mandate to recommend a funeral benefit does not reside with it. Instead, the funeral benefit should be determined by the Pension Fund or the Public Office-Bearers' own structures.

Funeral benefits should be based on the cost of the funeral arrangements deemed appropriate for the individuals involved. The membership should deal with this through its Trustees.

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Medical aid benefits recommendations for Executive, Legislative, Local Government and Judiciary Sectors

In making a recommendation on the medical aid subsidy benefits for the Executive, Legislative and Local Government Sectors, the Commission considered the same principle applied to pension benefit arrangements. An identification of the needs of the recipients is crucial in order to make a recommendation that can provide for Public Office-Bearers' needs to be covered.

The Commission recommends a single scheme for the provision of medical aid benefits for Public Office-Bearers in the Executive, Legislative, Local Government and Judiciary Sectors. The Commission recommends no changes to the policy requiring Judges to belong to PARMED. The Commission recommends that the current policy that allows Magistrates to join any registered scheme of their choice should continue.

- The employee contribution (subsidies) of Public Office-Bearers forms part of their total cost salary package.
- The introduction of a single scheme requires the amendment of the relevant legislation to accommodate current and new members.

Medical aid benefit for Traditional Leaders

It is recommended that the previous Commission's recommendation that traditional leaders be allowed to join Government Employees Medical Scheme be retained. This recommendation was extended to Principal Traditional Leaders, Senior Khoi-San Leaders, Branch Heads, and Headmen / Headwomen.

Medical aid benefit for Independent Constitutional Institutions

The following recommendations are made:
- Office-bearers should be required to belong to any medical aid scheme of their choice, whether directly as main members or through their spousal (partner) medical aid scheme.
- No recommendation is made in terms of subsidy levels or amounts for medical aid scheme contributions, given the total-cost-to-company remuneration philosophy.
- No recommendation is made in terms of post-retirement subsidies for medical aid scheme contributions, given the short-term nature of their service.

Tools of trade recommendations

- Section 8 (4) (a), (b) and (c) of the Commission Act, as amended[14] provides that:

8 (4) The Commission shall, after taking into consideration the factors referred to in subsection (6), publish in the Gazette recommendations concerning-

(a) the salary, allowances and benefits of any office-bearer as defined in paragraphs (a), (d) and (e) of the definition of 'office-bearer' in section 1;

(b) the upper limits of the salary, allowances and benefits of any office-bearer as defined in paragraphs (b) and (c) of the definition of 'office bearer' in section 1; and

(c) 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.

- In line with sections 6 (e) and (f) of the Remuneration Act, the disparities within Public Office-Bearer sectors are addressed by introducing an overarching tools of trade framework. This action will promote equity within Public Office-Bearers sectors, within provinces, and between the Executive and Legislature sectors where relevant and in accordance with legislation.
- The tools of trade that are uncommon should be motivated for and formally approved or abolished. Legitimate expenses incurred by Public Office-Bearers are a grey area. This should be covered in a policy on expenses issued by the National Treasury.
- The Recommended Tools of Trade handbook published in Government Gazette No. 34569 dated 29 August 2011 by the Commission is updated by the Tools of Trade Framework for Public Office-Bearers (Annexure 7.3) to provide the best outline for tools of trade that members need and is more closely aligned to the international comparators' tools of trade guidelines than the individual provincial legislature handbooks and the Ministerial Handbook.

14 See Section 9 of the Judicial Officers (Conditions of Service) Amendment Act, 2003 (Act No. 28 of 2003).

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- Relevant Handbooks or Facilities should be updated to reflect the tools of trade guidelines proposed in the Recommended Tools of Trade Framework, which provides tools of trade guidelines in terms of the following:
  - Official and private accommodation;
  - Offices, office supplies and stationery;
  - Information and communication technology (ICT) equipment;
  - Adequate and professional staff support;
  - Official and private travelling facilities;
  - Reimbursement allowances;
  - Security;
  - Study aids; and
  - Other facilities.

- In addition to the legislative requirements to make annual recommendations on Public Office-Bearer's remuneration, Section 8 of the Commission Act obliges the Commission to publish annual recommendations relating to the resources that are necessary to enable a Public Office-Bearer other than a member of the Judiciary (Judges and Magistrates) to perform the office-bearer's functions effectively.
- In the absence of legislative mandate to the Commission regarding the recommendations of tools of trade of Judges and Magistrates, the Commission is recommending amendment of Section 176 (3) of the Constitution read with the provisions of the Judges Remuneration and Conditions of Employment Act 47 of 2001 and including its Regulations..
- The extension of the Commission`s mandate to make recommendations on tools of trade in respect of Judiciary positions will harmonize the determination process and assist in the realization of an equitable and fair determination in this regard.
- The absence of a legislative mandate for the President (or relevant institution) to effect or make a determination on the Commission's recommendations needs also to be addressed.

Once-off gratuity recommendations

The recommendations in respect of gratuity payments for all Public Office-Bearers within the Executive, Legislative and Local Government sectors are as follows:

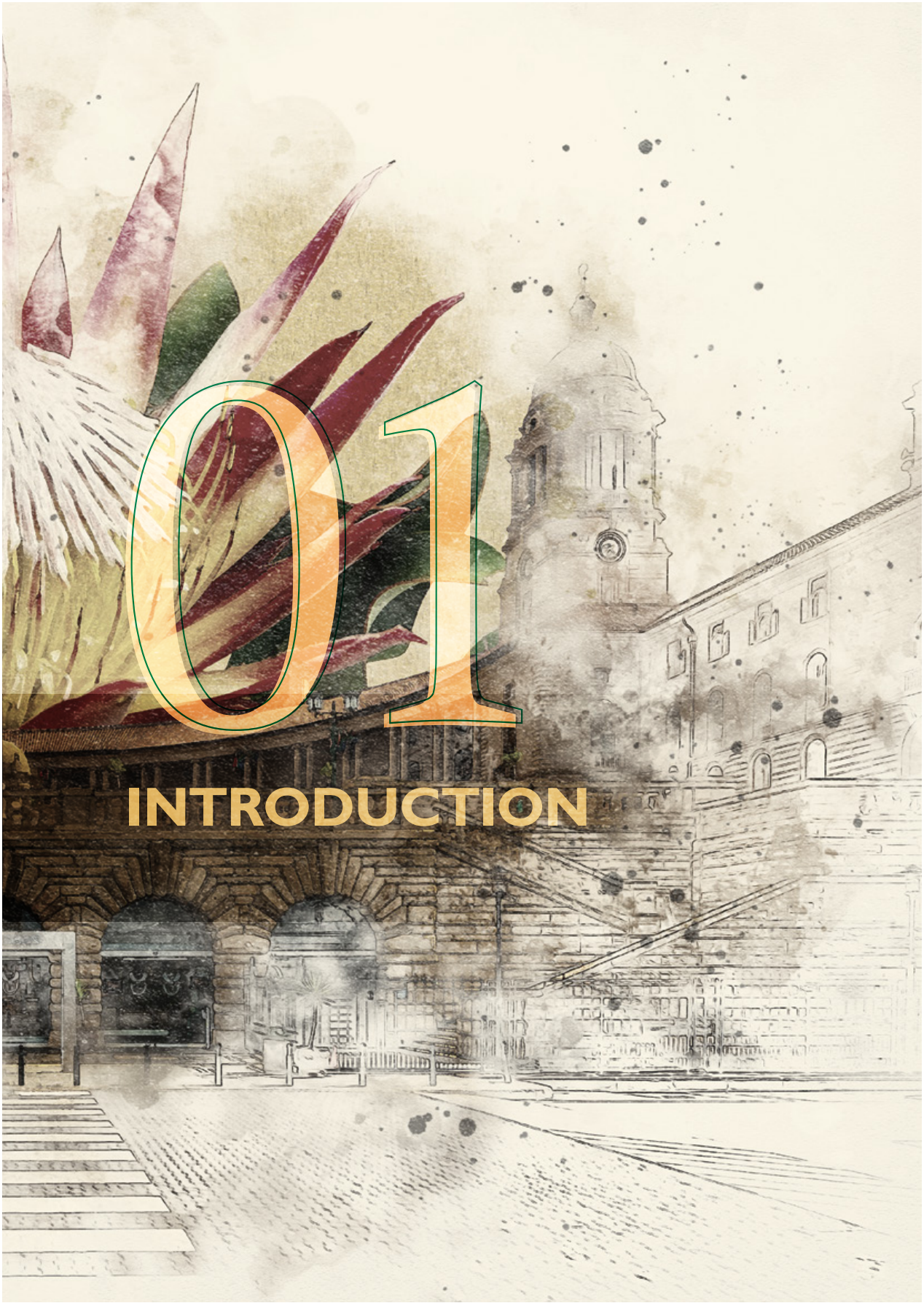
- To the extent that a benefit expectation has already been created the Commission recommends that:
  - Gratuity in respect of members of the Executive and Legislative sectors who qualify for all terms of office should be paid at the end of their respective terms in 2029 and no further benefit will accrue thereafter. The existing members will receive gratuity at the end of 2029 before closing down the practice.
  - Gratuity in respect of members of the Local Government sector who qualify for all terms of office should be paid at the end of their respective terms in 2026 and no further benefit will accrue thereafter.
- After a thorough consideration, the Commission found that this practice is not sustainable and recommends phasing it out in 2026 for Local Government and 2029 for members of the Executive and Legislative sectors respectively.

Performance management system

The Commission has reflected on matters relevant to performance management, which should be guided by factors amongst others, such as the National Gross Domestic Product (GDP), the rate of inflation, audit outcomes, issues of productivity and Human Development Index (HDI). Cumulatively, the above criteria find expression in the lived experience of citizens influenced by Public Office-Bearers' policy formulation, outcomes and implementation. Accountability and responsibility must be measured by these outcomes.

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01
INTRODUCTION

1. INTRODUCTION

1.1. Constitutional mandate

Section 219 (1) of the Constitution of the Republic of South Africa Act 1996[15] provides that:

An Act of Parliament must establish a framework for determining-

(a) the salaries, allowances and benefits of members of the National Assembly, permanent delegates to the National Council of Provinces, members of the Cabinet, Deputy Ministers, traditional leaders and members of any councils of traditional leaders; and
(b) the upper limit of salaries, allowances or benefits of members of provincial legislatures, members of Executive Councils and members of Municipal Councils of the different categories."

Section 219 (2) of the Constitution further prescribes that: "national legislation must establish an independent commission to make recommendations concerning the salaries, allowances and benefits referred to in subsection (1)." The Commission Act was enacted in accordance with section 219 (2) of the Constitution.

Furthermore, section 219 (5) of the Constitution provides that:

> National legislation must establish frameworks for determining the salaries, allowances and benefits of Judges, the Public Protector, the Auditor-General and members of any commission provided for in the Constitution, including the broadcasting authority referred to in section 192 of the Constitution.

Section 219 (5) of the Constitution led to the enactment of the Judicial Officers (Conditions of Service) Amendment Act, 2003[16] and the Determination of the Remuneration of Independent Constitutional Institutions Laws Amendment Act, 2014[17].

These two Acts amended the Commission Act so as to extend the definition of Public Office-Bearers to include Judges, Magistrates and members of the Independent Constitutional Institutions.

1.2. The Independent Commission for the Remuneration of Public Office-Bearers

The Independent Commission for the Remuneration of Public Office-Bearers (The Commission) is a statutory body established by section 2 of the Independent Commission for the Remuneration of Public Office-Bearers Act, 1997 (Commission Act) to bring into effect the provisions of the Constitution as above.[18]

The Commission's primary objective is to make recommendations to the President of the Republic of South Africa (the President) concerning the salaries, allowances, and benefits of Public Office-Bearer[19] and for other matters connected therewith such as resources that will enable Public Office-Bearers to effectively perform their respective duties[20] (tools of trade). The Commission is, however, precluded from making recommendations concerning the necessary tools of trade that will enable Judges and Magistrates to perform their functions effectively.[21]

Previously, the Commission chaired by Justice Dikgang Moseneke (as he then was) – hereinafter referred to as the Moseneke Commission – undertook its first major review and made recommendations in March 2007 regarding the salary structures of Public Office-Bearers. This major review did not include office-bearers of the Independent Constitutional Institutions as they were only added as Public Office-Bearers in terms of the Determination of the Remuneration of Independent Constitutional Institutions Laws Amendment Act, 2014, which came into effect in 2019.

In April 2008, the Moseneke Commission published the second supplementary review report, which dealt with pension and medical aid benefits of Public Office-Bearers.

The third and final supplementary review report, which was published in August 2011 under the chairmanship of Judge Seriti, considered issues relating to tools of trade of Public Office-Bearers excluding the Judiciary.

The present Commission identified stakeholder management as one of its key objectives. Consequently, extensive engagement with primary stakeholders was undertaken. The Covid 19 Pandemic led to a national lockdown on the 23rd March 2020. This in no small measure constrained the Commission in the execution of its work.

15 Act 108 of 1996 as adopted on 8 May 1996 and amended on 11 October 1996 by the Constitutional Assembly.
16 Act 28 of 2003, as amended.
17 Act 22 of 2014, as amended.
18 Act 92 of 1997, as amended.
19 Refer to definition and key concepts for public office-bearers definition.
20 See section 8(4) (a), (b) and (c) of the Commission Act and chapter on Tools of Trade.
21 See section 8(4)(c) of the Commission Act, as amended.

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The comprehensive review of the remuneration of Public Office-Bearers provides an opportunity to revisit the scope and content of the roles, the size and complexity, as well as the appropriateness of the remuneration structure of Public Office-Bearers including the tools of trade.

In addition, the present comprehensive review has been undertaken at a time when the Republic of South Africa reflects on its thirtieth year of democracy. Since the dawn of South Africa's democracy, significant changes in the form of socio-economic factors have played a vital role in the determination of the remuneration of Public Office-Bearers. Currently, the Commission is faced with challenges relating to the reduction of the public sector wage bill, the structural inequalities in the economy, and the reformation of taxation, pension and other benefits. The Commission endeavours, where possible, to create parity between the Public Office-Bearers' positions and remuneration. It also strives to embrace the vast and leading practices relating to appropriate remuneration patterns from comparable global and national markets.

1.3 The need to review the remuneration of Public Office-Bearers

As stated above, the Commission undertook a major review of the remuneration of Public Office-Bearers in 2007. Post the first major review, several new constitutional and statutory enactments have created a need to review the remuneration structure and benefits of Public Office-Bearers.

For instance, section 1 of the Commission Act added Independent Constitutional Institutions in the definition of Public Office-Bearers in 2019. The purpose of the ICI Act is to bring uniformity in the procedures of determining the salaries, allowances and benefits of office-bearers and investigate and make recommendations for their salaries, allowances, benefits and tools of trade. The Independent Constitutional Institutions Public Office-Bearers are therefore also included in this review.

Further, section 1 of the Constitution Seventeenth Amendment Act 2012 added subsection (6) to section 165 of the Constitution. The subsection provides that:

> The Chief Justice is the head of the Judiciary and exercises responsibility over the establishment and monitoring of norms and standards for the exercise of the judicial functions of all courts.

In addition, The Superior Courts Act[22] was enacted in accordance with section 165 of the Constitution, which provides, amongst others, for the administration of judicial functions of all courts. Section 8 of the Superior Courts Act has, amongst others, increased the responsibilities of the Chief Justice as well as those of the Heads of Court, in addition to their core functions as judicial officers.

Since the first major review, this Commission deemed it necessary to undertake a major review of the Public Office-Bearers' salaries, allowances, benefits and tools of trade albeit staggered over a period of time.

The accumulation of various and substantial stakeholder engagements and other submissions received by the Commission over the years, the changes in the responsibilities borne by the Judiciary since the last major review as well as the addition of the ICIs and the Khoi-San as Public Office-Bearers, including changes in socio-economic and other circumstances informed the need for this major review.

1.4 Guiding principles and objectives

The guiding principles adopted by the Commission are underpinned by the cooperative governance principles, which enhance good governance and separation of powers[23] as entrenched in the Constitution.

Section 8(6) of the Commission Act provides that, when making annual recommendations, the Commission must take the following factors into account:

- The role, status, duties, functions and responsibilities of the Public Office-Bearers concerned when making its recommendations
- The affordability of different levels of remuneration of Public Office-Bearers
- Current principles and levels of remuneration, particularly in respect of organs of state, and in society generally
- Inflationary increases
- The available resources of the state
- Any other factor which, in the opinion of the said Commission, is relevant

22 Act 10 of 2013
23 See section 41 read with sections 43, 85 and 165 of the Constitution.

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Section 8(3a) of the Commission Act[24] behoves the Commission to have regard to the provisions of section 2 of the Judges Remuneration and Conditions of Employment Act, 2001[25] and section 12 of the Magistrates Act, 1993.[26] These provisions provide for consultations with the Minister of Finance and Chief Justice or the person designated by the Chief Justice.

Furthermore, section 8(6)(b) of the Commission Act has added the following factors which the Commission must considered in the remuneration of ICI Public Office-Bearers. It provides, amongst others, that the Commission must, where applicable, also take the following factors into account:

- The salary, allowances and benefits of members of other constitutional institutions;
- Affordability in relation to the responsibilities of the constitutional institution concerned; and
- The level of expertise and experience required of a member of the constitutional institution concerned.

The Commission in the first review formulated the following underlying guiding principles to be applied in the exercise of their discretion when determining remuneration for public office bearers:

- Principles whose primary object is drawn from the objectives and values of South Africa's constitutional democracy; and
- Principles that serve as a "practical guide in formulating a just remuneration dispensation".

The Commission adopts and aligns itself with the above-mentioned principles.[27] The principles and elucidation thereof can be found in Annexure 1.

This Commission echoes the views held by the Moseneke Commission that:
- The manner in which Public Office-Bearers are remunerated must not only be in accordance with the law but must be open and justifiable in the context of our constitutional history, legislative development, political and social contexts (see paragraph 140 of the Moseneke Report; emphasis added).
- Positions in each arm of state must be evaluated, graded and benchmarked vertically and internally. This is because horizontal comparisons of roles in each arm of government present enormous challenges (see paragraph 143 of the Moseneke Report).
- The conduct of Public Office-Bearers must be transparent and they should be held accountable to the people they represent. They should not abuse public power and funds. On the contrary it is their duty to ensure service delivery and proper governance to the people. Consequently, their remuneration must be justifiable and equitable in relation to all relevant factors (see paragraphs 145 and 146 of the Moseneke Commission);

1.5 Methodology

The Commission previously examined the most prevalent grading tools. Furthermore, the Moseneke Commission developed a customised and eclectic grading system. It adopted the appropriate job attributes measured in widely used job grading systems in the private sector.

The job attributes the Commission relied upon are as follows:
- The role, status, duties and responsibilities of the office-bearer concerned;
- Problem solving and decision making;
- Job impact and consequences of decision making;
- Leadership, planning and management;
- Level of accountability;
- Policy making decisions;
- Pressure of work; and
- Knowledge, its acquisition and application.

The job profiles included a review of the following:
- Key Performance Areas;
- Key Performance Indicators;
- Competencies: knowledge, skills and job attributes;
- Minimum qualification requirements; and
- Minimum experience requirements.

24 This was amended by section 11 of the Judicial Officers Act, and substituted by Act 22 of 2014 and came into operation on 1 November 2003 (Judicial Officers Act).
25 Act 47 of 2001.
26 Act 90 of 1993 came into effect on 1 March 1994.
27 Paragraph 137 to 176: Commission's statement of underlying principles in determining public office-bearers' remuneration.

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During the international benchmarking exercise, discussed in more detail for each sector, the Commission learnt that some of the Remuneration Authorities considered the following criteria and principles as important in determining remuneration:

- A need to ensure that public services are able to attract, recruit and retain competent; individuals and the skills required to execute their functions;
- The fiscal sustainability of the total public compensation bill;
- Recognition of productivity, performance and adverse economic conditions;
- Equitable remuneration relative to remuneration elsewhere;
- Fairness to taxpayers or ratepayers;
- The requirements of the positions;
- Transparency and fairness; and
- Other job conditions of service.

During the Moseneke review the Commission considered the formulation of comprehensive job profiles for each Public Office-Bearer position as the most critical starting point for the evaluation and review of the remuneration structure in respect of Public Office-Bearers.

The Commission employed different job evaluation methods. The Review Report of 2007 evaluated the role profiles by adopting a composite evaluation methodology. A combination of the following methodologies was used:

- Peromnes and other job evaluation methodologies;
- Benchmarking / "anchoring" of jobs;
- Inter- and intra-organisational checks;
- Correlation of jobs to other widely used job evaluation systems;
- Existing objective criteria used to distinguish job sizes; and
- The relative positioning of roles within the institutional framework, which were evaluated against the criteria of protocol, status and institutional relativity.

The Moseneke Commission identified the "anchor position" in each arm of government. The position of the President was not considered as an anchor position because of the constitutional responsibilities of the position, which include, amongst others, Head of State and Leader of the Executive.

Further, the Moseneke Commission determined the appropriate grade and remuneration of the anchor positions by the job attributes and other grading factors. The determination of the remuneration levels for the anchor positions was done by considering the pay levels of a cross-section of positions of comparable seniority in the public and private sectors as well as those of the national marketplace.

The Moseneke Commission identified the following anchor positions for the three arms of government:

- Executive: Deputy President
- Parliament: Speaker of the National Assembly (NA) and Chairperson of the National Council of Provinces (NCOP); and
- Judiciary: Chief Justice

The Moseneke Commission, in paragraph 175, stated that:

- Parity of remuneration should be one of the important considerations in maintaining the balance of power necessary for the South African constitutional democracy to function effectively and efficiently;
- In keeping with the equal status of the three arms of state, the grading and remuneration of the anchor positions should be equal across the three arms of government; and
- There should be an acceptable degree of consistency between the ratios of consecutive positions in the grading structure of an arm of government except where the jobs carry substantially different responsibilities (emphasis added).

This Commission reiterates the fact that the identification of anchor positions is premised on the internal hierarchy, the separation of powers, and shared powers across the three arms of government. The South African Constitution places a premium on three separate but equal arms of government with exclusive as well as shared roles and functions. The graded positions within each arm of government should in turn form the basis for the determination of remuneration relative to the specific anchor position.

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Much as it is in keeping with the equal status of the three arms of state to grade and determine equal remuneration in respect of the anchor positions across the three arms of government, as attested by the Moseneke Commission, it is impossible to disregard the levels of expertise and experience required of certain Public Office-Bearers like those in the Judiciary and some members of the Independent Constitutional Institutions.

The Commission selected the Paterson job evaluation system because it:

- Is the most commonly used grading system in South Africa and Southern Africa;
- Is the most widely used methodology globally accredited by the International Labour Organization (ILO);
- Focuses on the content of the job profiles;
- Is easily cross correlated to other systems of grading / evaluation;
- Is easy to understand and communicate;
- Aims to find a method that is quick to implement and easy to update;
- Does not discriminate in terms of race, gender, religion, etc;
- Is not the intellectual property of any one entity; and
- Is non-proprietary.

1.6 Performance

The issue relating to performance-driven remuneration was extensively dealt with by the Moseneke Commission (paras 154 to 158). In summary, the Commission held the view that the performance-driven remuneration applied in the private sector cannot be appropriately applied in the determination of public office bearers' remuneration.

The Commission rather sought to observe and apply the principle of parity of precedence. This meant that it sought to observe equal treatment and uniformity for the remuneration of public office positions that entailed equal work and responsibility as well as observing uniform norms and standards nationally.

The approach created a challenge in that public office bearers' roles require them to exercise discretion of judgement in the public interest. They are expected to perform their tasks in accordance with the Constitution and other laws, and in the exercise of their discretionary duties it is expected of them to make sound judgements, untainted by financial incentive.

Consequently, in view of the challenges that are manifest in a performance incentive scheme, this Commission expressed the need to consider the same, but nevertheless decided on continuing to observe parity of precedence. The Commission sought not to differentiate the remuneration levels of posts in the same category through performance criteria.

The present Commission has reflected on matters relevant to performance management, which should be guided by factors such as the National Gross Domestic Product (GDP),[28] the rate of inflation,[29] audit outcomes,[30] issues of productivity, and the Human Development Index (HDI).[31]

Cumulatively, the above criteria find expression in the lived experience of citizens influenced by Public Office-Bearers' policy formulation, outcomes and implementation. Accountability and responsibility must be measured by these outcomes.

1.7 Medical aid guiding principles

The Commission considered the likely impact of the proposed National Health Insurance Bill on the various sectors considered in this report. Based on its reading of section 33 of the National Health Insurance Bill of 2019, the Commission is of the opinion that medical schemes will cease to exist in their current format only once the National Health Insurance has been fully implemented. This is likely to affect schemes such the Government Employees Medical Scheme, the Parliamentary and Provincial Medical Aid Scheme and all other medical schemes that Public Office-Bearers are subscribed to. These changes are expected to take several years before they are effected.

28 If the GDP of a country is less than the rate of population growth, the consequence is economic hardship of citizens.
29 If the rate of inflation is high, it has a direct impact on the quality of life of citizens in terms of buying power.
30 If budgeted, taxpayers' money is not utilised for this purpose. Citizens do not get value from taxation.
31 If the collective indicators of health and welfare, broadly speaking to nations at comparative development trajectories find us wanting, per international standards, life as experienced by citizens

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The Commission is of the view that the following principles are to be considered in choosing a medical aid scheme:

Principle 1

The modern practice for the design of medical aid benefits is to primarily ensure equity in the level of contributions and then compare the scheme benefits.

Principle 2

The medical aid benefits must be easy to comprehend.

Principle 3

The affordability of proposed medical aid benefits should be carefully considered.

Principle 4

A measure of flexibility ought to be designed within the medical aid schemes to cater for the different needs of individual office-bearers.

1.8 Pension fund guiding principles

The Commission formulated a set of underlying remuneration principles to be utilised in exercising the discretion, responsibility and mandate conferred on it by the Constitution and legislation to make recommendations on the remuneration, allowances and benefits of the relevant Public Office-Bearers. In addition to the four principles above, pension benefit design should consider the needs of the office-bearers and the tenure of their service.

For this review, Employer Sponsored Retirement Funds are considered. The Commission distinguishes between two types of these funds, namely, Defined Contribution and Defined Benefit.

- **Defined Contribution Fund:** In a defined contribution fund, the Fund receives contributions from the employer and the employee each month. Employee contributions and part of the employer contributions are allocated to retirement savings in the fund. These contributions grow with the net investment returns (which may be positive or negative) earned by the fund on its investments. The amount that will be available for the employee's retirement will depend on two factors, namely:
  - o The contributions that have been set aside as retirement savings; and
  - o The net investment returns the fund earns on this money.

  These contributions and investment returns are recorded in an account under the employee's name. This is referred to as the fund credit.

- **Defined Benefit Fund:** In such a system, the retirement benefit is determined based on a predetermined formula, typically taking into consideration the employee's years of service and final salary. The employer guarantees a specific retirement income or pension to employees based on the formula. The responsibility for managing the investments and ensuring the availability of funds to meet the promised benefits lies with the employer or the pension fund. This type of retirement fund provides employees with a predictable retirement income, but the financial risk and management burden is borne by the employer.

It is worth noting that in recent years there has been a shift from traditional defined benefit plans to defined contribution plans in South Africa, particularly in the private sector. This shift is driven by factors such as increased flexibility, cost management, and individual retirement planning.

There is currently a legislative process underway that aims to improve the preservation of retirement savings whilst enabling some degree of access to the savings.

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1.9 Tools of trade guiding principles

The Commission is obliged to publish annually its recommendations regarding the resources which are necessary to enable Public Office-Bearers to perform their functions effectively. The Act, however, does not stipulate the process of determining the actual tools of trade permitted once the Commission has published its recommendations. Nevertheless, the Act prescribes that the Commission should submit its recommendations to Parliament, without prescribing how the recommendations should be implemented.

The need for the Commission to recommend the tools of trade to public-office bearers is informed by the following:

- Statutory requirement that tools of trade recommendations must be published by the Commission
- Various institutional source documents regulating tools of trade
- Institutional inequities amongst public office bearer positions
- Lack of transparency and clarity in respect of current tools of trade
- Current market development trends in relation to the allocation of tools of trade
- Adequate feasibility of current tools of trade that will enable office-bearers to perform their duties

The Commission is excluded from dealing with tools of trade of the Judiciary.

In the Commission's view, when the Commission makes recommendations on appropriate tools of trade and the President endorses such recommendations, each Public Office-Bearer institution should have the discretion to determine the actual tools of trade that are appropriate for a particular work environment, specific requirements of a particular job, and work pressure.

Furthermore, the Commission is of the view that an annual review of tools of trade should be undertaken and there should be a process by which the tools of trade for each Public Office-Bearer institution should be provided. Similarly, there should be annual disclosure by each Public Office-Bearer of the amount and value of the tools of trade actually used by that Public Office-Bearer. In this way, the public will be able to determine whether the tools of trade are properly utilised and will be able to hold Public Office-Bearers and their institutions accountable.

The provision of tools of trade is costly to the State. The exact value of the tools of trade currently made available is not easily quantifiable as these tools are not properly tracked or separately accounted for by Public Office-Bearer institutions. It is therefore important to identify the nature of the tools of trade allocated and made available to each Public Office-Bearer.

In this report, the Commission recommends that a framework be devised within which to determine the tools of trade so as to allow each Public Office-Bearer institution to avail or allocate the exact limit of the actual tools of trade to each type of Public Office-Bearer. That said, the following guiding factors must be taken into account in allocating tools of trade to public office bearers by their institutions:

- ***Accessibility:*** All Public Office-Bearers should have lawful, open, adequate and fair access to tools of trade.
- ***Affordability and cost control:*** Efficient, economic and effective use of resources should be paramount. Public Office-Bearers should use the most cost-effective alternative tools of trade available. Where it is practical and economic, such resources should be procured by relevant Public Office-Bearer institutions. Such procurement should be subject to audit and public disclosure processes so as to ensure propriety and value for money. There should be no cross-subsidisation between resources provided to Public Office-Bearers for public office use and personal activities. Preserving this separation is important for public confidence in monitoring.
- ***Equity:*** The positioning of tools of trade levels within institutions should be externally comparable, and differences in the amounts allocated should be informed by differences in designation, demand and the requirements of a role.
- ***Flexibility:*** Institutions should provide Public Office-Bearers with the opportunity to select tools of trade that meet their job output requirements without adding to the total expenditure of the Public Office-Bearer institutions. The tools of trade should be customised to institutions and designations, including working from home.
- ***Simplicity:*** Tools of trade arrangements should be simple to administer and easy to comprehend by the Public Office-Bearers to whom it applies.
- ***Transparency and accountability:*** Public Office-Bearer institutions should foster transparency and accountability by providing the public with timely, accessible and accurate information about Public Office-Bearer tools of trade to entrench good governance. Individual Public Office-Bearers should be personally responsible for the manner in which they use the public resources entrusted to them and must disclose this annually.
- ***Value for money:*** Access to tools of trade should create appropriate value for Public Office-Bearer institutions, Public Office-Bearers and the public. Expenditure should only be incurred to further the public mandate of the Public Office-Bearer and not for personal gain.

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02
SECTOR
ANALYSIS

2. SECTOR ANALYSIS

In this section the Commission proceeds with the review of the existing remuneration framework applicable to the Public Office-Bearers within Local Government, the Executive, Legislative and Judicial Sectors, Traditional and Khoi-San Leaders, and ICIs. All the above mentioned principles apply. Recommendations are then based on the analysis. The structure of the report in relation to each sector is as follows:

- Objectives
- Methodology
- Review report
- Stakeholder management
- International benchmarking
- Job grading
- Remuneration structure
- Benefits Review
  - o Medical aid;
  - o Retirement and pension benefits; and
  - o Tools of trade.

2.1 Local Government sector

2.1.1 Objectives

- To review the remuneration framework applied to Public Office-Bearers in Local Government by understanding and addressing challenges experienced in relation to the remuneration structure framework, pension benefits, medical aid schemes, tools of trade as well as allowances
- To review and determine the job profiles of Public Office-Bearers in Local Government
- To review and grade Public Office-Bearer positions
- To review the appropriate level of remuneration for Public Office-Bearers in Local Government
- To establish whether there is equity between the different levels of remuneration for Public Office-Bearer positions in Local Government in line with the principle of equality
- To establish whether the different levels of remuneration are aligned with leading remuneration practices
- To benchmark the levels of remuneration of Public Office-Bearers in Local Government with suitable comparisons locally and internationally
- To identify factors that contribute to the attraction and retention of Public Office-Bearers in Local Government
- To determine the cost implications of all recommendations on Public Office-Bearers' remuneration to be funded from the National Fiscus

2.1.2 Methodology

The review methodology for the scope of the remuneration, benefits and allowances was as follows:

Identify	Diagnose	Design	Deliver
• Confirm the scope and approach of the project • Develop implementation plan for the review of remuneration, benefits and allowances of public office-bearers in Local Government • Collect relevant documentation, role descriptions, current remuneration practices and confirm local government operations • Clarify current pay structures and concerns in terms of attraction and retention; and • Investigate career paths.	• Review existing role profiles of public office-bearers in Local Government • Review current municipal grading methodology followed; and • Analyse current remuneration structures including benefits (medical aid and pension fund) and allowances.	• Draft comprehensive report covering the following: - Role profiles of office bearers - Municipal grading methodology - Medical aid review - Pension fund review - Remuneration and allowances review; and • Suggest changes to be made to the policy.	• Present a report with recommendations.

FIGURE 1: REVIEW METHODOLOGY / REPORTS REVIEW

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2.1.3 Review

The review process was performed by undertaking the following:
- Desktop review of relevant documentation
- Stakeholder engagements with the South African Local Government Association, Department Of Cooperative Governance And Traditional Affairs and Municipal Councillors Pension Fund; and
- Focus groups with councillors in KwaZulu-Natal, Eastern Cape, North West, Limpopo and Free State.

Identify key stakeholders	Engage with stakeholders	Report on stakeholder interactions
• Identify key stakeholders based on project deliverables and supported documentation and information required; and • Conduct stakeholder analysis and present stakeholder map for validation.	• Engage with stakeholders via: - Correspondence - Meetings - Focus groups; and - Recording nature and context of engagements.	• Provide a detailed report on all stakeholder engagements and the outcomes of the engagements as they relate to the project.

FIGURE 2: STAKEHOLDER MANAGEMENT METHODOLOGY

A structured stakeholder management approach was applied during the project, which included identifying key stakeholders and their requirements at the outset. The following stakeholders were consulted in order to understand the current challenges and issues to arrive at the findings:
- Department of Cooperative Governance;
- South African Local Government Association;
- Principal Executive Officer of the Municipal Councillors Pension Fund; and
- Councillors.

Councillor focus groups revealed a number of challenges faced by councillors:
- The workload of ward councillors may also vary because of the nature of their location (that is, whether the councillor is located in an urban, peri-urban or rural area). The ward councillors are expected by their constituencies to be readily available as they may be called upon to attend to a number of requests / problems that an individual may have even though this may not be part of their key responsibility areas.
- Key skills which are lacking include the following:
  - o Interpretation of council decisions and submissions made by administrators;
  - o Understanding of different pieces of legislation as well as the Councillor role in service delivery; and
  - o Technical skills needed for developing Integrated Development Plans and budgets as well as the ability to manage finances.
- There is no formal mentoring process in place where experienced councillors may coach newly appointed councillors to enhance understanding and build skills.
- Their salaries must be charged directly to the National Revenue Fund.
- Concern was raised regarding the concurrence of the Member of the Executive Council (Province) as regards remuneration increases of councillors.

2.1.4 International benchmarking

During the international benchmarking exercise, the Commission learnt that some of the Remuneration Authorities considered certain criteria and principles as important in determining remuneration. The roles and responsibilities of Councillors in foreign jurisdictions as compared with the roles and responsibilities of South African Local Government Councillors were also reviewed.

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2.1.5 Role profiles, grading and integrated remuneration structure

2.1.5.1 Role profiles

The roles and responsibilities of the Executive Mayor, Mayor, Deputy Executive Mayor, Deputy Mayor, Speaker and Councillors (Proportional Representatives and Ward) are defined in the Municipal Structures Act and similarly in the Municipal Councillor handbook published by South African Local Government Association. The role of the Whip is not defined in the Municipal Structures Act. Copies of these job profiles are attached hereto as Annexure 2.

Following various stakeholder engagements and the desktop reviews on the roles and responsibilities of a Councillor, the following observations were noted:

- The roles of Executive Mayor, Mayor, Deputies, Speaker, Whip and Councillors (Proportional Representatives and Ward) as defined in the Municipal Structures Act and South African Local Government Association`s roles and responsibilities for Councillors and engagements with various stakeholders are well documented.
- Consideration should be given to whether the titles of the Executive Mayor and the Mayor could be consolidated and whether the Whip should have a formalised role or not.
- Whilst there have been a number of amendments to the Municipal Structures Act and the Municipal Systems Act, there have been no legislative changes to the roles since these Acts were promulgated. Most of the role descriptions remain unchanged.
- There is a greater emphasis on and expectation of service delivery placed on local office bearers. This means that Councillors need to be better qualified, skilled and equipped to deliver on all the objectives outlined in each municipality's IDP.
- It is common practice in the remuneration universe to include in role specifications the minimum qualifications and experience required for the job.

2.1.5.2 Local Government role profile methodology

A municipality consists of the following structures as provided for in the Municipal Structures Act 117 of 1998, as amended:

a) The Councillor

The roles of Councillors (Proportional Representatives and Ward) are defined in:
- o The Municipal Structures Act 117 of 1998/ Systems Act
- o South African Local Government Association's roles and responsibilities for Councillors
- o The Municipal Councillor handbook published by South African Local Government Association in 2011; and
- o Engagements with various stakeholders (Councillors) in focus groups.

b) Executive Mayor and/or Mayor

The roles of the Executive Mayor and/or Mayor is defined in:

Section 56 of the Municipal Structures Act, 117 of 1998:

56. (1) An executive mayor and/or mayor is entitled to receive reports from committees of the municipal council and to forward these reports together with a recommendation to the council when the matter cannot be disposed of by the executive mayor and/or mayor in terms of the executive mayors delegated powers.
(2) The executive mayor and/or mayor must—
(a) identify the needs of the municipality;
(b) review and evaluate those needs in order of priority;
(c) recommend to the municipal council strategies, programmes and services to address priority needs through the integrated development plan, and the estimates of revenue and expenditure, taking into account any applicable national and provincial development plans; and
(d) recommend or determine the best way, including partnership and other approaches, to deliver those strategies, programmes and services to the maximum benefit of the community.
(3) The executive mayor and/or mayor in performing the duties of office, must—
(a) identify and develop criteria in terms of which progress in the implementation of the strategies, programmes and services referred to in subsection (2)(c) can be evaluated, including key performance indicators which are specific to the municipality and common to local government in general;
(b) evaluate progress against the key performance indicators;

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(c) review the performance of the municipality in order to improve—
  (i) the economy, efficiency and effectiveness of the municipality;
  (ii) the efficiency of credit control and revenue and debt collection services; and
  (iii) the implementation of the municipality's by-laws.
(d) monitor the management of the municipality's administration in accordance with the directions of the municipal council;
(e) oversee the provision of services to communities in the municipality in a sustainable manner;
(f) perform such duties and exercise such powers as the council may delegate to the executive mayor in terms of section 32;
(g) annually report on the involvement of communities and community organisations in the affairs of the municipality; and
(h) ensure that regard is given to public views and report on the effect of consultation on the decisions of the council.

(4) An executive mayor must perform a ceremonial role as the municipal council may determine.
(5) An executive mayor must report to the municipal council on all decisions taken by the executive mayor.
(6) The deputy executive mayor of a municipality exercises the powers and performs the duties of the executive mayor if the executive mayor is absent or not available or if the office of the executive mayor is vacant.

c) Deputy Executive Mayor and Deputy Mayor

In the collective executive system, a Deputy Mayor is appointed by the Council only if the Member of the Executive Council for local government in the province approves that a Deputy Mayor may be appointed. The Deputy Mayor is a member of the executive committee of the municipal council and is elected when the mayoral or executive committee is elected. The Deputy Mayor performs the Executive Mayor's powers and duties if the Executive Mayor is absent or not available. The roles of the Deputy Executive mayor and Deputy Mayor have been defined in:

- The Municipal Structures Act / Systems Act
- South African Local Government Association's roles and responsibilities for Councillors
- The Municipal Councillor handbook published in 2011 by South African Local Government Association; and
- Engagements with various stakeholders (Councillors) in focus groups.

d) Executive or Mayoral Committee

There are two systems for the appointment of an executive committee:

- The executive mayor appoints a mayoral committee; or
- The mayor works with an executive committee elected by the council.

The executive refers to the Executive Mayor and the mayoral committee or the mayor plus the executive. The executive proposes policy and presents budget proposals to the whole council. The executive is accountable to the council and has to get approval from the council for any decision related to policy and budget matters. Once policies and budgets have been approved by council, the executive is responsible for ensuring that the municipal administration implements them. Councillors play a monitoring and oversight role in this process. In terms of Section 60 of the Municipal Structures Act, 1998:

(1) If a municipal council has more than nine members, its executive mayor—
  (a) must appoint a mayoral committee from among the councillors to assist the executive mayor;
  (b) may delegate specific responsibilities to each member of the committee;
  (c) may delegate any of the executive mayor's powers to the respective members; and
  (d) may dismiss a member of the mayoral committee.
(2) The mayoral committee must consist of the deputy executive mayor (if any) and as many councillors as may be necessary for effective and efficient government, provided that no more than 20 per cent of the councillors or 10 councillors, whichever is the least, are appointed.
(3) Those of the executive mayor's powers and functions as may be designated by the 30 municipal council must be exercised and performed by the executive mayor together with the other members of the mayoral committee.
(4) The members of a mayoral committee remain in office subject to subsection (5) and section 26, for the term of the executive mayor who appointed them.
(5) If the executive mayor vacates office. the mayoral committee appointed by that executive mayor dissolves."

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e) Speaker

The Municipal Structures Act outlines the role of the Speaker as a Councillor elected in terms of section 36 of the Act to be the chairperson of a municipal council as envisaged in section 160(1)(b) of the Constitution. The speaker's role in a municipality depends mostly on the municipal business and the internal arrangements made therein. The speaker's role in a municipality is key to ensuring oversight, accountability, integrity, discipline of office, and the efficient running of council meetings. The roles of the Speaker have been defined in the:

- The Municipal Structures Act / Systems Act
- South African Local Government Association's roles and responsibilities for Councillors
- The Municipal Councillor handbook published in 2011 by South African Local Government Association
- Engagements with various stakeholders (Councillors) in focus groups

f) Various Committees (Section 79/80 Committees)

Section 79/80 Committees[32] report to a council and monitor the delivery of outputs of the executive. These committees play an oversight role and are not delegated any decision-making powers. They are also responsible for submitting reports to council. Section 80 committees report to an executive committee or to an Executive Mayor.

g) Standing committees

Standing committees are permanent committees that deal with council matters. They have some decision-making powers related to the legislative branch of council.

h) Whip

Whips are involved in the political management of council meetings and committee meetings. They also perform the following duties:

- Inform councillors of meetings called by the Speaker and the mayor and ensure that such meetings are quorate
- Advise the Speaker and mayor on the council agenda
- Inform Councillors about important matters on the relevant agenda
- Advise the Speaker on the amount of time to be allocated to speakers and the order of such speakers addressing the council
- Ensure that Councillors' motions are prepared and timeously tabled in terms of the procedural rules of council
- Assist the Speaker in the counting of votes
- Advise the Speaker and the mayor of urgent motions
- Advise the Speaker and mayor on how to deal with important items not disposed of

The role of a Whip is not legislated. It has evolved over time at a local government level. Department of Cooperative Governance recognises the need to formalise it or do away with it entirely. Based on focus groups, it is understood that Councillors are of the view that the Municipal Structures Act should be amended to recognise the roles and responsibilities of a Whip. The general view of Department of Cooperative Governance was that the role of the Whip should at least be part-time as this role is largely about the attendance of meetings rather than a legislated requirement in the Municipal Structures Act.

2.1.5.3 Municipal grading system

The municipal grading system was reviewed to understand the impact on the remuneration structure. Municipal grades are used to ascertain the Upper Limits of the annual total remuneration packages of full-time and part-time councillors. There are incidences of inconsistency, for example, where District Municipalities have been graded lower than some local municipalities in that district, though their responsibilities are not similar. The remuneration review focused on the following:

The full-time versus part-time classifications as a basis for determining remuneration

- Internal equity as it relates to the practice for Public Office-Bearers in Local Government;
- Considering the internal ratios applied; and
- External equity as compared to the selected market.

Municipal grading has benefited some municipalities but disadvantaged others.

32 See Sections 79 and 80 of the Municipal Structures Act 117 of 1998.

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The Commission reviewed the job profiles attached in Annexure 2 and independently re-graded the amended profiles in 2015. It was found that the grading corresponds to what was completed in the previous review. There have been no material changes to jobs. Table 1 shows the results of the evaluation correlated to Paterson using a conversion table:

TABLE 1: LOCAL GOVERNMENT JOB GRADING RESULTS

Grading of Councillors	Peromnes	Paterson
Executive Mayors	4	D5
Mayors	5	D4
Deputy Executive Mayors	5	D4
Speaker / Chairperson	6	D2
Deputy Mayor	6	D2
Member of Executive Council	7	C5
Chairperson of sub-council	7	C5
Member of Mayoral Committee	7	C5
Whip	7	C5
Chairman of Section 79 Committee	8	C4
Municipal Councillor	10	C2

2.1.6 Benefits review

2.1.6.1 Retirement and pension benefits

The Municipal Councillors Pension Fund was originally established specifically for providing retirement and related benefits to municipal Councillors. The fund is a defined contribution fund. However, membership of a pension fund is not compulsory for Councillors, and more specifically those Councillors who wish to join a pension scheme are not obliged to join the Municipal Councillors Pension Fund.

The Municipal Councillors Pension Fund has had challenges in the past, many of which relate to the fact that the fund is not compulsory. Some of the challenges relate to membership data, fund expenses and investment performance. These challenges have placed the fund in a poor light, which has resulted in further reductions in its membership. The particular vehicle chosen as the fund of choice and the particular issues faced by the fund are not of great concern to the Commission. Members of any retirement fund elect trustees from their own membership to represent them and as such they have sufficient control over the funds of choice and the ability to rectify any challenges faced by the funds.

Consideration of the appropriate pension benefits for Public Office-Bearers in Local Government should not be done in isolation and strong arguments can be made for a uniform pension benefit structure that suits all Public Office-Bearers.

National Treasury has issued a number of papers in relation to retirement reform, all of which encourage participation in a formal retirement arrangement that meets the needs of the individuals, is cost effective and reduces the burden on the State in respect of caring for the aged.

The proposals in respect of pension benefits for full-time Public Office-Bearers in Local Government are as follows:

- Membership of a formal retirement arrangement should be compulsory.
- The arrangement should be a defined contribution in nature (that is, where the benefits are based on the contributions made).
- A single defined contribution arrangement with sufficient flexibility in both the level of contribution as well as the associated risk benefits (death and disability) would meet the needs of the majority of public officer-bearers. To the extent that a recommendation for a single retirement arrangement is accepted, membership of this arrangement should be made compulsory for Public Office-Bearers in Local Government.

No proposals for pension benefits were made for part-time Public Office-Bearers in Local Government. This group of public office bearers are appointed on a part-time basis and therefore they do not contribute toward a pension.

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2.1.6.2 Medical aid benefits

The current provisions in respect of medical aid benefits are as follows:

- It is voluntary for Councillors to belong to a medical aid scheme;
- A Councillor may elect up to two-thirds of their total membership fee as a deduction off their total remuneration package; and
- Where part-time Councillors belong to a medical aid scheme of their full-time employer, they will not be entitled to deduct medical aid contributions from their total remuneration package paid by the municipality.

The issue of compulsory medical aid scheme membership is challenging given the various factors affecting Public Office-Bearers in Local Government. Some of these factors include the following:

- Spouse/partner's membership on a medical aid scheme;
- Part-time Councillors already on a scheme with their full-time employer;
- Low levels of earnings in smaller municipalities, making membership unaffordable;
- Limited medical scheme cost options; and
- Lack of facilities in close proximity through which medical aid benefits can be accessed.

To the extent that it is feasible to ensure the design of appropriate benefit structures and scheme options at a range of affordable levels, it is recommended that membership of a medical aid scheme should be made compulsory. This will ensure that Councillors have access to appropriate health care facilities, which ultimately benefits Councillors, their immediate families, and those constituencies that rely on their Councillor being available and fit for duty.

At the time of the previous major review, the cost of medical benefits was included in the design of the total remuneration structure, and as such the cost of these contributions has already been factored into the levels of remuneration.

It is recommended that discussions about these issues be initiated by the National Treasury and the Department of Cooperative Governance, working together with South African Local Government Association, with the major medical schemes in the country.

2.1.7 Recommendations

- National Treasury must avail budget for all Municipalities in Grades 1-3 for salaries and benefits to their Public Office Bearers. Ministerial determination and Member of Executive Committee concurrence must apply this principle.
- Notwithstanding the above recommendation, all Municipalities of Grade 1-3 should have identical salary and remuneration scales across each province. There should be no Member of Executive Committee concurrence process for these Grades and the Minister must issue one determination for all such municipalities in the province.
- In determining the recommended Full-Time / Part-Time classification the following recommendations are proposed:
- A detailed work study should be conducted ensuring proper distribution of duties in relation to the time for which the councillors are appointed and remunerated subject to applicable legislation.
- In determining the classification of Full-Time vs Part-Time councillors, the realities of the sector and area within which councillors operate, should be considered inter alia:
  - o Risk
  - o Developmental thrust, for municipalities in the rural areas
  - o The extent to which some councillors need to travel extensively in order to reach their constituencies

- All Public Office-Bearers including councillors must be paid directly by National Treasury.

- The 8/8th model should then be applied to the remaining Part-Time Councillors (similar to those applicable to nurses and other public servants).

- This option introduces the eight / eight model as it is applied to the public service employees (refer to the Department of Public Service and Administration Salary scales, with translation keys, for employees on salary levels 1 to 12 and covered by Occupation Specific Dispensations.

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- The principles of the model are as follows:
  - o Based on concurrence, a municipality is guided to select the appropriate scale depending on affordability. This will allow greater consistency in applying concurrence. Whilst this will continue to leave the discretion with the Member of Executive Committee of the province, it will eliminate the wide range of percentages applied to the remuneration as currently practiced (currently between 64% to 125%). This model will essentially force the Member of Executive Committee`s to select a specific scale and not a random percentage.
  - o 5/8th which is 62,5% of the upper limit rate will always be the target remuneration for "part time" Councillors which will mean a 6,5% adjustment on the current 56% of upper limit rate.
  - o The Member of the Executive Committee's ability to adjust the level of remuneration for Councillors needs to be reviewed. The principle of concurrence has created disparities that create dissonance within the sector. The concurrence system must be reviewed and strictly regulated nationally. Allowing the Member of Executive Committee discretion to affect the remuneration by more than 10% defeats the intention of creating alignment in remuneration within the sector and therefore the Commission is recommending a limit on concurrence of 10%.
- The Commission recommends the remuneration structure of Local Government Public Office-Bearers outlined in Table 2.

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TABLE 2: PROPOSED REMUNERATION STRUCTURE FOR LOCAL GOVERNMENT PUBLIC OFFICE-BEARERS

LOCAL GOVERNMENT													
Paterson	Positions and Municipal Grade	2022: REMUNERATION	3%: 2023	2,5%: 2024		Salary relativity	Compa-ratio	Varience	7% Proposed Adjustment	5% Proposed Adjustment	Compa-ratio	Varience	Commission Recommendations
D5	Exe Mayor 6	1 501 351	1 546 392	1 585 051	100%	1 930 439	82	18	1 696 005	1 780 805	89	11	1 780 805
	5	1 119 386	1 152 968	1 181 792	90%	1 737 395	68	32	1 264 517	1 327 743	89	11	1 327 743
	4	955 651	984 321	1 008 929	80%	1 544 351	65	35	1 079 554	1 133 531	89	11	1 133 531
	3	920 379	947 990	971 690	70%	1 351 307	72	28	1 039 708	1 091 694	89	11	1 091 694
	2	861 797	887 651	909 842	60%	1 158 263	79	21	973 531	1 022 208	89	11	1 022 208
	1	836 690	861 791	883 335	50%	965 219	92	8	945 169	992 427	89	11	992 427
D4	Mayor / Dep Exe Mayor 6	1 212 520	1 248 896	1 280 118	100%	1 803 853	71	29	1 369 726	1 438 213	89	11	1 438 213
	5	895 548	922 414	945 475	90%	1 623 468	58	42	1 011 658	1 062 241	89	11	1 062 241
	4	764 518	787 454	807 140	80%	1 443 082	56	44	863 640	906 822	89	11	906 822
	3	736 304	758 393	777 353	70%	1 262 697	62	38	831 768	873 356	89	11	873 356
	2	689 438	710 121	727 874	60%	1 082 312	67	33	778 825	817 767	89	11	817 767
	1	675 723	695 995	713 395	50%	901 926	79	21	763 332	801 499	89	11	801 499
D2	Speaker/Chairperson/Deputy Mayor 6	1 142 175	1 176 440	1 205 851	100%	1 582 327	76	24	1 290 261	1 354 774	89	11	1 354 774
	5	839 539	864 725	886 343	90%	1 424 094	62	38	948 387	995 807	89	11	995 807
	4	716 738	738 240	756 696	80%	1 265 862	60	40	809 665	850 148	89	11	850 148
	3	690 286	710 995	728 769	70%	1 107 629	66	34	779 783	818 772	89	11	818 772
	2	652 503	672 078	688 880	60%	949 396	73	27	737 102	773 957	89	11	773 957
	1	633 488	652 493	668 805	50%	791 164	85	15	715 621	751 402	89	11	751 402
C5	Member Exec Committee, Chairperson of sub-council, Member Mayoral Committee, Whip 6	1 142 175	1 176 440	1 205 851	100%	1 265 862	95	5	1 290 261	1 354 774	89	11	1 354 774
	5	839 539	864 725	886 343	90%	1 139 275	78	22	948 387	995 807	89	11	995 807
	4	716 738	738 240	756 696	80%	1 012 689	75	25	809 665	850 148	89	11	850 148
	3	690 286	710 995	728 769	70%	886 103	82	18	779 783	818 772	89	11	818 772
	2	652 503	672 078	688 880	60%	759 517	91	9	737 102	773 957	89	11	773 957
	1	633 488	652 493	668 805	50%	632 931	106	-6	715 621	751 402	89	11	751 402
C4	Chair Section 79 Comm 6	1 108 670	1 141 930	1 170 478	100%	1 170 922	100	0	1 252 412	1 315 032	89	11	1 315 032
	5	814 913	839 360	860 344	90%	1 053 830	82	18	920 569	966 597	89	11	966 597
	4	695 712	716 583	734 498	80%	936 738	78	22	785 913	825 208	89	11	825 208
	3	676 417	696 710	714 127	70%	819 645	87	13	764 116	802 322	89	11	802 322
	2	633 363	652 364	668 673	60%	702 553	95	5	715 480	751 254	89	11	751 254
	1	614 906	633 353	649 187	50%	585 461	111	-11	694 630	729 362	89	11	729 362
C2	Municipal councillor 6	562 265	579 133	593 611	100%	1 075 982	55	45	635 164	666 922	89	11	666 922
	5	354 244	364 871	373 993	90%	968 384	39	61	400 173	420 181	89	11	420 181
	4	302 428	311 501	319 288	80%	860 786	37	63	341 639	358 720	89	11	358 720
	3	291 266	300 004	307 504	70%	753 188	41	59	329 029	345 481	89	11	345 481
	2	272 728	280 910	287 933	60%	645 589	45	55	308 088	323 492	89	11	323 492
	1	264 462	272 396	279 206	50%	537 991	52	48	298 750	313 688	89	11	313 688

The Mayor of a grade 6 municipality will have an anchor salary of R1 930 493. However, the Mayor of a grade 2 municipality will have an anchor salary of R1 082 312. Due to the huge gap between the current salary of Executive Mayor and the salary relativity the Commission increased the current salary by 7% and made a further 5% adjustment to arrive at a recommended salary. All other salaries below the Executive Mayor were increased and adjusted accordingly by 7% and 5%.

The classification of municipalities serves as one of the factors considered for determination of Councillors' remuneration. This contributes to the remuneration challenges of smaller municipalities since affordability is a key determinant of the classification. In smaller municipalities, populations could be lower because of the migration of citizens to urban areas, and revenue is lower because of the inability to generate income through payment of service charges, rates and taxes.

- The structuring of the recommended total remuneration packages should include the following elements:
  - Basic salary component (60% of total package) which constitutes a pensionable salary
  - An amount not exceeding 5% of the annual package of Councillors as the amount to which section 8(1)(d) of the income Tax Act, 1962, applies; this amount is included in the basic salary
  - An employer's pension benefit contribution equal to 22.5% of the pensionable salary
  - A flexible portion for the remaining amount of the total remuneration

- It is further recommended that the cost-of-living increases be used for the alignment of the remuneration structure in the short term with a proper benchmark exercise every three to five years (based on market movement directions and affordability).
- The Commission recommends the following for the pension benefits of the Public Office-Bearers within Executive, Legislative and Local Government Sectors:
  - A single defined contribution fund for all political office bearers of the Executive, Legislative and Local Government within POBPF.
  - This migration of Public Office-Bearers in the Local Government Sector should result in the amendment of relevant legislation and to accommodate the current and new members.
- The Commission recommends a single scheme for the provision of the medical aid benefits for the Public Office-Bearers in the Executive, Legislative, Local Government and Judiciary Sectors:
  - The employee contribution (subsidies) of the Public Office-Bearers form part of their total cost salary package.
  - The introduction of a single scheme requires the amendment of the relevant legislation to accommodate the current and new members.

2.1.7.1 Recommendations on tools of trade

- Stakeholder and focus group engagements highlighted a challenge regarding the tools of trade. These are the following:
  - A lack of laptops leads to challenges in finalising reports timeously as the Councillor would need to travel to the municipal office to complete reports on their desktops;
  - A lack of office space and support for Councillors to perform Council business; and
  - There is currently a difference between what the Commission published in the Government Gazette No. 34569 dated 29 August 2011 and that which is outlined in the recent Minister's Notice No. 43246 dated 24 April 2020. A general tool of the trade provision is provided in the Notice.
- The Commission's recommendations deal with the following tools of trade as outlined in detail in the Government Gazette No. 34569 which provides tools of trade guidelines in terms of the following:
  - Official and private accommodation.
  - Offices, office supplies and stationery.
  - Information technology and communication (ITC) equipment.
  - Adequate and professional staff support.
  - Official and private travelling facilities.
  - Reimbursement allowances.
  - Security.
  - Study aids.
  - Other facilities.
  - In addition, the Commission has provided principles that must serve as guiding lines in affording tools of trade to all Public Office-Bearers

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2.2 Executive and legislature sector

2.2.1 Objectives

- To review the present salary structure and tools of trade inclusive of pension, medical aid through profiling, grading and benchmarking.
- To report on comparisons of salaries, benefits and incentives in relation to positions of similar level in the public sector and appropriate comparable positions in other sectors and Public Office-Bearers, where applicable.
- To engage principal stakeholders in order to obtain their views and insights.
- To apply leading remuneration methodologies to conduct the analysis.
- To establish an equitable and transparent remuneration system and the attraction and retention of Public Office-Bearers.

2.2.2 Methodology

The review methodology applied included:
- The determination and defining the content of the Public Office-Bearers' roles (role/job profile);
- Evaluation of Public Office-Bearer positions to appropriate grades;
- Conduct benchmarking; and
- Conduct an audit on the remuneration, pension, medical aid and tools of trade for Public Office-Bearers in this sector.

Table 3 illustrates the activities and outcomes in respect of each of the review methodology utilised.

TABLE 3: THE REVIEW PROCESS AND OUTCOMES

STAGES / COMMUNICATION STRATEGY

KEY DELIVERABLES	ACTIVITIES	OUTCOMES
ROLE / JOB PROFILE	• Accessing primary data research (that is, First Major Review) • Consultative sessions and structured interviews • Submissions • Analyse, assess and evaluate jobs; and • Confirmatory consultations.	• Comprehensive job profiles for each office-bearer position; and • Established basis for grading.
JOB GRADING	• Grading of office-bearer positions; and • Consultations with stakeholders.	• Grading results and correlation with other job evaluation systems; and • Vertically and horizontally integrated grading structures.

BENCHMARKING	• Submissions and engagement with stakeholders
	• Consider various benchmarking options:
	  • Private sector
	  • Public sector
	  • State Owned Enterprises; and
	  • International comparators; and
	• Identification of anchor positions.
		• Compiling reports on comparative ranges of fair remuneration options.

REMUNERATION, PENSION & MEDICAL AID AUDIT	• Analysed the recommendations and data from the Second Major Review;[35] • Consultative sessions and structured interviews • Submissions • Gap and situational analysis; and actuarial investigation.	• Recommendations for remuneration, pension and medical aid dispensation; and • Practical implementation and affordability of the recommendations.
TOOLS OF TRADE	• Analysed the recommendations and data from the Third Major Review[36] • Consultative sessions and structured interviews; • Obtained submissions; and • Reviewed existing tools of trade.	• Necessary recommendations on or amendments of tools of trade.
INTEGRATED REMUNERATION STRUCTURE	• Develop the recommended remuneration structure with rules.	• Integrated remuneration structure for all Public Office-Bearers • Advice on cost implications of all the recommendations; and • Fully developed remuneration strategy and policy.

FINAL REPORT AND IMPLEMENTATION PLAN

Activities:	Outcomes:
• Draft Fourth Major Review report • Publication in the Government Gazette • Stakeholder road shows • Statutory consultations; and • Consider input and final report.	• Stated philosophy for office bearer remuneration • Comprehensive job profiles; and • Fair, transparent and flexible remuneration structure, pension, medical aid, allowances and tools of trade for Public Office-Bearers.

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2.2.3 Job profiles

The Commission perused the existing job profiles developed during the First Major Review:

- Under the auspices of the previous Commission's term of office, a delegation consisting of members from the Commission and the service provider conducted consultations with representatives from the Executive and Legislative sectors. Further engagements with the Provincial Legislatures as well as National Parliament were conducted in 2018/2019.
- Engagements with the relevant representatives sought to obtain clarity on the existing job profiles on the selected jobs which were analysed. After compilation of the role profiles, they were sent to the relevant representatives to validate.
- The role profiles for the positions contained in Annexure 3 – Role profiles for Public Office-Bearers in the Executive and Legislative sectors were validated by the respective representatives.

2.2.4 Job grading

The grading of jobs was conducted in terms of the validated job profiles using the Paterson Job Evaluation System. Thereafter, they were correlated to alternative evaluation methodologies such as the Peromnes, Tuned Assessment of Knowledge and Skill (TASK), EXECEVAL and Skills and Knowledge Analysis (SKAN).

The Paterson job evaluation methodology was selected as it is one of the leading methodologies used globally and it is accredited by the International Labour Organisation (ILO). Furthermore, it is easily cross correlated to other systems of grading/evaluation referred to above.

A key feature of the Paterson methodology is the dimension of decision-making where roles are defined in terms of the types of decisions and level of impact.

A total of 36 jobs were graded (see Table 4).

TABLE 4: PATERSON GRADING RESULTS FOR EXECUTIVE AND LEGISLATIVE SECTOR GRADING RESULTS

Paterson Grade	Executive	National Assembly	NCOP	Provincial Legislature
G1	President			
F4	Deputy President	Speaker: National Assembly	Chairperson: NCOP	
E5	Minister			Premier
E3	Deputy Minister	Leader of the Opposition		
E2		Parliamentary Counsellor: President		Member of Executive Council
		Parliamentary Counsellor: Deputy President		Speaker
E1		Deputy Speaker: National Assembly		Leader of Opposition
		House Chairperson	Deputy Chairperson: NCOP	
D4		Chief Whip: Majority Party	Chief Whip: NCOP	Deputy Speaker
D3				Chief Whip: Majority Party
				Chairperson of Committees
D2		Deputy Chief Whip: Majority Party	Chairperson of a Portfolio Committee	
		Chief Whip: Largest Minority Party		Deputy Chairperson of Committees
		Leader of Minority Party		
D1		Whip		Chairperson of a Committee
				Deputy Chief Whip: Majority Party
				Chief Whip: Largest Minority Party
				Leader of Minority Party
C5		Member of Parliament: National Assembly	Permanent Delegate to the NCOP	Whip
C4				Member of Provincial Legislature

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2.2.5 Benchmarking

The Commission considered various options for the appropriate benchmarking of the Public Office-Bearers' positions against comparable public and relevant sector positions both locally and internationally. In this regard, the Commission had an engagement with all the Public Office-Bearer stakeholder groups and selected international institutions.

Having conducted benchmarking in the South African market, it was established that the identified anchor positions of the Speaker of National Assembly and Chairperson of National Council of Provinces were compared appropriately with roles in the national market.

Benchmarking information was collated and utilised to assess and determine the relativities and rankings of the Public Office-Bearer roles in relation to the anchor positions.

The findings of the benchmarking exercise have laid the foundation for the analysis and recommendations of the proposed remuneration structure for the sector. A detailed report outlining the national and international benchmarking analysis and findings thereof is contained in Annexure 4 – Remuneration benchmarking and audit, research of international comparator countries, remuneration audit and remuneration benchmarking against international comparators).

The scope, survey and the definition of work covered the following 36 Public Office-Bearer positions within the Legislative and Executive sectors taking into account the level and responsibilities of each position:

TABLE 5: POSITIONS IN EXECUTIVE AND LEGISLATIVE SECTOR

National Executive and Deputy Ministers	Members of Parliament	Provincial Executives and Legislatures
• President • Deputy President • Minister • Deputy Minister	• Speaker: National Assembly • Chairperson: National Council Of Provinces • Deputy Speaker: National Assembly • Deputy Chairperson: National Council Of Provinces • House Chairperson • Chief Whip: Majority Party • Chief Whip: National Council Of Provinces • Parliamentary Counsellor: President • Parliamentary Counsellor: Deputy President • Leader of Opposition • Chairperson of a Committee • Deputy Chief Whip: Majority Party • Chief Whip: Largest Minority Party • Leader of a Minority Party • Whip • Member: National Assembly • Permanent Delegate: National Council Of Provinces	• Premier • Member of Executive Council • Speaker • Deputy Speaker • Chief Whip: Majority Party • Chairperson of Committees • Leader of Opposition • Chairperson of a Committee • Deputy Chairperson of Committees • Deputy Chief Whip: Majority Party • Chief Whip: Largest Minority Party • Leader of a Minority Party • Parliamentary Counsellor to a King • Whip • Member of Provincial Legislature

A holistic review of current remuneration practices was undertaken including the following elements:
- Total guaranteed package per position in line with relevant countries using the same measure.
- Annual increase trends and projections.

The survey process that was undertaken consisted of four distinct phases:
- Selecting a sample consisting of various similar positions
- Designing the data collection instruments
- Collecting data and data analysis; and

Data was validated as at 2018 during the commissioning of the survey.

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2.2.5.1 Survey sample

In order to make meaningful comparisons, a comparative study of the identified remuneration elements was conducted within the agreed categories of the Public Office-Bearers, as well as a minimum of five (5) countries outside South Africa. These countries were chosen based on their similarities amongst others on the criteria of either the Gross Domestic Product (GDP), geography and the structure of Government (National and Provincial).

The work undertaken during the preparation of the review included several consultations with the following bodies:
- The Legislative Sector Forum (Speakers Forum)
- The National Parliament
- The Provincial Legislatures; and
- Representatives of the Executive.

2.2.5.2 Data collection instruments

The Commission developed a set of job matching guidelines based on the job profiles and the levels of the Public Office-Bearers' positions, which were used to ensure accurate job matching within the sample and for external comparators purposes.

This approach offered the Commission the opportunity to customise the data collection process to incorporate other remuneration related information (for example stakeholder submissions, policies and relevant legislation).

2.2.5.3 Data collection and analysis

The Commission collected the completed data documents from the comparator countries. This information was validated and analysed and the data was reflected as percentiles and/or a summary of practices across the sample. The Commission received a comparator-ratio report comparing each position to the relevant market across the 36 identified roles.

2.2.5.4 Salary benchmarking within the South African Market

The Commission had access to a web-based national salary survey that offers comparisons to the South African market for both a National and a State Owned Enterprises view.

For each position, data was split to detail each element of pay as follows:

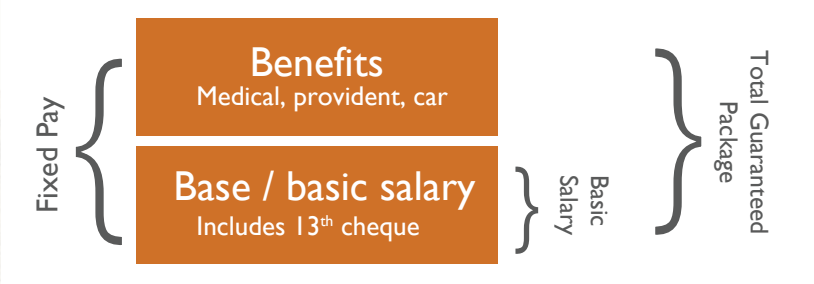


FIGURE 3: ELEMENTS OF PAY

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2.2.6 Remuneration, pension and medical aid audit

2.2.6.1 Remuneration audit

The objective of the remuneration audit was to enable the Commission to develop an aligned remuneration structure after taking salary gaps and market practices into account. The audit involved 36 Public Office-Bearer positions within the Legislative and Executive sectors. The following were the phases of the audit process:

Phase 1: Situational analysis

The output of this phase assisted to provide a thorough understanding of the current remuneration practices, legislation, policies, and directives within the Public Office-Bearers' operational environment. The following were scrutinised and interrogated:

- Relevant official documentation for audit purposes
- Existing conditions of service
- Current remuneration structures (salaries); and
- Other relevant benefits.

2.2.6.2 Pension and medical aid audit

An actuarial investigation was conducted based on the initial detailed analysis of the current pension and medical aid dispensations. This involved an analysis of the overall pension and medical aid landscape currently applicable to the 36 Public Office-Bearer positions within the sector. This included an understanding of the various pension and medical aid arrangements being utilised.

Following the analysis, the Commission developed and recommended relevant pension and medical aid dispensations to be applied to the Public Office-Bearers. In assessing an appropriate pension and medical aid dispensation, the Commission considered and extensively debated the needs of the individual office-bearers as well as the practical implementation and affordability thereof.

2.2.7 Tools of trade

The Commission reviewed existing tools of trade from the Public Office-Bearer's institutions based on the previous recommendations and applicable handbooks (National/Provincial and Local).The information was gathered during stakeholders' engagements and these included the following:

- Adequate staff support
- Care facilities
- Information and communication technology equipment
- Offices, office supplies and stationery
- Official and private accommodation
- Official travelling facilities
- Reimbursement allowances
- Security
- Study aids

2.2.7.1 Integrated remuneration structure

The Commission developed an integrated remuneration structure. The remuneration of the Public Office-Bearers within the Legislative and Executive sectors reflects the dynamics of the market and context in which the system operates.

It is the Commission's considered view that the remuneration structure should reinforce, encourage and promote performance. The methodology that the Commission utilised during the development of the remuneration structure was based on the following steps as outlined, namely:

- Investigation and eligibility: Studied and developed remuneration structure;
- Type of remuneration structure: Developed various remuneration options by undertaking a preliminary risk analysis and feasibility study;
- Fully develop preferred structure and rules: Drafted preliminary rules, which outlined the way in which the remuneration structure would operate – the measures, the pay-outs and the conditions of implementation; and
- Develop recommended remuneration strategy and policy.

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The proposed remuneration structure for the Public Office-Bearers seeks to use the current total remuneration package of the Deputy President, Speaker of the National Assembly and the Chairperson of National Council of Provinces as the anchor positions for both the Executive and Legislative sectors. A Graded Pay Relativity Methodology was then used to determine the total remuneration packages for the other positions in relation to the anchor positions.

2.2.7.2 Engagements on job profiles and grading

Consultative sessions were held with the representative sample from both the Executive and Legislative sectors to understand the nature and context of the existing roles. Role profiling interviews were conducted at National Parliament, the Executive and the Provincial Legislatures. Following this exercise, the profiles were reviewed, updated and confirmed.

2.2.7.3 Integrated remuneration structure and cost implications

The remuneration framework is based on a unique model of relativity between positions with reference to an anchor position. The relativities are influenced by the job grade results that have been validated.

The proposed remuneration structure for all the Public Office-Bearers takes into account the use of the total remuneration package of the Deputy President, Speaker of the National Assembly and the Chairperson of National Council Of Provinces for the anchor for the Executive and Legislative sectors.

The analysis of the remuneration of the Public Office-Bearers shows that there is no differentiation in the current levels of the remuneration for the Public Office-Bearers with long periods of service and experience, and the salary disparities between the members of the National Assembly and members of the Provincial Legislatures due to the ranking.

2.2.7.4 Design principles

The design of a remuneration structure was guided by a number of important leading principles, as well as the reality of the history and context within which the sector operates. The following principles and methodologies were used in the design of the proposed remuneration structures:

- *Internal and external equity:* Remuneration structures are designed to support both internal equity and external competitiveness.
- *Affordability and competitiveness.*

The following features were incorporated in the design of the remuneration structure:

- The remuneration structure should support the remuneration philosophy;
- It is flexible enough to respond to internal and external pressures by comparing the total remuneration packages of Public Office-Bearer's in similar positions;
- It ensures consistent decision-making and the application of the remuneration philosophy; and
- It is affordable.

Based on the above the following methodologies were used:

- Remuneration was based on the current total remuneration package including allowances
- Remuneration comparisons were based on the available remuneration of the Public Office-Bearers against that of the market data
- Remuneration structures and the proposed relativities were based on the Job Evaluation results, and a Graded Pay Relativity Methodology was applied to align the remuneration of the roles
- Benchmarks have been based on consideration of the level and complexity of the role, linked to size, type and structure of the organization
- The data presented therefore reflects the actual executive and legislature remuneration
- Comparative remuneration data was benchmarked against the complexities of Public Office-Bearers' positions
- For the purpose of comparing the South African Public Office-Bearers' salaries on an international scale, the salary relativities between the President and a Member of Parliament were used

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Table 6 provides a summary comparison of the salaries of the President versus a member of the National Legislature in selected countries.

TABLE 6: RELATIVITY COMPARISONS OF SALARIES BETWEEN SELECTED INTERNATIONAL COUNTRIES

	RSA	Ghana	Singapore	Kenya	Austria	Namibia
President	110	100	200	100	250	100
Member of Parliament	62	60	17.5	43	100	48
Percentage of highest salary	56%	60%	9%	43%	40%	48%
Source: 21st Century Close-Out Report (2020)						

2.2.7.4.1 Observations

- Table 6 indicates that a South African member of Parliament is remunerated comparatively higher than those compared in the Table above and for every R1.00 that the President earns, a member of parliament earns R0.56.
- In the comparisons between the anchor positions (i.e. Deputy President, the Speaker of the National Assembly and Chairperson: National Council Of Provinces and the market values, it was established that the anchor position value is 22% above the medians of the National Market and 15% ahead of the SOE market.
- Leaders of all Opposition parties have the greatest negative percentages (that is between -10% for E3 and -20% for E1 of the market values).

2.2.7.5 Local benchmarking with the national market and State Owned Enterprises

The reasons why the National and State Owned Enterprise market data were used for the purpose of benchmarking are as follows:

- Determining the level of the Public Office-Bearers remuneration against comparable public service positions is inappropriate
- This benchmarking exercise was conducted mainly for the purpose of building a structure, as grade correlations provide for a direct link in terms of the levels of complexity of the various positions;
- The market relativity is thus only relevant for the purpose of benchmarking the anchor positions; and
- It is important to note that the SOE market sample used includes over 50 SOEs of various sizes within the 18 different sub-industries. In this specific exercise, for the positions within the grade range between C4 to E3, the Commission has extracted data from the entities where there was a relevant job match. For grade E5, the data which informs the benchmarks is based on all jobs of similar size and complexity within a job grade rather than a job-specific match. The Commission has thus used this methodology for the national market benchmarks utilizing the full national market database which consists of over 700 organizations in South Africa.

2.2.7.6 Proposed salary structure base

The proposed anchor position remains the base of the pay table value. The rationale is that this current pay table value is already ahead of the market values and a direct mirror of the market distribution would mean a lower anchor value than is currently in place.

The proposed remuneration structure for Public Office-Bearers uses the current total remuneration package of the Deputy President, Speaker of the National Assembly and the Chairperson of NCOP as an anchor with positions being ranked relative to the anchor as depicted below by Schedules 1 – 3 in Tables 07, 08 and 09.

TABLE 7: REMUNERATION LEVELS WITH EFFECT FROM 1 APRIL 2022, SCHEDULE 1

NATIONAL EXECUTIVE AND DEPUTY MINISTERS			
Grade	Pay level	Position	Remuneration level
EA	1	President	3 171 927
EB	1	Deputy President	2 997 541
EC	1	Minister	2 547 892
ED	1	Deputy Minister	2 098 243

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TABLE 8: REMUNERATION LEVELS WITH EFFECT FROM 1 APRIL 2022, SCHEDULE 2

MEMBERS OF PARLIAMENT			
Grade	**Pay level**	**Position**	**Remuneration level**
PA	1	Speaker: National Assembly	2 997 541
		Chairperson: NCOP	2 997 541
PB	1	Deputy Speaker: National Assembly	2 098 243
		Deputy Chairperson: NCOP	2 098 243
	2	House Chairperson	1 997 132
PC	1	Chief Whip: Majority Party	1 697 935
		Chief Whip: NCOP	1 697 935
		Parliamentary Counsellor: President	1 697 935
		Parliamentary Counsellor: Deputy President	1 697 935
		Leader of Opposition	1 697 935
	2	Chairperson of a Committee	1 586 847
PD	1	Deputy Chief Whip: Majority Party	1 428 218
		Chief Whip: Largest Minority Party	1 428 218
		Leader of a Minority Party	1 428 218
	2	Whip	1 325 314
PE	1	Member: National Assembly	1 207 233
		Permanent Delegate: NCOP	1 207 233

TABLE 9: REMUNERATION LEVELS WITH EFFECT FROM 1 APRIL 2022, SCHEDULE 3

PROVINCIAL EXECUTIVES AND LEGISLATURES			
Grade	**Pay level**	**Position**	**Remuneration level**
LA	1	Premier	2 398 068
LB	1	Member of Executive Council	2 098 243
		Speaker	2 098 243
LC	1	Deputy Speaker	1 697 935
		Chief Whip: Majority Party	1 586 847
	2	Chairperson of Committees	1 428 221
		Leader of Opposition	1 428 221
		Chairperson of a Committee	1 428 221
	3	Deputy Chairperson of Committees	1 343 701
		Deputy Chief Whip: Majority Party	1 343 701
		Chief Whip: Largest Minority Party	1 343 701
		Leader of a Minority Party	1 343 701
LD	1	Parliamentary Counsellor to a King	1 207 233
		Whip	1 207 233
	2	Member of Provincial Legislature	1 168 420

The proposed salary structure is based on relativities between the anchor value and the level of the position as indicated in Tables 10, 11 and 12. A full range of levels is provided even though there may not necessarily be any Public Office-Bearers presently employed at those levels.

These levels have been included so that the integrity of the relativity and progression between levels is maintained.

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TABLE 10: PROPOSED SALARY STRUCTURE BASE FOR NATIONAL EXECUTIVE AND DEPUTY MINISTERS AFTER THE 2024/25 DETERMINATION BY THE PRESIDENT

NATIONAL EXECUTIVE AND DEPUTY MINISTERS							
PATERSON GRADE	POSITION	CURRENT SALARY	% RELATIVITY	SALARY RELATIVITY	COMPA-RATIO	NO. OF INCUMBENTS	COMMISSION RECOMMENDATIONS
G1	President	3 348 761	110%	3 481 119	96	1	3 481 119
F4	Deputy President	3 164 654	100%	3 164 654	100	1	3 164 654
E5	Minister	2 689 937	85%	2 689 956	100	36	2 689 956
E4							-
E3	Deputy Minister	2 215 220	75%	2 373 490	93	38	2 373 490

Notes: The Position of the President is not an anchor and is at 110% which is 10% above the anchor position (Deputy President).
The current remuneration as reflected above in Table 10 is based on the President`s determination of 3% for 2023/2024 and 2.5% 2024/2025 increase respectively.
All salaries in this category are recommended to be remunerated in line with the salary relativity.

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TABLE 11: PROPOSED SALARY STRUCTURE BASE FOR MEMBERS OF PARLIAMENT

MEMBERS OF PARLIAMENT								
PATERSON GRADE	POSITION	CURRENT SALARY	% RELATIVITY	SALARY RELATIVITY	COMPA-RATIO	NUMBER OF INCUMBENT	COMMISSION'S RECOMMENDATION	
F4	Speaker: National Assembly	3 164 654	100%	3 164 654	100%	1	3 164 654	
F4	Chairperson: NCOP	3 164 654	100%	3 164 654	100%	1	3 164 654	
							-	
E3	Leader of Opposition	1 792 595	70%	2 215 258	81%	1	2 215 258	
E3	Deputy Speaker: National Assembly	2 215 220	70%	2 215 258	100%	1	2 215 258	
E3	Deputy Chairperson: NCOP	2 215 220	70%	2 215 258	100%	1	2 215 258	
E2	House Chairperson	2 108 472	67%	2 120 318	99%	5	2 120 318	
E2	Parliamentary Counsellor: President	1 792 595	67%	2 120 318	85%	1	2 013 981	
E2	Parliamentary Counsellor: Deputy President	1 792 595	67%	2 120 318	85%	1	2 013 981	
D5		-					-	
D4	Chief Whip: Majority Party	1 792 595	70%	2 215 258	81%	1	2 215 258	E3
D4	Chief Whip: NCOP	1 792 595	70%	2 215 258	81%	1	2 215 258	E3
D3		-					-	
D2	Chairperson of a Committee	1 675 314	55%	1 740 560	96%	53	1 740 560	
D2	Deputy Chief Whip: Majority Party	1 507 841	50%	1 582 327	95%	1	1 582 327	
D2	Chief Whip: Largest Minority Party	1 507 841	50%	1 582 327	95%	1	1 582 327	
D2	Leader of a Minority Party	1 507 841	50%	1 582 327	95%	9	1 582 327	
D1	Whip	1 399 201	45%	1 424 094	98%	73	1 424 094	
		-					-	
		-					-	
C5	Member: National Assembly	1 274 536	40%	1 265 861	101%	206	1 265 861	
C5	Permanent Delegate: NCOP	1 274 536	40%	1 265 861	101%	28	1 265 861	

NB: The salary of the Chief Whip Majority Party and Chief Whip : NCOP is parked at E3. Same with Leader of Opposition.
All salaries in this category are recommended to be remunerated in line with the salary relativity.

TABLE 12: PROPOSED SALARY STRUCTURE BASE FOR PROVINCIAL EXECUTIVES AND LEGISLATURES

PROVINCIAL EXECUTIVES AND LEGISLATURES							
PATERSON GRADE	POSITION	CURRENT SALARY	% RELATIVITY	SALARY RELATIVITY	COMPA-RATIO	NUMBER OF INCUMBENT	COMMISSION'S RECOMMENDATIONS
Anchor	Deputy President	3 164 654					
		-					
E5	Premier	2 531 760	85%	2 689 956	94%	9	2 689 956
		-	-		-	-	-
E4	Speaker	2 215 220	80%	2 531 723	87%	9	2 488 799
		-	-		-	-	-
E3	Member of Executive Council	2 215 220	75%	2 373 490	93%	90	2 373 490
		-	-		-	-	-
		-	-		-	-	-
E1	Leader of Opposition	1 507 844	65%	2 057 025	73%	9	2 057 025
		-	-		-	-	-
		-	-		-	-	-
D4	Deputy Speaker: PL	1 792 595	60%	1 898 792	94%	-	1 898 792
D4	Chief Whip: Majority Party	1 675 314	60%	1 898 792	88%	9	2 057 025
D4	Chairperson of Committees: PL	1 507 844	60%	1 898 792	79%	-	1 898 792
		-	-		-	-	-
D2	Deputy Chairperson of Committees	1 418 612	50%	1 582 327	90%	6	1 582 327
		-	-		-	-	-
		-	-		-	-	-
D1	Chairperson of a Committee: PL	1 507 844	45%	1 424 094	106%	-	1 507 844

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PROVINCIAL EXECUTIVES AND LEGISLATURES							
PATERSON GRADE	POSITION	CURRENT SALARY	% RELATIVITY	SALARY RELATIVITY	COMPA-RATIO	NUMBER OF INCUMBENT	COMMISSION'S RECOMMENDATIONS
D1	Deputy Chief Whip: Majority Party	1 418 612	45%	1 424 094	100%	7	1 424 094
D1	Chief Whip: Largest Minority Party	1 418 612	45%	1 424 094	100%	7	1 424 094
D1	Leader of a Minority Party	1 418 612	45%	1 424 094	100%	19	1 424 094
C5	Whip	1 274 536	40%	1 265 861	101%	47	1 265 861
		-	-		-	-	-
C4	Member of Provincial Legislature	1 233 559	40%	1 265 861	97%	99	1 265 861
		-	-		-	-	-
	Parliamentary Counsellor to a King	1 274 536	40%	1 265 861	101%	0	1 265 861

NB: The salary of the Speaker and the grade is between the Premier and MEC positions
Chief Whip salary is the same as Leader of Opposition. Same principle applied at National Parliament
Chairperson of Chairpersons is above Chairperson of Committee
All salaries in this category are recommended to be remunerated in line with the salary relativity.
Parliamentary Counsellor to a King is applicable to all provinces with the exception of the affordability.

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2.2.8 Benefits review

2.2.8.1 Retirement and pension benefits

The Political Office Bearers Pension Fund was established in 1998 and subsequently pre-dated to 27 April 1994. The Political Office Bearers Pension Fund is presently registered with the Financial Sector Conduct Authority[37] and Prudential Authority.

Membership to the Political Office Bearers Pension Fund is limited to the Political Office-Bearers such as the Deputy President, Ministers and Deputy Ministers, Members of the National Assembly and a permanent delegate to the National Council of Provinces, Premiers and Members of the Executive Council of provinces, Members of Provincial Legislatures and diplomats. Membership to the Political Office Bearers Pension Fund is compulsory for Public Office-Bearers in this category. The retirement age is optional from 50 onwards.

In reality, Public Office-Bearers in this sector are elected to office and not employed in the ordinary sense of the word "employment". For the purposes of this report, the word "Employer" will be used as it is defined in the Rules of the Political Office Bearers Pension Fund.

Risk benefits are provided, and a summary of the risk benefits is set out in Table 13.

TABLE 13: RISK BENEFITS

	Benefit	Ceasing Age
Death benefit	5 times annual pensionable salary	89
Disability income	75% scale to a maximum of R200,000 p.m. Waiting period of 6 months.	Maximum age: Age 65. If claim arises before age 45 benefit payable until age 50. If claim arises at age 45 but before age 65, benefit is payable for the lesser of 5-years or period to age 65.
Spouses cover	1 times members annual pensionable salary	89
Funeral cover	R36,000 scale	75 (89 for members who joined before 1 Oct 2010)

The total remuneration package includes the following elements:

- A basic salary component equal to 60% of the total package, which constitutes the pensionable salary
- An amount of R120 000 per annum, which is an amount to which section 8(1)(d) of the Income Tax Act, 1962, applies. This amount is included in the basic salary component for which proper accounting records must be recorded.
- An employer's pension benefit contribution equal to 22.5% of pensionable salary; and
- A flexible portion for the remaining amount of the total remuneration.

2.2.8.1.1 The tenure of Public Office-Bearers

- The Public Office-Bearers' term of office is for a maximum of 5-years. This is a fixed term of engagement and thus temporary in nature. This result shows a dynamic environment with substantial movement every 5-years. Accordingly, the turn-over rate is high as a second term (or further terms) in office is not guaranteed.
- Current data (dates of entry into the Political Office Bearers Pension Fund reflects a change of membership of between 45% to 55% every 5-years. The holding of office is not limited by age. Consequently, there is no age limitation in becoming a Public Office-Bearer.

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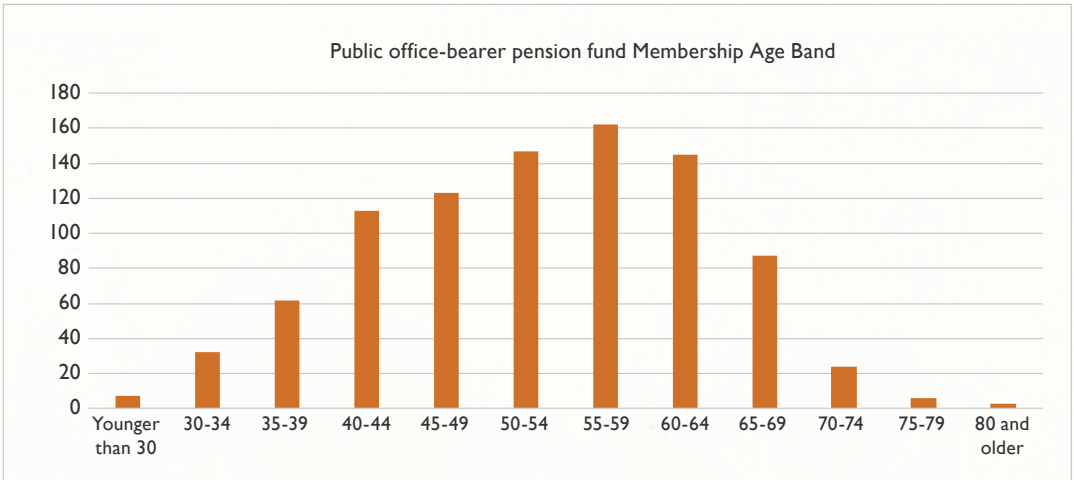


FIGURE 4: AGE PROFILE GRAPH AS AT 2024 (SOURCE: FUND ADMINISTRATOR DATA BASE)

2.2.8.1.2 Retirement benefits

- In order to review the existing arrangements in respect of the contribution rates and the Net Replacement Ratios, a recap will be made on the basis of the review. The current benefit structure is a defined contribution arrangement and a total contribution towards retirement funding is 24.5% of pensionable salary with risk and administration costs paid over and above.
- The benchmark information was obtained from the Sanlam Benchmark Survey of 2018.This is a widely used survey in the retirement fund industry. The Calculation of the targeted Net Replacement Ratios is as follows:

  - The Sanlam Benchmark Survey of 2018 indicates that the average total contributions made to a non-union stand-alone fund in the private sector is 15.6%.
  - This rate reduces to 13.9% in respect of umbrella funds. Employer contributions on union funds are higher at 11.33% with members contributing at 7.25%.
  - On average a 15% contribution rate over 40 years is estimated to provide a Net Replacement Ratio of approximately 80% of salary.
  - Net Replacement Ratios of 80% of salary also enables a member to purchase a pension of about 2% of salary for every year of service.
  - Refer to Annexure 5 – Concept of Net Replacement Ratio for a description of Net Replacement Ratios and assumptions used in the calculations.
  - On this basis, one can assume if the Net Replacement Ratios increases linearly, a member in the Political Office Bearers Pension Fund should target a Net Replacement Ratios of 10% of pensionable salary for every 5-years of service.
  - The targeted Net Replacement Ratios is expressed as a percentage of pensionable salary and not as a percentage of total cost to company.
  - Therefore, when the targeted Net Replacement Ratios is applied to the total cost to company, it translates to 10% of 60% of the total cost to company. This translates to a 6% pension for every 5 years of service.

Results

Table 14 depicts Net Replacement Ratios achievable over various terms in office under the current benefit structure.

TABLE 14: NET REPLACEMENT RATIOS AT DIFFERENT TRANCHES AND RETIREMENT AGES

	Retirement age			
Age at entry	50	55	60	65
45	6.8% (10.0%)	15.6% (20.0%)	29.9% (30.0%)	48.2% (40%)
50	n/a	7.3% (10.0%)	16.9% (20.0%)	33.5% (30%)
55	n/a	n/a	7.8% (10.0%)	18.5% (20%)
60	n/a	n/a	n/a	8.6% (10%)

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Notes:

1. *The table above is an illustration. We have assumed a member joins the Fund at the identified age shown above and retires from the Fund as per the retirement age shown. The member remains a contributory member until the age of retirement reflected. In each case the term of membership will be derived by comparing the age at entry with the retirement age reflected.*
2. *Table based on current contribution structure of 7.50% Member and 17% Employer contributions to retirement funding.*
3. *Assumes investment returns earned consistent with assumptions.*
4. *Based on Pensionable Salary of 60% of Total Cost to Company.*
5. *The figures in brackets are the targeted Net Replacement Ratios a member should achieve based on the years of service in the Fund.*

2.2.8.1.4 Effect of increasing pensionable salary

In order to increase the Net Replacement Ratios towards the targeted Net Replacement Ratios across all terms of office, a test was conducted on the basis of:

- Increasing the percentage of pensionable salary to 70% and 80% of Total Cost to Company,
- Keeping the Total Cost to Company unchanged, and
- Keeping the contribution rates unchanged.

2.2.8.1.5 Alternatives

- Option 1: Convert Political Office Bearers Pension Fund into Defined Benefit Fund:
  - o On a Defined Benefit Fund, members pay a fixed contribution rate and the Employer pays the balance of costs in order to provide a defined set of benefits linked to the salary and service. The Government Employees Pension Fund is one such Fund set up for government employees. Although the general market trend is a move away from defined benefit funds to defined contribution funds, this option is being examined for completeness' sake to determine if it can provide any advantages over the current benefit structure.
  - o The targeted Net Replacement Ratios is 10% of pensionable salary after 5-years of service. Hence the accrual rate for the retirement benefit formula is 2.0%. The formula for the benefit on retirement is as follows:

    2.0% x pensionable salary x years of service x capitalization factor

- Option 2: Utilise a retirement annuity fund:
  - o A retirement annuity fund is designed to cater for retirement savings by persons in their individual capacities. Unlike an occupational fund, an employer-employee relationship does not exist. This form of a retirement savings vehicle may resonate well with the temporary nature of a Public Office-Bearer's tenure as an alternative to a pension fund.
  - o Advantages of a retirement annuity is that it attracts the same tax deductions on contributions as an occupational pension fund, that being, 27.5% of taxable income to a maximum of R350,000 p.a. as determined from time to time by the South African Revenue Services.

- Option 3: Transfer into another defined contribution fund:
  - o To determine if transferring into another defined contribution fund would improve stakeholders' outcomes when compared to their current pension fund. An advantage of this is that it may create economies of scale. It removes the need for the Public Office-Bearers to be nominated/elected as trustees and removes the rigorous obligations falling on trustees, and combining assets provides greater base for shareholder activism.

- Option 4: Transfer into a defined benefit fund:
  - o To determine if a transfer into a defined benefit fund, specifically a transfer into the Government Employees Pension Fund (GEPF) which exists for government officials and employees, could improve stakeholders' or Public Office-Bearers' outcomes.

- Option 5: Remove pension benefits and substitute pension benefits with other forms of compensation:
  - o To determine whether a pension fund should be maintained or substituted by other forms of compensation. Due to the short and potential temporary term of engagement, a pension benefit may be substituted by increased remuneration with or without an exit gratuity. The exit gratuity may be linked to years of service in terms of an established formula, which is reasonable.

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2.2.8.2 Introducing flexible benefits to Political Office Bearers Pension Fund

A significant shift has occurred in the retirement fund industry where greater emphasis is placed on a member – the individual. This shift was largely attributable to government passing reform laws to enhance the protection of members' interests, communication levels, knowledge, preservation of benefits, portability of benefits, default options and costs.

As far back as 2001, legislation changed the manner in which surplus assets were held and/or used by retirement funds, thus breaking the hold retirement fund boards held on surplus. This change allowed surplus to be allocated or paid directly to members.

This, together with other factors such as a shift from defined benefit to defined contribution basis, a shift of investment risk to members, changes in the economic and social environment have culminated in more retirement funds offering greater flexibility on negotiable components of a fund. Contribution rates, investment and death benefit multiples are the most common components provided as flexible options.

Although the aforementioned trend is prevalent in the private sector, the question remains as to whether offering flexible benefits has a role in the public sector where a term of office may be relatively short for many incumbents. However, members have expressed a need for flexibility.

2.2.8.2.1 Advantages

- Flexibility in benefits allows members to design benefit structures relevant to themselves and suited to one's own personal circumstances. Factors such as age, marital status, number of dependents, health, risk appetite and financial standing contributes to defining ones needs and these factors cannot be identified by a Board across the membership. Hence, a Board may establish benefits which may not meet the needs of a fair percentage of their members.

2.2.8.2.2 Disadvantages

- If greater choice is offered to members, then the burdens of administration and member communication increases. The levels of member education increase especially if members are offered investment choice.
- Board Members of a fund will need to make decisions on members' benefits, institute policy, monitor and report on a wider range benefits. It opens up the possibility of anti-selection.

2.2.8.2.3 Investment choice

- Members carry the investment risk on the Political Office Bearers Pension Fund. Therefore, it is reasonable to allow members a choice of investment, if Political Office Bearers Pension Fund remains the pension fund of choice for Public Office-Bearers and continues as a defined contribution fund.
- Currently the investment strategy is set with an initial aggressive portfolio and tapers to a conservative portfolio over a 5-year period. Although, current trends indicate that some 75% of members will simply use the default investment portfolio, offering choice will nevertheless be seen as a value add. It is recommended that the existing investment strategy remains as a default with risk profiled portfolios offered as a choice. The profiled portfolios could comprise of the existing underlying investment portfolios utilised but as a separate investment channel.

The Commission considered other challenges that needed to be considered when determining the pension regime of the Public Office-Bearers. This amongst other things includes the different time of joining the fund, tenure of members and the historical factors that influenced the determination of previous pension benefits. Some of the factors that were reflected as reasons to move to the single arrangement of pension regime are as follows:

- Efficiency in the administration of the fund;
- Issues of economies of scales; and
- Levelling the playing fields within the Public Office-Bearers sector.

Establishing a pension fund in South Africa, as in any other country, serves several important purposes. Pension funds play a crucial role in the financial well-being of individuals and the broader economy. Here are some reasons for establishing a pension fund in South Africa:

- *Retirement planning:* Pension funds are designed to provide individuals with a source of income during their retirement years. Establishing a pension fund helps individuals plan for their financial security in old age.
- *Social Security:* Pension funds contribute to social security by ensuring that individuals have a reliable income after retirement. This helps reduce the burden on government welfare programs and contributes to overall social stability.

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- *Long-term savings:* Pension funds encourage long-term savings habits among individuals. Regular contributions to a pension fund over an individual's working years allow for the accumulation of a substantial sum, providing financial security in retirement.
- *Investment opportunities:* Pension funds pool the contributions of many individuals, creating a substantial pool of capital. This pool can be invested in various financial instruments such as stocks, bonds, and real estate, contributing to economic development and growth.
- *Regulatory compliance:* Establishing a pension fund ensures compliance with regulatory requirements. In South Africa, pension funds are subject to specific regulations and governance standards, which help protect the interests of fund members.

Overall, establishing a pension fund in South Africa serves as a crucial component of the country's economic and social infrastructure, promoting individual financial security, economic growth, and long-term stability.

2.2.8.2.4 Flexible death benefit multiples

- Option 1: Flexible cover with choice
  - Allow members to choose from a range of multiples with a compulsory core benefit, as illustrated in Table 15.

TABLE 15: DEATH BENEFIT COVER

Death benefit cover	
Core multiple (compulsory)	2 times annual pensionable salary
Additional multiple	1 times annual pensionable salary 2 times annual pensionable salary 3 times annual pensionable salary 4 times annual pensionable salary
Maximum cover	6 times annual pensionable salary
Annual selection of cover	May increase or decrease by one multiple at annual selection date
Life changing event: • Marriage • Birth or adoption of a child • Purchase of a house	May increase by a maximum of two multiples when event occurs. Maximum cover remains at 6 times annual pensionable salary.
Life changing event: • Divorce • Death of dependent	May decrease by a maximum of two multiples when event occurs. Maximum cover remains at 6 times annual pensionable salary.

  - Change the mode of premium payment to accommodate flexible death benefits. As the Employer pays premiums over and above pension contributions, the incentive remains to elect the highest cover offered with a consequential increase in rates.
  - Therefore, an adjustment is required to the present contribution structure. This will entail combining the contribution to risk benefits with the contribution to retirement benefits in an all-inclusive contribution structure.
  - This methodology is preferred. Alternatively, the difference between the premium paid to insurers and the risk contribution should be allocated to members to ensure fairness. However, this creates administration complexity.

- Option 2: Age related cover
  - A static model may be used to deliver death benefits. This model provides greater multiples of life cover for younger members as reflected in Table 16.

TABLE 16: AGE RELATED COVER

Age related cover	Multiple of cover
Up to age 35	5.0 times annual pensionable salary
Older than age 35 to age 40	4.5 times annual pensionable salary
Older than age 40 to age 45	4.0 times annual pensionable salary
Older than age 45 to age 50	3.5 times annual pensionable salary
Older than age 50 to age 55	3.0 times annual pensionable salary
Older than age 55 to age 60	2.5 times annual pensionable salary
Older than age 60 to age 65	2.0 times annual pensionable salary
Older than age 65 to age 70	1.5 times annual pensionable salary
Older than age 70 to age 80	1.0 times annual pensionable salary
Older than age 80 to age 90	0.5 times annual pensionable salary
Older than age 90	0.0 times annual pensionable salary

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2.2.8.2.5 Family funeral benefits

- The current scale of benefit is R36,000. Members have expressed a concern that this scale of benefit is unrealistically low. This matter was also addressed with the Public Office-Bearer Pension Fund. The member's expectation is an increase in the benefit to a R100,000 scale.
- Funeral cover is taken to assist families to pay towards funeral costs and not to cover the total expenses of a funeral. A reasonable scale may be considered. However, this benefit structure should not be perceived as prescriptive. Instead, the Board of Trustees should be given the opportunity and authority to design and change the risk benefit structure in concert with changing member needs but within the parameters of the current risk benefit contribution rates.
- The Commission acknowledges the submission received from stakeholders; however the request falls outside of the mandate of the Commission, and vests with the respective Board of Trustees.

2.2.8.3 Medical aid benefits

In this section, the Commission considered how best to balance the need to implement previous recommendations, to address the matters raised by the affected Public Office-Bearers and affordability, among its other considerations.

Members of Executive and Legislature are obligated to join the Parliamentary and Provincial Medical Aid Schemes (PARMED). The medical scheme subsidy policies also differ significantly and this was observed with regards to the remuneration structures of Public Office-Bearers, as discussed in other sections of this report.

The recently released National Health Insurance (NHI) Bill is expected to affect medical aid schemes in the future. However, the Commission has not made specific recommendations in this report concerning the National Health Insurance.

An Analysis of the Parliamentary and Provincial Medical Aid Schemes indicated that the Scheme has an ageing membership base, with very few new younger members. This has contributed to the high monthly contributions that some of the members find to be unaffordable. Secondly, the costs of the claims within the Scheme for the members exceed the contribution income. Members are allowed to continue as members after retirement, this partially explains why the costs are higher than the contribution income.

Generally, Parliamentary and Provincial Medical Aid Schemes members are aggrieved by the impact of the fixed rand amount subsidy introduced in 2008, which has not kept pace with medical scheme increases, resulting in members having to bear an ever-increasing portion of the medical aid increases themselves.

An analysis of the Parliamentary and Provincial Medical Aid Schemes benefits in comparison to other medical schemes indicated that Parliamentary and Provincial Medical Aid Schemes has more generous benefits, but due to its older demographic profile, the contribution rates are generally more expensive. The introduction of other Public Office-Bearers would slightly improve the demographic profile but not enough to make the Scheme significantly more affordable.

There is a medical scheme contribution subsidy of a fixed rand amount (previously 2/3 of contributions payable by members) for the members and continuing members on the Parliamentary and Provincial Medical Aid Schemes.

It has been alluded above that the following Public Office-Bearers are eligible to be members of the Parliamentary and Provincial Medical Aid Schemes:

- Serving and retired members of Parliament and its Provincial Legislatures in terms of Parliamentary and Provincial Medical Aid Schemes Act, 1975[38] and
- Judges of the Constitutional Court, Appeal Court, High Court, Labour Court who are in active service and those no longer in active service.

A detailed analysis of the legislative changes can be found in the report of the Ad-Hoc Joint Committee Annexure 6-Report of the Ad-Hoc Joint Committee on Parliamentary and Provincial Medical Aid Schemes.

Parliamentary and Provincial Medical Aid Schemes is a restricted/closed medical aid scheme that defines the eligibility of members on the scheme as set out in the Act.

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2.2.8.3.1 Benefit options

- Parliamentary and Provincial Medical Aid Schemes is one of the 22 schemes which only offers one benefit option for members. This is a traditional based benefit option. The investigation[33] into the level of benefits reveals that Parliamentary and Provincial Medical Aid Schemes In-Hospital benefits are superior to the majority of other medical aid schemes, both open and closed, whilst the Out-of-Hospital benefits, by and large, are deemed to be comprehensive.

  - o *Network options:* Networks create the ability for a scheme to negotiate better prices for services and pass these savings on to their members. However, it limits the members' freedom of choice should they require their medical aid to pay full costs for the services rendered. Parliamentary and Provincial Medical Aid Schemes does not limit benefit providers to specific networks.
  - o *Chronic cover:* Parliamentary and Provincial Medical Aid Schemes provides cover for more chronic conditions over and above the prescribed minimum of 26 chronic conditions.
  - o Members are, however, greatly concerned regarding their ever-increasing premiums. The PARMED Investigation report by the joint committee released on 28 November 2018 clearly articulates the underlying causes of concern as summarised below:
    - The "Employer" funding rate, which was set as 2/3rds (66.67%) of the overall contribution (for a family size of member, spouse and two children) in 2008 which was added to the employee's (member's) salary to form part of their new Total Cost of Remuneration has not kept pace with the medical aid increases experienced since then.
    - Historically, the medical aid increases have been much higher than the salary increases. This has resulted in members funding a much higher portion of their medical aid contributions than the 1/3rd amount required, prior to 2008.

  - o Premium increases are amongst other things, influenced by the underlying risk profile of the scheme:
    - Clause 1 (e) of Parliamentary and Provincial Medical Aid Scheme Act, provides for the provincial legislature to resolve whether or not the Act shall apply to its members, therefore making this, the only non-obligatory membership sector;
    - Strict enforcement of this requirement is necessary to ensure the ongoing sustainability of the scheme and benefits;
    - No allowance (as is usual in the terms and conditions of employment) made for membership to be non-compulsory, should Public Office-Bearers in this category be a member of his/her spouses medical aid;
    - Dependents in the scheme may join any medical scheme at their own expense; and
    - The scheme is small, with only 4130 beneficiaries, including the 2 327 main members as at the end of 29 February 2024, with an average age of 49.5-years per beneficiary - according to the Council for Medical Schemes Annual Report.

2.2.8.3.2 Evaluation of findings and option considerations

- In restricting membership of this scheme to Public Office-Bearers in this category, the Commission has found that the average age of the member is substantially higher than the industry average. The opportunity for this scheme to invite more participants is limited by the Act, which defines eligibility.
- Without amending the Act, and extending eligibility, there is little, or no chance of managing the risk evident in the membership profile of the scheme. The option of bringing the Municipal Councillors, Magistrates and Traditional Leaders on to the scheme was explored by the Ad-Hoc Joint Committee, investigating the Parliamentary and Provincial Medical Aid Schemes.
- The Amendment of the Act to allow participation of these sectors, would positively influence the membership risk profile of the scheme, and possibly allow the scheme to offer more benefits to their members. Of concern, is the ability of Parliamentary and Provincial Medical Aid Schemes to 'entice' these members to join, given the deteriorating risk profile of the scheme
- Further consideration was given to whether having an Act which creates this closed membership group was necessary or even beneficial to the members.
- Medical Aid Schemes which members have access to offer similar benefits at competitive premiums from a healthier membership risk profile. These beneficial membership risk profiles affect the future benefit levels and premium increases.
- Maintenance of a closed scheme would require some major adjustments and changes to ensure the longevity of the scheme, which is already under immense pressure given the advanced age of the members, the deteriorating risk profile and the above average increases experienced by the members on an annual basis.
- *The Act could be amended to allow for alternate membership groups or sectors to join, in an effort to reduce the average age and better manage the risk profile of the scheme.*
- With the introduction of Benefit Options, comes the resulting moral hazard of allowing members to downgrade plans and carry additional risk themselves. This may be contrary to the objectives of the scheme, which was to provide the right level of cover to members, to ensure that, if they got sick, they would be afforded with adequate gap cover policy to ensure a speedy return to wellness, and subsequently work.

33 See Annexure 4 – Report of Ad-Hoc Committee as at 27 November 2018.

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- To consider an increase in the number of benefit options, the scheme must either bring on a substantial number of new members (relax or expand membership eligibility) or join another scheme (amalgamate/transfer).
- With the increased risk which members would carry from the introduction of Benefit Options comes the recommendation that members all become members of a Compulsory Top-up/Gap policy to ensure that benefit levels are maintained as far as possible.
- *In-Hospital benefit* levels could be downgraded from 300% to a lower percentage in an effort to manage future increases.
- *Chronic illnes*s cover levels could be lowered in order to manage costs into the future, however, this may result in a few members receiving lower benefits than they currently have.
- The scheme could be re-engineered, to either, offer New Generation options, such as a Savings Account, which would afford members greater flexibility regarding benefit options, or consider the option of introducing a Hybrid element to the traditional plan that allow for some benefits to be payable from a "Saving Account". The balance would still come from risk, with predetermined maximum Rand limits.
- The scheme could consider limiting costs by introducing a network of providers (hospitals/specialists/doctors) to manage the costs of the scheme and offer negotiated benefits to members.
- The scheme could consider offering enhanced benefits to certain groups, knowing that this will attract younger members. To do this, the eligibility of the scheme would require attention. Furthermore, the Act would need to be amended.
- The introduction of a Wellness Program would offer the possibility of enhanced wellness, with the resultant cost management.
- The same monetary cap is placed upon Continuation Members subsidy, as exists for Ordinary Serving members, to ensure that there is not any difference in premium payable before or after the member changes to a Continuation Member.
- The subsidies provided to members with dependents could be enhanced to encourage these dependents to remain on the scheme. The subsidy already received by members, (which has now been incorporated into their salaries), could be reviewed and be brought more in line with the current premium levels as opposed to the 2008 premium levels.
- Consideration for an Open scheme comes with the knowledge that there would be many changes required, including Acts to amend or repeal, Payroll/Finance. Open Schemes are, upon comparison "healthier" and provide very similar benefit for the same type of premium. However, they offer increased benefit options and lower risk profiles.
- An additional product may require implementation in order to mitigate the increased risks which members would be faced with once they are offered the opportunity of downgrading because of the increased benefit options, and the possibility of smaller premiums.

All the factors mentioned above will be affected by the imminent National Health Insurance Scheme adopted by Parliament and the National Council of Provinces on 06 December 2023, however, the impact is unlikely to be immediate.

2.2.9 Recommendations

The design of a remuneration structure that led to the proposals in Tables 8, 9 and 10 above was guided by a number of important leading principles, as well as the reality of the history and context within which the sector operates. The following principles and methodologies were used in the design of the proposed remuneration structures:

- Remuneration structures are designed to support both internal equity and external competitiveness
- Affordability
- The remuneration structure should support the Commission's philosophy
- It is flexible enough to respond to internal and external pressures
- It ensures consistent decision-making and the application of the remuneration philosophy

The structuring of the recommended total remuneration packages includes the following elements:

- Basic salary component (60% of total package) which constitutes a pensionable salary
- An amount of R120 000,00, as the amount to which section 8(1)(d) of the income Tax Act, 1962, applies; this amount is included in the basic salary
- An employer's pension benefit contribution equal to 22.5% of pensionable salary
- A flexible portion for the remaining amount of the total remuneration

It is further recommended that the cost-of-living increases for the alignment of the remuneration structure in the short term be accompanied by a proper benchmark exercise every 3 to 5-years (based on market movement directions and affordability).

The Commission recommends the same pension benefits of the Public Office-Bearers as recommended in paragraph 2.1.6.1

The Commission recommends the same medical aid benefits for the Public Office-Bearers as recommended in paragraph 2.1.6.2.

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2.2.10 Tools of trade

Tools of trade are seen as resources required to perform the role effectively and are sometimes referred to as resources. They are not fringe benefits, which fall under the seventh schedule of the Income Tax Act, and should not be processed via the payroll. They are separately budgeted for.

Table 17 describes the tools of trade that are common across seven of the nine Provincial Legislatures in South Africa (Two provinces did not provide details).

TABLE 17: COMMON TOOLS OF TRADE IN SEVEN PROVINCIAL LEGISLATURES

Tools of trade	Description
Constituency work allowances	Parties are entitled to a monthly allowance for each MP to run a constituency office, and each political party makes its own constituency arrangements.
Vehicle benefits	State-owned official vehicles, and South African Police Services VIP Drivers/Protectors, may be allocated to Members and are made available for official purposes and in the interest of security.
Cell phone allowances	Members are reimbursed for the expenditure on cell phones, also all expenses incurred in connection with the installation of official telephones, fax machines and computers.
Air Travel	Members and their spouses are jointly entitled to 30 (thirty) single domestic business class flight tickets per annum at the expense of the relevant Department. The use of privilege tickets is at the discretion of the Member and may in some cases be exchanged for use by a child minder or other domestic workers in the personal employ of the Member.

Note: Among all seven Provincial Legislatures that submitted data, all of the above-mentioned tools are prevalent and feature consistently among them. Any additional tools of trade not listed above are only prevalent in some of the provinces and are applied inconsistently.

Table 18 outlines tools of trade offered by Provincial Legislatures that are unusual and outliers are in effect outliers

TABLE 18: OUTLIERS OF TOOLS OF TRADE OFFERED AT PROVINCIAL LEGISLATURE LEVEL

Province	Tools of Trade	Description
Mpumalanga	Speaker's Office at official residence	The Speaker may have an office at the official residence. The Legislature is responsible for rentals for telephones and faxes, including the cost for official calls, the installation and maintenance of such facilities, and computer equipment if necessary. The Speaker may require the assistance of support staff to execute duties in this office and where such requirements are applied, the provisions in Chapter 8(3) of the Ministerial Handbook must be enforced.
	Members' lounge	The Legislature has established a facility called "Members' lounge" with a carrying capacity of 60 to 100 persons. This facility forms part of the provisions for Members' welfare. The operations of the Members' lounge are provided for in the Members' lounge policy of the Legislature.
North West	Newspapers	All political party leaders shall be entitled to receive newspapers daily and the costs for such will be borne by the legislature.
	Party researchers	Parties are entitled to an amount of 360 000 per annum for each researcher they appointed. The Legislature will consider party claims only upon receipt of proof of appointment or service. The ratio for the appointment of party researchers is 1 per every 3 Members and 1 per minority with less than 3 Members.
Western Cape	Special programmes	An amount of money, as determined by the Speaker annually, will be made available to Members to conduct special programmes in their constituencies. These funds are to be used only for expenditure related to Members' programmes within their constituencies to the maximum monetary value per Member per financial year.
	Auxiliary services	Members receive parking disks in their vehicles for security purposes. Members receive access to a secure parking area. The WCPP's Registry provides postal services, which includes the collection, distribution and postage of mail. Lunch for members is subsidised and the cost to Members is R25.00 per meal.
KwaZulu-Natal	Special daily allowance (international travel)	Members qualify for the allowance is set by the Department of Foreign Affairs. Members are paid the equivalent allocation to Heads of Departments. Members are encouraged to make use of their Special Daily Allowance to gain exposure of the country they are visiting during their free time, to learn about new cultures and customs, thereby gaining invaluable experience with regard to tourism and economic development.
Limpopo	Visit to constituencies by Members by vehicle	A member is entitled to undertake, at the expense of the Legislature, a total of 60 return trips per annum to visit his/her constituency.
	Attendance of political parties' conferences, meetings, etc., by Members	The Rules Committee will determine the amount to be allocated per member per annum for political parties' conferences, meetings, etc., at the beginning of every financial year.

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The above-mentioned tools of trade are specific to the listed provinces, and unlike the common tools of trade, these tools are also not consistent with the Ministerial Handbook. It is recommended that any tools of trade which appear to be unique to a province are documented as such, with clear reasoning and justification in the provincial legislature's handbook.

Whilst these tools of trade are documented by the provinces in their respective handbooks / policies, the rationale and motivation for affording members these tools are not documented.

TABLE 19: NUMBER OF PROVINCES WHICH OFFER THE LISTED BENEFITS

Leave benefits	7
Air Travel	7
Vehicle benefits	6
Cell Phone Call Allowances	6
Constituency Work Allowances	5
Medical Aid	5
Relocation assistance	5
Retirement Funding	5
Cell Phone Data Allowances	5
Entertainment Allowances	4
Housing benefits	4
Meal Allowance	4
Daily Expense Allowance	3
Family Travel Allowance	3
Funeral Benefits	3
Members travel allowance	3
Risk benefits	3
Study benefits, training and development	3
Staffing Allowance – where staff is not paid for by parliament	3
Disability Allowance	2
Spouse allowance	2
Sitting allowance	2
Telephone Units at private Residences	2
Subsistence Allowances	2
Legislature Library	2

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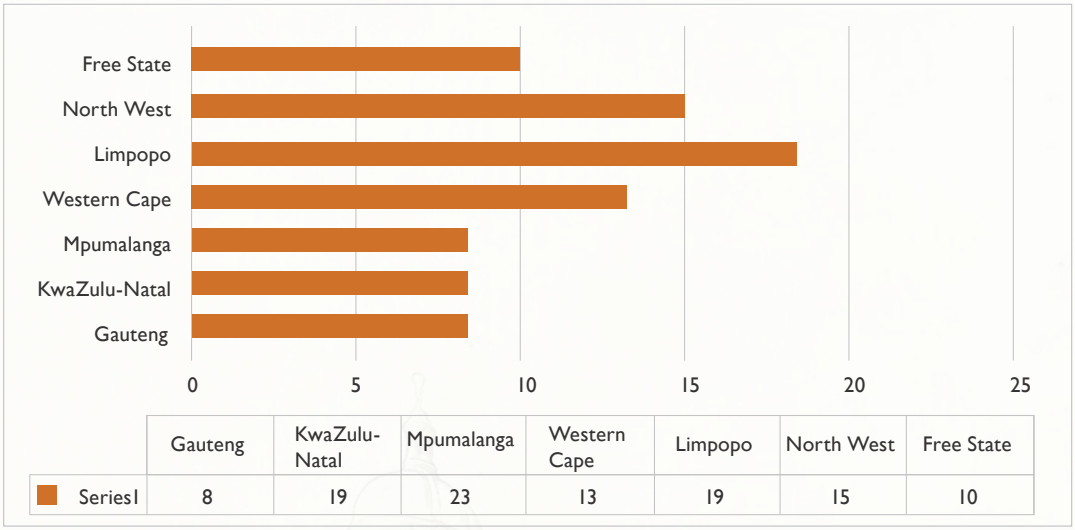


FIGURE 5: TOTAL BENEFITS PER PROVINCE

2.2.10.1 Observations

- There is clear disparity between provincial legislatures in terms of the quantity of their individual benefits offering to members. Some provincial legislatures offer more benefits than other provinces (see table 19).
- The budget and cost of overall benefits incurred by each provincial legislature is not documented in their handbooks and is thus not provided and measured in this report. Due to the budget and cost of benefits not provided, it is not clear whether provinces which offer fewer benefits do so due to a lack of budget, or due to cost savings, or due to a custom and fit-for-purpose approach for member benefits.
- It must be thus noted that whilst some provincial legislatures offer fewer benefits, it does not mean that the benefits offered are not fit for purpose or adequate for members.
- Section 6 (e) and (f) of the Remuneration Act calls for the:
  - o "Need for the promotion of equality and uniformity of salaries, allowances and benefits for equal work performed"; and
  - o "Provision of uniform norms and standards nationally to address disparities".

- Based on the evidence of the disparity in the provision of tools of trade as shown in tables 17, 18 and 19 above, standardisation of tools of trade and benefits across provinces is required to be continuously investigated by the National Treasury on the following:

  - o The extent to which the Recommended Tools of Trade Handbook by the Commission (2011) is relevant and applied by provinces
  - o Which tools of trade and benefits should be applied by all provinces as the minimum standard
  - o The rationale behind the application of additional tools of trade and benefits by provinces, over and above what is provided in the Ministerial Handbook and/or the updated Recommended Tools of Trade handbook by the Commission (2011)
  - o The unique dynamics and idiosyncrasies which exist in each province and thus warrant a customized policy; and
  - o The level of autonomy which is legally permissible for each province to develop and manage their own tools of trade and benefits.
- All this will lead to debate and each province will have a reason why certain tools of trade are unique to them. Ultimately, the tools of trade should not be seen as a method to enrich members.
- Annexure 7 – Recommendations on Tools of Trade versus current Provincial Handbooks – seeks to further compare what each provincial legislature's handbook contains when compared to the Recommended Tools of Trade handbook by the Commission (2011). This depicts the extent to which the Commission's recommended handbook of 2011 has been implemented.

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- The Commission's observations (Annexure 7.4 – Tools of Trade International Data) reveals that South Africa is well aligned with its comparator countries in the usage of the tools of trade and benefits. There are no additional benefits and/or tools of trade identified from comparator countries which are not offered in the context of South Africa as a whole (the Executive or Legislature sectors). There are no benefits offered by South Africa alone, which are unique to the country, or not offered at all by any of the comparator countries.
- The following benefits and tools of trade are noted as not popular across the board as they are applied in only one other country apart from South Africa. These need to be investigated regarding the affordability and relevance in the case of South Africa:
  - Free air travel to all members (also applied in Austria)
  - Business class air travel
  - Spousal allowance (also applied in the United Kingdom)
  - Maternity and paternity benefits (also applied in Cameroon)
  - End of service gratuity (also applied in the United Kingdom); and
  - Constituency work allowances (also applied in Cameroon)

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2.3 Judicial sector

2.3.1 Objectives

The aim of this remuneration review is to consider the existing remuneration framework applicable to Judges and Magistrates and to make recommendations that respond to the dictates of the Constitution and relevant legislation through the following:

- Consider and review the appropriateness of the current remuneration system of all judicial officers positions, taking into account, amongst others, the job profiling and grading of the respective judicial officers' positions
- Review the profiles and grading of positions within the Judiciary and updating of these records as and when is appropriate
- Benchmark the comparison of total cost to employer in respect of each category of the judicial office-bearers' position
- Make remuneration recommendations that will attract and retain suitable individuals in the Judiciary
- Consider all relevant policies, legislation, regulations, and directives that impact on the remuneration of the Judiciary and make recommendations on how the legislation is interpreted and implemented
- Recommend an integrated remuneration structure for the Judiciary which includes a comprehensive costing of salaries, benefits and any incentives recommended; and
- Establish a fair and transparent remuneration system for the Judiciary, which best encourages a viable judicial system and advances good governance which, in turn, would consolidate the South African constitutional democracy and other imperatives enshrined in our Constitution.

Section 165 of the Constitution provides the following:

Judicial authority

(1) The judicial authority of the Republic is vested in the courts.
(2) The courts are independent and subject only to the Constitution and the law, which they must apply impartially and without fear, favour or prejudice.
(3) No person or organ of state may interfere with the functioning of the courts.
(4) Organs of state, through legislative and other measures, must assist and protect the courts to ensure the independence, impartiality, dignity, accessibility and effectiveness of the courts.
(5) An order or decision issued by a court binds all persons to whom and organs of state to which it applies.
(6) The Chief Justice is the head of the Judiciary and exercises responsibility over the establishment and monitoring of norms and standards for the exercise of the judicial functions of all courts.[34]

Furthermore, the Superior Courts Act[35] provides the following:

2 (a) to consolidate and rationalise the laws pertaining to Superior Courts as contemplated in item 16(6) of Schedule 6 to the Constitution;
(b) to bring the structure of the Superior Courts in line with the provisions of Chapter 8 and the transformation imperatives of the Constitution; and
(c) to make provision for the administration of the judicial functions of all courts, including governance issues, over which the Chief Justice exercises responsibility.

2.3.2 Review methodology

The Commission initiated the current review and researched the appropriateness of the remuneration packages, pension and medical aid of the Judiciary. The Commission embarked on the major review by considering the contextual analysis vis-a-vis the South African courts, literature review and data analysis after which it followed the remuneration review process of job profiling, job grading, local and international benchmarking, structuring of the remuneration package, pension and medical aid.

34 See section 165 (6) added by section 1 of the Constitution Seventeenth Amendment Act of 2012.
35 Superior Courts Act 10 of 2013. This Act must be read in conjunction with Chapter 8 of the Constitution, which contains the founding provisions for the structure and jurisdiction of the Superior Courts, the appointment of judges of the Superior Courts and matters related to the Superior Courts.

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Section 166 of the Constitution sets out the judicial system of the courts as follows:
The courts are—
(a) the Constitutional Court;
(b) the Supreme Court of Appeal;
(c) the High Court of South Africa, and any high court of appeal that may be established by an Act of Parliament to hear appeals from any court of a status similar to the High Court of South Africa;
(d) the Magistrates' Courts; and
(e) any other court established or recognised in terms of an Act of Parliament, including any court of a status similar to either the High Court of South Africa or the Magistrates' Courts.

Section 173 of the Constitution provides that the Constitutional Court, the Supreme Court of Appeal and the High Court of South Africa each have the inherent power to protect and regulate their own process, and to develop the common law, taking into account the interests of justice.

Section 170 of the Constitution provides that all courts other than those referred to in sections 167, 168 and 169[36] may decide any matter determined by an Act of Parliament, but a court of a status lower than a high court of South Africa may not enquire into or rule on the constitutionality of any legislation or any conduct of the President.

Section 176(3) of the Constitution provides that the salaries, allowances and benefits of Judges may not be reduced.

2.3.2.1 Demographics

A snapshot of the demographics of the Judiciary as per the Annual Judiciary Report 2021/2022 is depicted below:

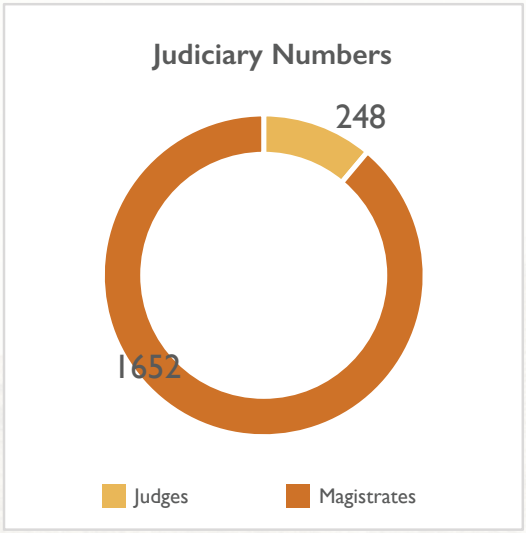


FIGURE 6: JUDICIARY NUMBERS



FIGURE 7: APPOINTMENT NUMBERS

36 Section 167 is the Constitutional Court
Section 168 is the Supreme Court of Appeal
Section 169 is the High Courts of South Africa

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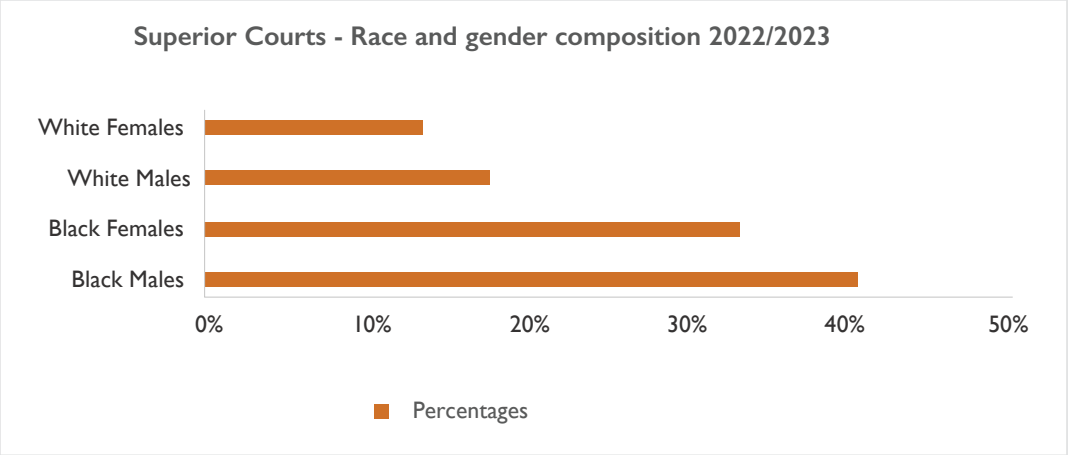


FIGURE 8: SUPERIOR COURTS - RACE AND GENDER COMPOSITION

Race and Gender Composition of all Magistrates (for levels) as of 2022/2023

TABLE 20 : MAGISTRATES COURTS – RACE AND GENDER COMPOSITION

POST	AFRICANS		INDIAN		COLOURED		WHITE		TOTAL
	M	F	M	F	M	F	M	F	
Regional Court President	4	2	0	0	0	F	0	1	8
Regional Magistrate	84	92	14	26	18	19	47	36	336
Chief Magistrate	2	7	1	1	1	1	1	1	15
Senior Magistrate	31	21	7	11	7	2	13	20	112
Magistrate	276	316	52	71	80	80	148	58	1 181
NATIONAL TOTAL	397	438	74	109	106	103	209	216	1652
PERCENTAGE	**24%**	**27%**	**4%**	**7%**	**6%**	**6%**	**13%**	**13%**	**100%**

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2.3.3 The review process and outcomes

In the current review, the Commission followed the project methodology in Table 21:

TABLE 21 : THE REVIEW PROCESS AND OUTCOMES

Job profile / job evaluation	Job grading / evaluation	Benchmarking	Total remuneration packages	Final report
Activities • Structured interviews. • Submissions. • Primary data research. • Confirmatory consultations (validation).	Activities • Analyse, assess and evaluate jobs. • Expert grading by consultants. • Composite grading tool. • Compile draft grading tables. • Grading results consultations with stakeholders.	Activities • Consider various benchmarking options. • Private sector. • Public sector. • State Owned Enterprises. • International comparisons.	Activities • Conceptualisation and component design; and • Pay level determination.	Activities • Draft report. • Share with stakeholders. • Stakeholder engagements • Statutory consultations. • Consider input. • Final report. • Submission to the President and the Parliamentary Presiding Officers • Publication.
Outcomes • Comprehensive job profiles for each office bearer position. • Established basis for grading.	Outcomes • Vertically and horizontally integrated grading structures. • Basis for benchmarking.	Outcomes • Comparative ranges for fair remuneration options.	Outcomes • Total remuneration packages for all Public Office-Bearer positions. • Integrated remuneration structure for all Public Office-Bearers. • Advise on cost implications of all the recommendations.	Outcomes • Stated philosophy for office bearer remuneration; • Comprehensive job profiles; and • Fair, transparent and flexible remuneration structure for public office bearers.

Source: Commission, 2023

2.3.4 Reports review and stakeholder management

The Commission engaged stakeholders from the Judicial sector in its review project to gather relevant information. In this regard. The Commission had direct consultations with Public Office-Bearers in the Judiciary. It further received numerous submissions from representative structures and undertook international comparative studies.

2.3.4.1 Reports review

Reviewing existing documents assists in understanding the history, philosophy, and operation of the programme that is to be evaluated and the organisation in which it operates.

The following reports and documents were reviewed:

- Major Review Report and supplementary reports
- Second Major Review Report (pension and medical aid including annexures of current job profiles and grades of Judiciary sector)
- Previous Public Office Bearers' determinations and recommendations
- Job profiles from Magistrates
- Job profiles from Judges
- Data from Public Office-Bearers' Pension Fund (Public Office-Bearer) and a service provider as pension administrator
- Magistrates' Courts Act 32 of 1944 (as amended)
- Department of Justice and Correctional Services' Annual Reports
- Post-increase payroll data for Judges from Office of the Chief Justice (OCJ)
- Medical Aid data from PARMED for Judges
- Judicial Regulatory Instruments, 2nd Edition
- Post-increase Payroll Data for Magistracy from Department of Justice and Correctional Services
- Pension data and information from GEPF for Magistrates
- Magistrates medical aid information from 7 participating medical aid schemes
- Review of international remuneration practices

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2.3.4.1.1 Stakeholders' submissions

The following primary and secondary stakeholders were identified and consulted:

- Chief Justice
- Minister of Justice and Correctional Services
- Judges Remuneration Committee on behalf of all the Judges
- The Lower Courts Remuneration Committee
- Government Employee Pension Fund
- PARMED Medical Scheme; and
- National Treasury.

The Magistracy made the following submissions amongst others in relation to the review:

- Workload burden (increase of breadth vs depth of work)
- Implications of recent changes in legislation for Magistrates' jurisdiction over cases
- Job Profiles – the Lower Courts Remuneration Committee (LCRC) provided a detailed document on the role, duties, and functions of the various grades within the Magistrate Courts judiciary
- The pay gap (internal equity) between the Judges and the magistracy (pay relativity in terms of % ranking); and
- Retirement benefits for the magistracy: perceived increased benefit within the GEPF or external alternatives.

Amongst others, these were the submissions from the Judges:

- The Judges expressed a concern about the continuous erosion of their salaries due to lower annual cost of living recommendations that the Commission has been recommending
- The Commission failed to have regard to section 8 (3a) & section 2(2) of the Judges Remuneration Act
- Remuneration differentiation across Public Office-Bearers (delink Chief Justice as the anchor)
- Disparities not addressed
- Medical aid benefits: no analysis of the costs and benefit system and its effect is provided in the recommendations
- Benchmarking of all Superior Court Judges
- There is no rational basis on which Judges President should be anchored 10% lower than the Deputy President of the Supreme Court of Appeal (SCA)
- The anchoring of Deputy Judges President must be aligned between that of the Judge Presidents and High Court Judges; and
- The Commission deviated fundamentally from the Moseneke Report without rational motivation.

2.3.5 International benchmarking visits and desktop research

2.3.5.1 International benchmarking was undertaken by the Commission to establish leading practices from:

- Countries that have similar historical and legal heritage as South Africa (predominantly Commonwealth countries)
- Countries with similar electoral systems
- Governance systems where power is separated between executive, legislature and judiciary
- Structures, systems and processes that govern the remuneration of public representatives; and
- Countries that promote and strengthen democracy and good governance through independent institutions similar to South Africa.

The Commission undertook formal study tours during the review process to the following countries:

- United Kingdom / Northern Ireland
- Canada
- Brazil
- Germany; and
- Ghana

2.3.5.1.1 Brazil

The Commission undertook a study tour to Brazil where it met with a delegation representing the Supreme Federal Court of Brazil (SFC). The SFC serves as the Constitutional Court of the country. The key findings from the meeting with the SFC were:

- The salary of the Chief Justice in Brazil was the highest of the Public Office Bearers
- Judges do not receive a salary for life but contribute to a pension
- The Constitution of Brazil enunciated how salaries, benefits and allowances of the public service should be structured
- The Judiciary did not receive comparative benefits such as a car, business class flight ticket, housing allowance, etc., but instead fly economic class and housing allowance is provided only to those who are placed in a different province
- There are no Magistrates in Brazil but various levels of Judges; and
- The retirement age for Judges is 75 years.

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2.3.5.1.2 Germany

German legislation provides for the basic principle that a Judge in Germany should be independent and subject only to the law. Since 2016, the German Federal Government was responsible for regulating remuneration and the changes in law for different states. The basic principles were applied across Germany but specific levels of remuneration differed across the states:

- Judges of a High Court are placed at a level within eight distinct categories of remuneration. In addition to a basic salary, the employer covered health cost that included dependents at a rate of 70% and 30% was to be paid by a member.
- Whilst German civil servants have performance management and development systems, Judges and attorneys are not included because they are independent. It was difficult to assess the performance of a Judge.
- Judges retire at the age of 67. Originally, Judges were part of the civil service, and subsequently in the 1970s Judges and attorneys were placed two notches above the civil service.

The remuneration of Judges was determined as follows:
- Ministers of Justice and Finance are consulted during the process; and
- The Minister of Justice presents proposals to Parliament on Judges' remuneration.

2.3.5.1.3 United Kingdom

Pension benefits:
- The Government introduced Judicial Pension Scheme 2022 (JPS 2022) in April 2022 to address recruitment issues and make careers more attractive in the Judiciary.
- All Judges, salaried and fee-paid, were moved into the JPS 2022, and all other legacy schemes - the Judicial Pension Scheme 2015 (JPS) and the Judicial.
- The statutory retirement age of 70 is applied to all Judges. Travel and subsistence costs for travel related to official judicial business.
- Relocation costs for salaried Judges where they have relocated beyond reasonable travelling distance due to business need or transfer to another Circuit.
- Judicial Lodgers of Judges are provided for use by the senior Judiciary, principally High Court Judges and the Court of Appeal, when sitting on Circuit. Judges staying at Judicial Lodgings are also entitled to a weekly lodgings allowance designed to cover meals and housekeeping.
- Judicial office holders are entitled to maternity, paternity and shared parental or adoption leave, compassionate leave, sick leave, and free eye care vouchers. Judges have access to a cycle to work scheme, salary-sacrifice childcare vouchers, official stationery, and are entitled to receive court dress on appointment.
- From the international visits, the Commission was able to identify practices in Brazil, Germany and United Kingdom that could be comparable: contributing to a pension scheme, salary for life, age of retirement, how the Judiciary was remunerated, and benefits received by the Judiciary.

2.3.5.1.4 Canada

- The Federal Government appoints the Judges of the Supreme Court of Canada, Federal Courts, provincial and territorial superior courts, while the provincial and territorial governments appoint provincial and territorial court Judges

General provisions are that:
- Judges shall only do their judicial duties, and may not engage, directly or indirectly, in any business or occupation, either for themselves or for others; and
- Members of the Judiciary may, however, serve as commissioners, arbitrators and mediators where authorised by federal or provincial law.

In terms of allowances and benefits, there is a removal allowance which includes:
- Travelling expenses of the Judge and the members of his or her family incurred during the course of looking for a new residence and of moving thereto
- Transportation and storage of household effects
- Costs relating to the sale of the former residence
- The cost of cancelling any lease on the former residence; and
- Certain interest charges on the mortgage for the new residence when these are higher than the interest charges on the mortgage for the former residence.

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2.3.5.1.5 Ghana

Article 71 of the 1992 Constitution provides for Judges from Supreme Court to High Court:

- To retire on salaries, which are non-taxable
- Responsibility allowance
- Provision of drivers, security guards, cooks, and houseboys
- An entertainment allowance; and
- Entitlement to a government bungalow.

In terms of the Junior Bench:

- The lower bench consists of Judges from the Circuit Court rank to the Judges of the District courts called Magistrates
- The Judicial Council with final approval from the Executive determines their salaries (Presidency)
- These categories of Judiciary do not retire on their salaries; and
- The pension scheme is a defined benefit scheme. This is restricted to some pensionable officers within the public sector.

2.3.5.1.6 Kenya

Judges are entitled to the following benefits based on the guidelines by the Salaries and Remuneration Commission:

- Official transport is provided to Chief Justice, Deputy Chief Justice and Judges
- Medical scheme: annual cover per family to cover self, spouse and up to 4 children below 25 years fully dependent on the Judge
- Retirement Benefits
- Group Life Insurance
- Group Personal Accident
- Car loan and mortgage benefit
- Special judicial duty allowance
- Existing extra duty allowance for the designated 22 Judges at the existing rate
- Non-practicing allowance for Judges
- Daily subsistence allowance
- Airtime
- Official residence: Chief Justice and Deputy Chief Justice are housed by the state and provided with commensurate home utilities and attendants; and
- Security, provided by the Inspector General of Police.

Magistrates are entitled to the following benefits:

- Medical Scheme: annual cover per family to cover self, spouse and up to four children below the ages of 25 years fully dependent on the Judge
- Retirement benefits
- Group Life Insurance
- Group Personal Accident
- Car loan and mortgage benefit
- Non-practicing allowance
- Daily subsistence allowance
- Airtime; and
- Security, provided by the Inspector General.

In addition to the international visits, the Commission conducted further research on countries, the results of which are set out below:

2.3.5.1.7 Botswana

Judges in Botswana are entitled to the following:

- 30 working days leave per annum
- Free furnished residential accommodation or housing allowance
- 90% subsidy for utilities
- Optional contributory medical aid scheme. (Government pays 50% and employee 50%)
- 35% scarce skill allowance
- Non-contributory pension
- Entertainment allowance

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- Free WiFi connection at residence
- Cell phone (90% subsidy); and
- Chauffer-driven motor vehicle.

Magistrates are entitled to the following:

- 30 working days leave per annum
- Optional contributory medical aid scheme
- Government pays 50% and employee pays 50%
- Contributory pension fund scheme, Government pays 15% and employee pays 5%
- 30% Scarce Skills Allowance, which is subject to review from time to time; and
- 1% of basic salary as housing allowance.

2.3.6 Role profiles, grading and integrated remuneration structure

2.3.6.1 Role profiles

- Since the passing of time the Commission appointed a service provider to draft job profiles for all Public Office-Bearers including the Judiciary. Since the passing of more than a decade, it has become necessary to revise the job profiles. Consultative sessions were held with the Judiciary to draft output-based profiles.
- The Commission embarked on an extensive consultative process with the Judiciary. All submissions from the representative structures as designated by the Chief Justice were received from the Judiciary and the Commission considered all submissions.

Judges' job profiles were redrafted and validated by the judiciary to contain the following content and amendments:

- Overall purpose of the job
- Structure of the Judiciary
- Institution
- Position being evaluated
- Appointment
- Educational requirements / experience / knowledge
- Skills and competencies
- Attributes and core values
- Key Responsibility Areas (KRAs) and details of KRAs – which include court / adjudication duties, judicial responsibilities, norms and standards, research, and administration, as applicable and as derived from legislation

The final Judiciary job profiles recommended by the Commission are for the positions listed below. The full details thereof are contained in Annexure 8:

1. Chief Justice
2. Deputy Chief Justice
3. President of the Supreme Court of Appeal
4. Deputy President of the Supreme Court of Appeal
5. Judge of the Constitutional Court
6. Judge of the Supreme Court of Appeal
7. Judge of the Competition Appeal Court
8. Judge of the Labour Appeal Court/Competition Appeal Court
9. Judge President of the High Court, Labour Court and Land Claims Court
10. Deputy Judge President of the High Court
11. Deputy Judge President of the Labour Court and Labour Appeal Court
12. Judge of the High Court / Labour Court
13. Regional Court President
14. Regional Magistrate
15. Chief Magistrate
16. Senior Magistrate; and
17. Magistrate.

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2.3.7 Grading / evaluation of jobs

The First Review Report included a comprehensive discussion on job grading / evaluation, describing its aim as determining the "intrinsic" worth of a job, based on a systematic assessment of the degree of complexity of a job's content and its requirements.

2.3.7.1 Paterson job evaluation system

The Commission previously considered the combined evaluation systems to produce a composite methodology using Peromnes as a foundation. Similarly, the Paterson job evaluation methodology was considered with due regard to Public Office-Bearers positions including the Judiciary.

The Paterson job evaluation methodology entails the following factors to identify and reflect the level of complexity of the position or role:

- Knowledge and skills
- Problem solving
- Judgement
- Accountability; and
- Impact.

Further supplementing the Paterson job evaluation methodology were additional factors considered for Judiciary positions such as:

- The breadth versus the depth of responsibility undertaken by Judges and Magistrates, where the consequence of error plays a vital role;
- The jurisdiction and nature of matters, which can be heard at the various courts, and the process thereof;
- Matters that set precedence going forward;
- Law making capacity;
- Power to declare laws unconstitutional; and
- Chairing significant Commissions.

The Judiciary made several submissions expressing dissatisfaction with the grading of jobs which are summarized below:

2.3.7.1.1 Judges

- The service providers engaged by the Commission failed to consider the increased workload of Judges
- Judicial decisions were not interpretive (D band) but have a policy effect (F band)
- Disregard of the hierarchy of the courts, volume of work, working weekends etc.
- The precedent-setting nature of the High Courts, which the Magistrates Courts lacked
- Disregard of the principles applied in the First Review Report
- An explanation of each Paterson factor deemed to pertain to Judges; and
- The Paterson job evaluation was not appropriate to grade a Judge's job.

2.3.7.1.2 Magistrates

- Job profiles and grading of Chief and Regional Magistrate was lacking. It should be noted that there have been substantial jurisdictional changes to the job of Regional Magistrate
- The grading of Chief and Regional Magistrate should be on an equal vertical higher level, for different reasons, and therefore these positions should be re-evaluated
- Grading did not consider section 8(6) of the Commission Act, namely working under great stress, lack of tools of trade, no recess period to prepare for cases or judgments or research, and increased tasks due to jurisdictional changes; and
- Audit on the remuneration, benefits and allowances of judicial officers was lacking.

After due consideration of the validated job profiles for all Judiciary positions in Annexure 8, the positions were graded. In summary, the various job profiles were considered based on: the level of responsibility, impact, complexity, accountability, and constitutional changes relating to the major rationalisation and restructuring of the Judiciary.

The grades were **externally validated**, and the recommended F4 grading for the Chief Justice was lowered to F3, while the Deputy Chief Justice position was graded at F1 against the Commission's recommended F2. In this regard, the Commission retained its grading at F4 and F2, respectively, for these positions and others below them, based on various factors, including the benchmarking process considered by the Commission. The Commission recommends the final grading as reflected in Table 22.

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TABLE 22: COMMISSION'S RECOMMENDATIONS ON GRADING OF POSITIONS FOR THE JUDICIARY

Title of job to be evaluated	Court	Old grade	Current pay level	Current grade (Peromnes correlation)	Current grade (Paterson correlation)	Commission's recommendations
Chief Justice	Constitutional Court	JA	1	1	F1/F2	**F4**
Deputy Chief Justice	Constitutional Court	JB	1	2	E4/E5	**F2**
President: Supreme Court of Appeal	Supreme Court of Appeal	JB	1	2	E4/E5	**F2**
Deputy President: Supreme Court of Appeal	Supreme Court of Appeal	JC	1	3	E2/E3	**E5**
Judge: Constitutional Court	Constitutional Court	JC	2	3	E2/E3	**E4**
Judge: Supreme Court of Appeal	Supreme Court of Appeal	JC	2	3	E2/E3	**E4**
Judge President: High Court	High Court	JC	3	3	E2/E3	**E3**
Judge President: Labour Appeal Court and Labour Court	Labour Appeal Court and Labour Court	JC	3	3	E2/E3	**E3**
Deputy Judge President: High Court	High Court	JC	4	3	E2/E3	**E2**
Deputy Judge President: Labour Appeal Court and Labour Court	Labour Appeal Court and Labour Court	JC	4	3	E2/E3	**E2**
Judge: High Court	High Court	JC	5	4	D5	**E1**
Judge: Labour Court	Labour Appeal Court and Labour Court	JC	5	4	D5	**E1**
Regional Court President	Regional Court	JD	1	4	D5	**D5**
Regional Magistrate	Regional Court	JE	1	5	D3/D4	**D4**
Chief Magistrate	District Court	JE	1	5	D3/D4	**D4**
Senior Magistrate	District Court	JF	1	6	D2	**D3**
Magistrate	District Court	JG	1	7	D1	**D2**

2.3.8 Local and International Benchmarking

2.3.8.1 Discussion and methodology

- In the First Review Report, two benchmarking methodologies were adopted namely the "Graded Benchmarking Methodology" and the "Graded Pay Relativity Methodology".
- The Graded Pay Relativity Methodology determines an anchor Public Office-Bearers pay line relative to the private sector. All Public Office-Bearers' positions were then located relative to this determined pay line on a graded basis. This relativity would then be applied on an annual basis for benchmarking purposes. In the First Review Report, an intensive exercise was conducted which identified the Chief Justice as the anchor for the Judiciary. This report applies the anchor value of the Chief Justice during the benchmarking exercise.
- The same methodologies have been applied in the current review with variations. In the current review, the Commission used the database covering over 700 organisations/entities within South Africa (Courtesy of the service provider).
- The practice is to use the latest reported market data from both listed (JSE) companies and the Commission's database which was audited and validated by SNG Grant Thornton.
- Law Firms with 1 199 employees in legal sections of those firms; and
- Advocates in private practice.

2.3.8.2 Benchmarking with the national market

The Commission conducted local benchmarking with the national market. The results are shown in Table 23.

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TABLE 23: COMPA-RATIO TO NATIONAL MARKET BENCHMARKS BY GRADE

Hierarchy	Job title	Reviewed grade	Total remuneration: 2024/2025	National pay by grade 50th percentile	Compa-ratio
1.	Chief Justice	F4	3 243 771	4 264 000	76%
2.	Deputy Chief Justice	F2	2 919 317	3 249 996	85%
3.	President: Supreme Court of Appeal	F2	2 919 317	3 249 996	90%
4.	Deputy President: Supreme Court of Appeal	E5	2 757 186	2 603 907	106%
5.	Judge: Constitutional Court	E4	2 595 054	2 106 529	123%
6.	Judge: Supreme Court of Appeal	E3	2 595 054	1 828 008	142%
7.	Judge President: High Court	E3	2 432 922	1 828 008	133%
8.	Deputy Judge President: High Court	E2	2 270 601	1 697 964	134%
9.	Judge: High Court	E1	2 108 470	1 512 114	139%
10.	Special Grade Chief Magistrate	D5	1 689 981	1 375 471	123%
11.	Regional Court President	D5	1 689 981	1 375 471	123%
12.	Regional Magistrate	D4	1 516 364	1 140 202	133%
13.	Chief Magistrate	D3	1 516 364	1 051 410	144%
14.	Senior Magistrate	D3	1 256 919	1 051 410	120%
15.	Magistrate	D2	1 161 674	830 163	140%

In this category of Public Office Bearers, the Commission made the comparison between the market median (100%) and the current remuneration paid during 2024/2025. The variance tabled under compa-ratio are an indication of the difference between the market percent and the current remuneration. Based on this analysis this category of Public Office Bearers are paid higher that the market median.

Total Guaranteed Package was selected as the most appropriate comparator. The market median (50th percentile) is used.

Using the 50th percentile the anchor value of the Chief Justice was found to be 24% below the median of the national market. The Commission is of the view that this gap will be gradually closed over a period of time due to budget constraint.

2.3.8.3 Benchmarking with law firms

TABLE 24: SALARIES OF LEGAL IN-HOUSE COUNSEL AND IN PRIVATE PRACTICE (2019)

Role	Experience level (years) PQE	Amounts (R): Cost to Company excluding bonuses (2019)
In house – Commerce and Industry		
Not listed	10+	1,4m+
Not listed	6-10	900k – 1,4m
Not listed	3-6	700k – 900k
Not listed	1-3	500k – 700k
In house – Financial Services		
Not listed	10+	1,35m+
Not listed	6-10	950k – 1,35m
Not listed	3-6	650k – 950k
Not listed	1-3	450k – 650k
Private Practice		
Director	10+	2,0m+
Partner	7-10	1,4m – 1,7m
Senior Associate	5-6	800k – 1,4m
Associate	3-4	720k – 800k
Associate	0-2	560k – 720k

Source: Robert Walters Annual Legal Survey, 2019

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TABLE 25: SALARIES OF LEGAL IN-HOUSE COUNSEL AND IN PRIVATE PRACTICE (2022 AND 2023)

Role	Experience level (Years)	Amounts (R) are Cost to Company excluding Bonuses (2022 and 2023)
In house – Commerce and Industry		
General counsel	15+	2,500,000+
Head of legal	10-15	1,500, 000 – 2,500,000
Senior legal advisor/counsel	8-10	1,000, 000 – 1,500,000
Legal advisor/counsel	4-7	700, 000 – 1, 000,000
Junior advisor/counsel	1-3	450, 000 – 700,000
In house – Financial Services		
General counsel	15+	2,500,000+
Head of legal	10-15	1,500, 000 – 2,500,000
Senior legal advisor/counsel	8-10	1,000, 000 – 1,500,000
Legal counsel	4-7	750, 000 – 1, 000,000
Junior counsel	1-3	500, 000 – 750,000
Private Practice (Boutique firm)		
Equity Director/Senior Director	10+	1,200,000+
Junior Director/Salaried Director	8-10	900, 000 – 1,200,000
Senior Associate	4-7	600, 000 – 900,000
Associate	0-3	300, 000 – 600,000
Private Practice (Large firm)		
Equity Director/Senior Director	10+	2,000,000+
Junior Director/Salaried Director	8-10	1,300, 000 – 1,900,000
Senior Associate	4-7	900, 000 – 1, 300,000
Associate	0-3	600, 000 – 900,000

(Robert Walters Annual Legal Survey, 2022 and 2023)

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2.3.9 International benchmarking

The Commission, after engaging stakeholders identified Brazil, Germany and United Kingdom as relevant countries for benchmarking visits taking into account the following considerations:

- Recommendations from stakeholders
- State systems where power was separated between executive, legislative and Judiciary
- Structures, systems and processes that governed the remuneration of public representatives
- Countries that promoted and strengthened democracy and good governance through independent institutions similar to South Africa; and
- Countries with similar governance systems and Judiciary reforms; and other factors such as GDP, and development of countries.

The Commission also conducted a comparative study on countries having one common factor which is the ratio of total remuneration of the most senior officer in the Judiciary (Chief Justice) expressed as a percentage of the total remuneration of the head of state.

The countries sharing this common factor are shown in Table 26.

TABLE 26: COUNTRIES FOR BENCHMARKING

Botswana	Canada	India	United Kingdom
Brazil	Ghana	Kenya	

Table 27 shows the salary ratio of Head of State to Head of Judiciary.

TABLE 27: SALARY RATIO OF HEAD OF STATE TO HEAD OF JUDICIARY IN SELECTED COUNTRIES

		Salary	Chief Justice salary as a % of Head of State salary
UK	Prime Minister	£152 819	168%
	Lord Chief Justice	£257 121	
Botswana	President	P725 550	120%
	Chief Justice	P872 688	
Canada	Prime Minister	$347 400	116%
	Chief Justice	$403 800	
Brazil	President	BRL 31 934	123%
	Chief Justice	BRL 39 293	
Kenya	President	Ksh17 325 000	92%
	Chief Justice	Ksh15 934 656	
India	President (Lakhs)	6 000 000	56%
	Chief Justice (Lakhs)	3 360 000	
South Africa – Present	President	R 2 989 845	97%
	Chief Justice	R 2 896 107	
South Africa – Proposed	President	R 2 989 845	120%
	Chief Justice	R 3 600 000	

- Given the results, the Commission determined the most widely used (median) ratio from the sample, as the international market practice ratio.
- This median ratio was used as the point of departure in developing the ratio of the total remuneration of the Chief Justice (as the current anchor of the Judiciary sector) against the current total Remuneration of the South African President. Once the above anchor ratio was determined, the remainder of the salaries of the Judiciary jobs were mathematically calculated and cascaded as a percentage of the total remuneration of the Chief Justice.

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2.3.10 Benefits review

2.3.10.1 Judge's salary for life

- Judges do not participate in any retirement fund; therefore no contribution deduction is made against their salaries or total cost to employer. However, they are paid a "salary for life" since they remain in active duty after retirement.
- The payment of retirement benefits to Constitutional Court Judges and other Judges is regulated in terms of sections 5 and 6 of the Judges Remuneration and Conditions of Employment Act, 2001 (Act 47 of 2001). In terms of these sections, a Constitutional Court Judge or Judge who is discharged from active service in terms of section 3 of the same Act, shall be paid:
  - A salary in accordance with the formula: [(annual salary of the highest office held by such Constitutional Court Judge or Judge in a permanent capacity during the period of his or her active service) ÷ 15] x [period in years of active service of such Constitutional Court Judge or Judge]; and
  - A gratuity in accordance with the formula: [annual salary of the Constitutional Court Judge or Judge at the time of his or her discharge from service] X 2 X [(period of years of active service, up to a maximum of 20 years] ÷ 15].

2.3.10.2 Magistrate's pension benefits

- Magistrates are members of the Government Employees Pension Fund (GEPF or interchangeably referred to as the Fund) and derive a benefit during retirement; therefore, they qualify for a pension.
- The GEPF is a pension fund operating on a defined benefit basis. Hence, the "Employer" carries the investment risk. For the purposes of this report, "Employer" shall be deemed to be "National Treasury".
- Prior to amendment of the Commission Act by the Judicial Officers (Amendment of Conditions of Service) Act, 2003 (Act No. 28 of 2003), Magistrates were public servants therefore were members of the GEPF.

2.3.10.2.1 Consultation with Magistrates on pension benefit

The Commission held consultations with Magistrates on pension and medical aid matters during the review. Magistrates raised the following key issues during meetings in 2019/2020:

- The participation of Magistrates in the GEPF is inconsistent with their status as Public Office-Bearers.
- In the 2008 review, it was recommended that the Magistrates' membership in the GEPF be ceased and transferred into an alternative retirement vehicle. However, this recommendation was not implemented as it was not feasible.
- The preferable option is a transfer into a defined benefit retirement fund that is established for Magistrates only.
- Magistrates have no representation in the GEPF. The only representation is through the employer (Department of Justice and Constitutional Development).

2.3.10.2.2 Consultation with the Minister of Justice and his team

In discussions with the Minister of Justice and his team during 2019/20, the following key elements were noted:

- Magistrates are not public servants and are part of the Judiciary
- The appointment of Magistrates differs from the appointment of Judges. Judges are appointed on the recommendation of the Judicial Service Commission
- Judges are endowed with the power of setting precedents and preside over appeals

2.3.10.2.3 Employment – Length of service

A Magistrate's appointment is not temporary in nature nor fixed in term. Therefore, a Magistrate may enjoy a full career until retirement. This unencumbered appointment and potential long-term service allows for a long term and stable retirement savings opportunity as membership of a retirement fund will run concurrent to service.

2.3.10.2.4 Government Employees Pension Fund (GEPF)

- The retirement and resignation benefits provided by the GEPF are summarised below. Benefits are split based on years of service (exit with less than 10 years of service and exit with 10 or more years of service). (See Annexure 9.)
- The GEPF current contribution structure for Magistrates is set out in Table 30 and is divided into two categories, namely:
  - Members with less than 10 years of service (referred to as "other" in Table 30); and
  - Members with more than 10 years of service (referred to as "service" in Table 30). (Annexure 10 including the table.)

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- The Employer does not pay any contributions towards risk benefits in the GEPF as the GEPF self-insures these benefits. The GEPF rather than an external insurer pays any claim arising from death or disability. The Employer is currently paying a rate lower than required by the GEPF.

2.3.10.3 Membership data

The membership (Magistrates) data summarised in Table 28 is provided by the administrators of the GEPF for 2022/2023:

TABLE 28: GEPF MEMBERSHIP DATA

Gender	Number of members	Total Pensionable salary (R)	Average salary (R)	Average age at entry	*Salary weighted average	*Salary weighted past service
Male	556	606,663,555	739,834	30.42	55.11	25.00
Female	525	556,536,888	739,093	31.19	50.58	19.68
Total	**1 652**	**1,163,200,443**	**739,479**	**30.79**	**52.95**	**22.45**

Source: GEPF

Note: *Salary weighted is the sum of each member's salary multiplied by age or past service and divided by the sum of all salaries

- The calculations in this report are based on the 1 652 active members as per the data in Table 28 for 2022/2023 (as supplied by administrators of the GEPF). Based on Table 28, it can be observed that Magistrates are generally long-serving employees of the state as well as long-serving members of the Fund.
- On average, a member enters the Fund at around the age of 30 years and remains a member for about 20 years. Males on average are members of the Fund for five years more than females.

2.3.11 Medical aid benefits for judiciary

- In this section, the Commission considered how best to balance the need to implement previous recommendations, to address the matters raised by the affected Public Office-Bearers and affordability, among its other considerations.
- Judges are obligated to join the Parliamentary and Provincial Medical Aid Scheme (PARMED) whilst Magistrates may join any other registered open medical scheme. The medical scheme subsidy policies also differ significantly and this was observed with regards to the remuneration structures of the Judges and Magistrates, as discussed in other sections of this report.
- The recently released National Health Insurance (NHI) Bill is expected to affect medical aid schemes in the future. However, the Commission has not made specific recommendations in this report concerning the NHI.
- An analysis of the PARMED scheme indicated that the Scheme has an aging membership base, with very few new younger members. This has contributed to the high monthly contributions that some of the members find to be unaffordable.
- Secondly, the costs of the claims within the Scheme for the Judges exceed the contribution income. Judges and their families are allowed to continue as members after retirement, this partially explains why the costs are higher than the contribution income.
- Generally, PARMED members are aggrieved by the impact of the fixed rand amount subsidy introduced in 2008, which has not kept pace with medical scheme increases, resulting in members having to bear an ever-increasing portion of the medical aid increases themselves.
- An analysis of the PARMED benefits in comparison to other medical schemes indicated that PARMED has more generous benefits, but due to its older demographic profile, the contribution rates are generally more expensive. The introduction of Magistrates would slightly improve the demographic profile but not enough to make the Scheme significantly more affordable.
- Whilst there is a medical scheme contribution subsidy of a fixed rand amount (previously 2/3 of contributions payable by the Judges) for the Judges, there is no contribution subsidy for Magistrates. Continuation members (Judges) on the PARMED medical scheme receive a subsidy based upon the number of completed years of service.
- Judges are aggrieved that on the one hand, they are compelled to join a very expensive medical scheme and that the medical scheme subsidy has been reducing since a fixed rand amount policy was introduced in 2008. The medical scheme contribution subsidy for Judges has reduced from 11.1% of salary in 2008 to 5.85% in 2019.
- Continuation member Judges are guaranteed 2/3 of their monthly medical scheme contribution funded in retirement after 8 years of completed service. This retirement benefit is significantly better than the current reducing subsidy for active members.

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- Compelling all the Magistrates to join PARMED would lead to an increase in their monthly contributions from a family average of just under R5 000 to well over R14 000. This may have been more affordable for the Magistrates if the 2/3 subsidy policy was still in place, but the current fixed rand amount subsidy policy would not make the PARMED claims more affordable for Magistrates.
- An exercise to increase the subsidy provision to Judges from its currently devalued benefit of around 25% to either 30% or 40% was undertaken. The cost of increase to 30% would be R 0.5 mill per month, and to 40%, would be R 1.4 mill per month.
- The Commission recommends no changes to the policy requiring Judges to belong to PARMED
  - The Commission noted the loss of value of medical scheme contribution subsidy for current Judges but no specific recommendation has been made to rectify this situation due to cost constraints.
  - The Commission recommends that the current policy that allows Magistrates to join any registered scheme of their choice should continue.

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2.3.12 Recommendations

The Commission's recommendations for the remuneration structure of Judicial Sector Public Office-Bearers are set out in Table 29 and 30.

TABLE 29: RECOMMENDED REMUNERATION STRUCTURE FOR JUDGES

JUDGES						
REVIEWED GRADE	POSITION	CURRENT SALARY	% RELATIVITY	SALARY BASED ON RELATIVITY	INCREASE TO THE MARKET	COMMISSION RECOMMENDATIONS
				3 243 771	7%	
F4	Chief Justice	3 243 771	100	3 243 771	3 470 835	3 470 835
F2	Deputy Chief Justice	2 919 317	90	2 919 394	3 123 751	3 123 751
F2	President Supreme Court of Appeal	2 919 317	90	2 919 394	3 123 751	3 123 751
E5	Dep President Supreme Court of Appeal	2 757 186	85	2 757 205	2 950 210	2 950 210
E4	Judge Constitutional Court	2 595 054	80	2 595 017	2 776 668	2 776 668
E3	Judge Supreme Court of Appeal	2 595 054	80	2 595 017	2 776 668	2 776 668
E3	Judge President High Court	2 432 922	75	2 432 828	2 603 126	2 603 126
E2	Deputy Judge President High Court	2 270 601	70	2 270 640	2 429 584	2 429 584
E1	Judge High Court	2 108 470	65	2 108 451	2 256 043	2 256 043

- The current remuneration of the anchor position is R3 243 771.
- The Commission recommended an additional increase of 7% on the current remuneration in order to narrow the existing gap when compared to the market.
- Much as it is in keeping with the equal status of the three arms of state to grade and determine equal remuneration in respect of the anchor positions across the three arms of government, as attested by the Moseneke Commission, it is impossible to disregard the levels of expertise and experience required of certain Public Office-Bearers like those in the Judiciary and some members of the Independent Constitutional Institutions.

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TABLE 30: RECOMMENDED REMUNERATION STRUCTURE FOR MAGISTRATES

MAGISTRATES						
REVIEWED GRADE	POSITION	CURRENT SALARY	% RELATIVITY	RELATIVITY REMUNERATION	COMPA RATIO	COMMISSION RECOMMENDATION
				3 470 835		
D5	Special Grade Chief Magistrate	1 689 981	60	2 082 501	81	2 082 501
D5	Regional Court President	1 689 981	60	2 082 501	81	2 082 501
D4	Chief Magistrate	1 516 364	55	1 908 959	79	1 908 959
D4	Regional Magistrate	1 516 364	55	1 908 959	79	1 908 959
D3	Snr Magistrate	1 256 919	50	1 735 417	72	1 735 417
D2	Magistrate	1 161 674	45	1 561 876	74	1 561 876

The Commission sought to vary the percentage difference between individual grades by 5%, as a result, the salary gap between the lowest paid Judge position and the highest paid Magistrate position is 8%.

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The Commission recommends the following retirement benefits of Public Office-Bearers within the Judicial Sector as follows:

Judges' Salary for Life to continue:

- The Commission considered the tenure of Judges and service after retirement. A Judge could be called at any time after retirement to serve. As a result, Judges are not permitted to pursue business interests or any other means of earning a living. Given this unique aspect of a Judge's employment, the Commission recommends that "Salary for Life" continue as it is applied currently to Judges.
- The Commission considered whether a pension regime should be introduced for newly appointed Judges to contribute to a fund, whilst existing Judges could continue with "Salary for Life". The effect of making such a recommendation would create discrimination between newly appointed Judges and existing Judges, the reasons for which could not be substantiated. Furthermore, such a recommendation would eradicate "Salary for Life" completely. Given the fact that "Salary for Life" is also legislated, the Commission bears no intention to recommend any changes to such legislation. The Commission further does not deem it necessary to introduce a pension regime for Judges to contribute to a fund.

- Magistrates continue to participate in the GEPF
  - The Commission considered the submissions and the current pension regime for Magistrates. The analysis of the current benefit structure reveals a fair and equitable benefit on offer on a relative basis. Members benefit from National Treasury underwriting any deficits and the pension is guaranteed.
  - It should be noted that achieving a particular ratio of pension to final salary does not mean that a pension is adequate. Achieving an adequate pension is also reliant on increases in salary. At the very least, inflationary increases to salary is required to achieve a reasonable outcome. A review on remuneration is also contained in this report.
  - It is recommended that Magistrates continue with the GEPF and are afforded representation on the Board of the GEPF. This leads to pluralism, where a different class of members, can be part of the decision-making. Currently, this is not the case.

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2.4 Traditional Leadership Sector

2.4.1 Objectives

- Conduct a detailed and thorough review on the current strategic remuneration framework in order to identify gaps/ shortcomings/misalignments.
- To make sector and status appropriate recommendations on the practices and/or principles that inform the remuneration determination process/framework as well as the actual remuneration and benefits/allowances offered to Traditional and Khoisan Leaders, as defined in the Traditional and Khoi-San Leadership Act, 2019[43].
- Identify the challenges with the current system of remuneration for Traditional and Khoi-San Leadership (TKSL) positions.
- Conduct research on similar positions and institutions in other comparable countries and advising on the appropriateness of the current remuneration processes applied.
- The review of the remuneration structure/framework should consider salaries, pension, medical aid, stated benefits where applicable, tools of trade and allowances.
- The review should consider salary disparities among the Kings / Queens / Principal Traditional Leader and Senior Traditional and Khoi-San Leaders.

The guiding factors considered during the review process were the following:

- The hierarchical levels of all Traditional and Khoi-San Leadership structures and positions cutting across all areas of jurisdiction
- How these structures and expected roles influence remuneration practices and actual remuneration
- Whether there is a differentiation in remuneration between Traditional and Khoi-San Leaders' positions through hereditary versus people elected to serve in the respective Houses
- The Constitution of the Republic of South Africa specifies in section 211 that the recognition of traditional institutions and leaders is "according to customary law", and subject to the rights enshrined in the Constitution
- The 2003 White Paper on Traditional Leadership and Governance sets out a national framework, and the norms and standards that define the role of the institutions of traditional leadership in South Africa. It seeks to support and transform the institutions in accordance with constitutional imperatives and restore the integrity and legitimacy of traditional leadership in line with the African indigenous law and customs subject to the Constitution
- Section 7(1)(a) and (b) recognise the following traditional and Khoi-San leadership positions:
  - Kings / Queens
  - Principal Traditional Leader
  - Senior Traditional Leader
  - Senior Khoi-San Leader
  - Branch Head
  - Headman / Headwoman

2.4.2 Review methodology

The following approach was followed:
- Desktop research to solicit international benchmarking information that would assist the Commission during the review
- Questionnaires drafted to gather information aimed at enabling the Commission to draft role profiles
- Assessment of the previous major review reports of the Commission, related legislation and prescripts
- Review of documentation provided by stakeholders

2.4.3 Reports review and stakeholder management

The following stakeholders were engaged:
- Minister of Cooperative Governance and Traditional Affairs
- National House of Traditional and Khoi-San Leaders
- Deputy Director-General: Department of Traditional Affairs
- National Council of Khoi-San

During the stakeholder engagements, the traditional leaders raised amongst others the following issues:
- Security for senior traditional leaders
- Gratuity payment for Traditional and Khoi-San leaders; and
- Closing the gap between senior traditional leaders and kings.

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2.4.4 International benchmarking

The purpose of the benchmarking exercise was to research appropriate international remuneration principles and practices relating to different categories of Public Office-Bearers in the Traditional and Khoi-San Leadership sector.

The following was considered for probing to ensure a uniform approach towards leading practices in the identified countries:
- The structure of Traditional and Khoi-San Leadership
- Constitutional recognition of the institution
- Key Performance Areas of various Public Office-Bearers in TKSL sector roles
- The refinement of allowances and benefits
- Job evaluation and grading systems
- The tools of trade
- The specific development programmes that have been applied / implemented internationally
- The principle of anchorship if it exists and the relevant factors considered in establishing this principle

In choosing which countries to benchmark with, the following were considered:
- The comparative study of identified metrics conducted by service provider data (e.g., GDP; HDI)
- The structure of government
- Countries that share a common historical and legal heritage as South Africa
- Countries with democratic systems (direct involvement by the people in an electoral process)
- Countries with bilateral and multilateral agreements with South Africa
- Structures, systems and processes that govern the remuneration of public representatives

2.4.4.1 Benchmarked countries

During some of the engagement sessions with traditional leadership structures, there was a request to also consider some of the monarchies in the global north and other parts of the world. In an effort to compare like with like, steps were taken to ensure that as far as possible, the comparison groups are alike in all respects. In this case, the concept "monarchy," applies to states in which supreme authority is vested in the monarch, an individual ruler who functions as the head of state and who achieves his or her position through heredity.

The Commission noted that there are twelve sovereign monarchies in Europe, especially in Denmark, Norway, Sweden, the United Kingdom, Spain, the Netherlands, Belgium, Andorra, Liechtenstein, and Monaco. In Africa, there are only three monarchies in Morocco and two in the tiny southern nations of Lesotho and Eswatini. Monarchies are therefore not applicable as comparators in this benchmarking exercise.

The data collected in this exercise made it possible for the Commission to benchmark against the most suitable comparators to South Africa, with a combination of countries with leading practices around remuneration for Public Office-Bearers. The following countries were selected: Botswana, Canada, Ghana, Kenya, Kingdom of Lesotho and Namibia.

2.4.4.1.1 Kenya

- The government of Kenya is structured through the constitution with powers being distributed through its three arms namely the Executive, Legislature and Judiciary.
- The traditional leadership of Kenya is represented in the designated areas in the country by different administrators even at grassroots level. In the Location and sub location levels, the Government representatives are the Chiefs and Assistant Chiefs, respectively. These administrators are employed permanently and paid by the Government through the Public Service Commission hence their work is permanent and pensionable.[37]
- The remuneration of state employees and all Public Office-Bearers is determined by the Salaries Remuneration Commission (SRC). SRC is one of the independent Commissions established by the Constitution of Kenya 2010, with the mandate to:
  - Set and regularly review the remuneration and benefits of all state officers; and
  - Advise the National and County Governments on the remuneration and benefits of all other public officers.
- The SRC identified Job Evaluation as a strategy to achieve competitive public sector remuneration and benefits package and procured three (3) consultants who undertook the exercise for five (5) of the sectors.[38]
- The Paterson grading methodology was used to grade traditional leadership positions.
- The Chiefs Act as revised in 2012 makes provision for powers and duties of chiefs and matters incidental thereto.

37 https://victormatara.com/chiefs-and-assistant-chiefs-salary-in-kenya/#:~:text=On%20average%2C%20Chiefs%20in%20Kenya,jobs%20are%20permanent%20and%20pensionable

38 https://src.go.ke/wp-content/uploads/2016/11/Brief-on-Job-Evaluation-Results-for-the-Public-Service-Nov.-2016-1.pdf

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Section 14 of the Chiefs Act also provides for the remuneration and limitations on duration of work or services as well as compensation for death or injury.

- The following are the positions of chiefs in Kenya:
  - o Paramount Chief;
  - o Senior Chief;
  - o Chief; and
  - o Headman.
- Traditional chiefs and heads of villages perform a variety of legislative, administrative and ceremonial tasks and duties which are determined by ancient traditions, as well as by the division of rights and responsibilities.

2.4.4.1.2 Namibia

- The Traditional Authorities Act 17 of 1995 was passed by Parliament, signed by the President in terms of the Namibian Constitution and published in terms of Article 56 of that Constitution. It provides for the establishment of traditional authorities, the designation and recognition of traditional leaders; to define their functions, duties and powers; and to provide for matters incidental thereto.

- Section 2(l) of the Traditional Authorities Act provides that every traditional community may be entitled to have a traditional authority comprising the following traditional leaders, namely:
  - o One chief; or
  - o One senior traditional councillor; and
  - o Such number of traditional councillors as may be designated in accordance with the provisions of this Act.

- Traditional leadership of Namibia are structure based on the ethnicity of the indigenous people of the territory. Acceptance of a traditional authority is vested in the Government of Namibia. There are 51 recognised traditional authorities and a further 40 pending applications.
- Traditional authorities cover the entire Namibian territory . Their leaders are entrusted with the allocation of communal land and the formulation of the traditional group's customary laws. They have the power to adjudicate over minor judicial work. The administrative staff are not paid by the State. Instead, the traditional group's members are expected to sustain their leadership.

Section 13 (1) to (3) of the Traditional Authorities Act provides that:

  - o The remuneration of traditional leaders shall be charged on the State Revenue Fund and paid out of moneys appropriated by Parliament for that purpose.
  - o The Minister, in consultation with the Minister of Finance, shall determine the remuneration payable in respect of each category of traditional leader referred to in this Act, regard being had to the status, duties and responsibilities of each office.
  - o Notwithstanding the provisions of this section and of subsection (4) of section 6, the Government shall after a period of twelve months from the commencement of this Act, only remunerate those traditional leaders designated in accordance with the provisions of subsection (5) of section 6, provided that nothing in this Act shall prevent traditional communities to remunerate those traditional leaders not designated in accordance with the schedule in this Act.
- Government did, however, allocate one car each to the recognised authorities, and awards allowances for fuel and administrative work. The Minister of Urban and Rural Development, in consultation with the Minister responsible for Finance, has the authority to prescribe allowances payable in respect of the traditional leaders. Different allowances may be prescribed after considering the status, duties and responsibilities of each office.
- A traditional authority shall in the exercise of its powers and the performance of its duties and functions under customary law or give support to the policies of the Government, regional councils and local authority councils and refrain from any actwhich undermines the authority of those institutions.
- The Commission graded Public Office-Bearers' jobs using the Mercer Human Resource Consulting International Position Evaluation (IPE) System. The Mercer IPE v3.1 job evaluation system is a web-based point factor system that allocates scores to various weighted factors, providing a total score that relates to a number (Position Class) that can be accurately correlated to any of the popular international grading systems. However, the Republic of Namibia uses different job grading methodologies based on philosophies of different entities.

2.4.4.1.3 Botswana

- Section 17 of the Constitution of Botswana establishes Ntlo Ya Dikgosi, which consist of not less than 33 nor more than 35 Members. Section 81 of the Constitution provides that there shall be a Secretary to the Ntlo ya Dikgosi whose office shall be an office in the public service. Section 82(1) provides that a Member of the Ntlo ya Dikgosi shall vacate his or her seat in the Ntlo ya Dikgosi:

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(a) upon expiration of a period of five years from the date upon which he or she takes the oath of allegiance under section 80 of this Constitution;
(b) if, having been designated or selected to the Ntlo ya Dikgosi as such, he or she ceases to be a person for the time being performing the functions of the office of Kgosi;
(c) if he or she ceases to be qualified for membership of the Ntlo ya Dikgosi in terms of section 79;
(d) if he or she participates in party politics; or
(e) upon the dissolution of Parliament, whichever occurs first.

- Subsection (2) provides that a member of the Ntlo ya Dikgosi shall be eligible for reselection, redesignation or reappointment, as the case may be, to the Ntlo ya Dikgosi.
- Members of Parliament (MPs) supported the establishment of the Standing Committee to look at the remuneration of MPs, Councillors, Ntlo ya Dikgosi and Specified officers. The committee shall review the salaries, conditions of service for political leadership, Ntlo ya Dikgosi and Specified officers and it shall report to Parliament.
- The salary grading was determined in accordance with the duties dikgosi performed in 2008, and that the situation would remain as it was until the government makes a decision on the matter.
- The government of Botswana used the Paterson system to grade the positions. "The salary scales for dikgosi and dikgosana are as follows: kgosi D1, mothusa kgosi D2, senior chief representative D3, chief representative C1, headman of records C2, headman of arbitration B3".

Ntlo ya Dikgosi (Salaries and Allowance) Amendment Act 36 of 2018 provides that the Chairperson and Vice-Chairperson shall be paid from moneys appropriated for such purpose.

2.4.4.1.4 Ghana

- Ghana is a unitary constitutional democracy led by a President who is both head of State and head of the government. The Constitution of 1992 guarantees the institution of chieftaincy and restricts the State from appointing or refusing to recognise chiefs.
- The chieftaincy institution in Ghana is a system that structures and regulates the activity of local chieftains (or monarchs) in the Ghanaian society and state. The legislation that underpins the chieftaincy institution in Ghana currently is Ghana's constitution (chapter 270–277) and the Chieftaincy Act of 2008.
- Chieftaincy is one of the most enduring traditional institutions in Ghana, which has displayed remarkable resilience from pre-colonial to postcolonial times. Its role is to combat poverty and other social ills: illiteracy, ignorance, environmental degradation, and the depletion of resources. Nowadays, chiefs are under pressure to achieve good governance in their traditional areas. They are challenges to integrate tradition and modernity, a process about which there is considerable debate. They carry out their duties in an increasingly globalised world where the accent is on democracy, human rights, health delivery, employment, human development and regional integration.

2.4.4.1.4.1 Categories of chiefs

- The chiefs are divided by the act of leadership into five categories (as for authority):
  - Paramount Chiefs or Monarchs
  - Divisional Chiefs
  - Sub-divisional Chiefs
  - Adikrofo
  - The Regional House of Chiefs recognises as chiefs other minor chiefs not falling within any of the preceding categories
- This hierarchical system informally divides chiefs between royalty and nobility, using the European comparative scale of equivalence. Royalty is divided into:
  - Emperor: The leader of a whole ethnic group, usually referred to only as a king, but acting as "king of kings". It consists of a Chief Paramount Chief who has a primacy (currently only ceremonial) over all other chiefs of his ethnic group.
  - King: The paramount chief leads a traditional area, which can range from a grouping of towns and villages to a sub-ethnic group. He is always the chief (prince) of the capital of a traditional area and by his primacy is the chairman of the traditional council of his area.
  - Prince: The division chief is the base ruler of the system. The primary determinant of whether he will be a supreme chief (king or emperor) or not will be the size, relevance and antiquity of the community (city, village group or village) that he governs. His function is similar to that of a hereditary mayor, since the basic unit of elective Ghana is the district.

2.4.4.1.4.2 National House of Chiefs

- The National House of Chiefs is the highest body in Ghana that unites all traditional rulers, chiefs and kings. The institution has backing from the Constitution of Ghana.

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2.4.4.1.4.3 Determining the salaries of chiefs in Ghana (The Presidential Committee on Emoluments)

- In June 2019, President Nana Addo Dankwa Akufo-Addo in accordance with Article 71 (1) of the 1992 Constitution appointed and inaugurated a 5-member Committee which is to make recommendations to him and Parliament on the salaries and allowances payable, and the facilities and privileges available, to article 71 office holders.
- The terms of reference of the Committee are to make recommendations in respect of emoluments and other privileges for article 71 office holders, as specified under the Constitution; and to examine any other relevant matter, which the Committee deems appropriate to its work.
- Article 71 (1) and (2) of the 1992 Constitution stipulates that the determination of the salaries and allowances of the Executive, the Legislature, and the Judiciary paid from the Consolidated Fund would be determined by the President, on the recommendations of a committee of not more than five persons appointed by him and acting upon the advice of the Council of State.

2.4.4.1.5 The Kingdom of Lesotho

- Lesotho is a democratic, sovereign and independent country with the unique characteristic of being surrounded by its neighbour, the Republic of South Africa.
- The Lesotho Government is a constitutional monarchy. The Prime Minister is head of government and has executive authority. The King serves a largely ceremonial function; he no longer possesses any executive authority and is proscribed from actively participating in political initiatives.
- Chieftaincy of Lesotho is housed under the Ministry of Local Government and Chieftainship Affairs. According to the Constitution of Lesotho (Act 5 of 1993), the co- existence of the Chiefs and local Councils are legitimised.
- Under the legislation governing this process - the Local Government Act, 1997 (Act 6 of 1997) - some of their powers and functions have been transferred to local government structures.
- Although the Chieftaincy is part of this organ of the State, it has limited powers in the legislative process and general decision-making processes outside of Parliament. These powers are instead a jurisdiction of the elected representatives in the National Assembly.
- A similar set up exists at the local government level where Councillors enjoy decision-making powers with Chieftainship structures, such as the village, area and ward Chiefs roles being ambiguously defined.
- At present, the chieftaincy consists of the king, 22 principal or ward chiefs, and up to 1000 lesser chiefs. The more senior of these chiefs receive salaries from the government, as well as some emoluments from their own subjects. Junior chiefs have to make do with fines and other assessments. In addition, some villages have headmen (or in some cases headwomen) who administer affairs in the absence of the actual chief, who may be resident elsewhere. Ward Chief or Headman could get a salary if he had at least hundred (100) people under him paying tax.

2.4.4.1.6 Canada

- Canada's government has both a constitutional monarchy and a parliamentary democracy. Constitutional monarchy, the Queen or King is the Head of State of a nation and bound by that state's written constitution. Heads of state are not directly involved in governing the country, have ceremonial duties such as appointing governors to represent them.
- Canada is a constitutional monarchy, in that its executive authority is vested formally in the Queen through the Constitution. Every act of government is carried out in the name of the Crown, but the authority for those acts flows from the Canadian people.
- Indigenous peoples in Canada comprise the First Nations, Inuit, and Métis. Although Indian is a term still commonly used in legal documents, the descriptors Indian and Eskimo have fallen into disuse in Canada, and many consider them to be pejorative.
- Indigenous peoples have been in Canada since time immemorial. They formed complex social, political, economic and cultural systems before Europeans came to North America.
- With colonisation and white settlement, traditional Indigenous ways of life were forever altered. Colonial practices and policies, such as the Indian Act, pass system, reserves and residential schools, sought to control and assimilate Indigenous peoples.
- The Government of Canada recognises First Nations, the Métis Nation, and Inuit as the Indigenous peoples of Canada, consisting of distinct, rights-bearing communities with their own histories, including with the Crown.

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2.4.5 Role profiles, grading and integrated remuneration structure

In the context of this review, the most important starting point and unit of analysis is the understanding of the nature and complexity of the roles of traditional leaders.

The Moseneke Review report stated that "In the democratic South Africa, there was no comprehensive record of the purpose, duties, responsibilities, powers and activities attached to each position in these institutions."

Role profiles and grading form a solid foundation for equitable remuneration, benefits, allowances and tools of trade intervention for all sizes of positions in all sectors.

The Commission considered the formulation of comprehensive job profiles for each Public Office-Bearer position as the most critical starting point for the evaluation and review of the remuneration structure in respect of Public Office-Bearers.
The systems, tools and methodologies used by the Commission have evolved over a period of time and they have been tried and tested over the years.
During this review, structured questionnaires were sent to representatives from all office bearer groups, and relevant documentation was examined, in order to draft comprehensive job profiles.

This process of role profiling was completed when the Commission received feedback and validation of profiles from all stakeholders.

The Commission drafted job profiles (Annexure 10) for the following Public Office-Bearer positions in Traditional Leadership Structures:

- King / Queen
- Principal Traditional Leader (PTL)
- Chairperson of National House of Traditional and Khoi-San Leaders (NHTKL)
- Deputy Chairperson NHTKL
- Chairperson of Provincial House of Traditional and Khoi-San Leaders (PHTKL)
- Deputy Chairperson PHTKL
- Chairperson of Local House of Traditional and Khoi-San Leaders (LHTKL)
- Deputy Chairperson of LHTKL
- Member of the NHTKL
- Member of the PHTKL
- Senior Traditional Leader (STL)
- Khoi-San Leader
- Headman / Headwoman
- Branch Head

2.4.6 Job grading

In the First Major Review report, the Commission had used a combination of four job evaluation systems:

- Peromnes
- Tuned Assessment of Skills and Knowledge (T.A.S.K.)
- Execuval
- Skills and Knowledge Analysis (SKAN)

As outlined in the First Major Review report the application of a singular or "off-the-shelf" job evaluation system would not suffice in addressing the complexities, influence and impact of the roles of office-bearer in South Africa, as a number of roles fall outside of a traditional business-oriented perspective.

A total number of 14 positions were graded and the grading results revealed that 2 positions have been upgraded and 8 positions were downgraded. However, the latter does not mean that the remuneration of downgraded positions should be reduced.

The grading results for Traditional and Khoi-San roles are reflected in Table 31. The table also reflects grade comparisons among Paterson grading results, previous Commission's grading results, Peromnes grading results, and Hay grading results.

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TABLE 31: GRADING RESULTS AND CORRELATION

Position	Current Grades	Paterson Grades	Paterson Points	Peromnes	Hay (Typical application)
King / Queen	TA	D4	21	5	614 – 734
Principal Traditional Leader	TB	D4	21	5	614 – 734
Senior Traditional Leader	TC	B3	10	13	114 – 134
Senior Khoi-San Leader		B3	10	13	114 – 134
Branch Head		B1	8	15	85 – 97
Headmen / Headwomen	TD	B1	8	15	85 – 97
Structural positions					
Chairperson NHTKL	THA 1	E1	23	4	735 – 879
Deputy Chairperson NHTKL	THA 2	D2	19	7	439 -518
Chairperson PHTKL	THA 3	D2	19	7	439 – 518
Deputy Chairperson PHTKL	THA 4	C3	15	9	269 – 313
Chairperson: LHTKL	None	C2	14	10	228 – 268
Deputy Chairperson: LHTKL	None	C1	14	110	228 – 268(to confirm the correlation)
Member of NHTKL/PHTKL	THB	B3	10	13	- 134

The Commission obtained benchmark data to establish a comparison between current practice as per the President's determinations and that of the SOE market. The SOE market used was the relevant market as of September 2022. The market data reflects the 25th, 50th and 75th percentiles.

In addition to the above-mentioned guiding principles and objectives, the Commission further took into account a number of leading principles as well as the reality of the history and context within which the sector operates. The following principles and methodologies were used in the design of the proposed salary structures:

- The pay structure should support the remuneration philosophy;
- Internal and external equity principles are upheld; they should be flexible enough to respond to internal and external pressures; and
- Affordability and competitiveness.

Current remuneration levels for Public Office-Bearers in the Traditional Leadership sector are outlined in Table 32.

In order to determine a relative market position overall, the tables below provide a comparison of actual salaries (per position) against the market median of SOE. The comparative ratio would be the key to interpreting the results. From a remuneration point of view, a compa-ratio of < 75 and > 125 would highlight specific areas / positions to focus on. It is used to reflect relativity to the market, as well as positioning within the proposed pay scale.

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TABLE 32: REMUNERATION LEVELS FOR PUBLIC OFFICE-BEARERS IN THE TRADITIONAL LEADERSHIP SECTOR

POSITION	PATERSON GRADE	CURRENT PAY	50th PERCENTILE OF THE ANCHOR POSITION	% RELATIVITY	SALARY RELATIVITY LINKED TO ANCHOR POSITION	COMPA-RATIO
King/Queen	D4	1 388 764	1 388 764	100,00%	1 388 764	100
PTL	D4	1 277 668		95,00%	1 319 326	97
Senior Traditional Leader	B3	303 467		35,00%	486 067	62
Senior Khoi-San Leader	B3	-		35,00%	486 067	
Headmen / Headwomen	B1	130 394		15,00%	208 315	63
Branch Head	B1	-		15,00%	208 315	
Chairperson: NHTL	E1	1 045 305	1 525 959	100,00%	1 525 959	69
Chairperson: PHTL	D2	860 954		80,00%	1 220 767	71
Deputy Chairperson: NHTL	D2	799 501		80,00%	1 220 767	65
Deputy Chairperson: PHTL	C3	737 838		60,00%	915 575	81
Chairperson: LHTKL	C2	0		55,00%	839 277	
Deputy Chairperson: LHTKL	C1	0		50,00%	762 980	
Full time Member: NHTL	B3	464 945		35,00%	534 086	87
Full time Member: PHTL	B3	398 562		35,00%	534 086	75

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The Commission recommends the sitting allowance for members of the Houses Traditional and Khoi-San Leadership as reflected in Table 35. These allowances were benchmarked with the sitting allowances determined by the National Treasury for members serving in different government commissions.

TABLE 33: RECOMMENDED SITTING ALLOWANCE

Position	Option 2: Sitting allowance (benchmarked with the sitting allowances determined by National Treasury)
Member: NHTKL	1 719
Member: PHTKL	1 473
Member: LHTKL	1 341

All part-time members are entitled to their salaries as Traditional Leaders as well as to subsistence costs.

The Commission considered the principles of internal and external equity as well as anchor position in order to align the salary structure of Traditional and Khoi-San Leaders with the salary structuring of other Public Office-Bearer sectors. The position of a king / queen is identified as the anchor position for hereditary positions and the Chairperson of the NHTKL as the anchor for structural positions.

It is important to underscore the fact that the position of a king/queen is supreme within the hereditary positions. However, the role, functions and status of a king / queen, is limited to a regional jurisdictional area, whereas a chairperson of the National House occupies a more complex position within the structural hierarchy. Therefore, the functions of the National House of Traditional and Khoisan Leaders are pitched at the national, broader and more complex level.

In terms of section 3 of the Traditional and Khoisan Leadership Act 3 of 2019 kingships/queenships are communities that are grouped together within a defined area of jurisdiction with senior traditional leaders within their defined jurisdictional areas.

On the other hand, Section 36(1) of the Act, outlines the National House duties among others, being to cooperate with the provincial houses and to promote the role of traditional and Khoi-San leadership within a democratic constitutional dispensation as well as nation building including promoting peace, stability and cohesiveness of communities across the country.

Furthermore, the Commission noted that according to the legislation, all members of the local houses are traditional leaders within their jurisdictional areas and receive the salaries as determined by the President.

2.4.7 Benefits review

2.4.7.1 Retirement and pension benefits

In April 2008 and November 2009, the Commission by way of Government Gazette No. 30982 and 32711 recommended Pension and risk benefits for Traditional Leaders who are full time members of National House and Provincial Houses of Traditional Leaders.

The President determined that Traditional Leaders be allowed to join POBPF in Proclamations No. 31597 of November 2008 and No. 32770 of December 2009 respectively. The President determination was not implemented.

The Commission consulted with POBPF with regard to the non-implementation of the President's determination and it was advised of the challenges (benefit structure and definition of political office bearer) that the POBPF faced relating to the implementation.

Furthermore, the Commission engaged the National Treasury and the Ministry of Corporative Governance and Traditional Affairs (Cogta) on the matter.

2.4.7.2 Review methodology

When making the recommendations, the Commission considered the following:

- Literature review on:
  - Political office bearers' pension fund
  - Former judges' pension benefit; and
  - Public service pension fund
- Stakeholder engagement:
  - Submission from Cogta.

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2.4.7.2.1 Political office bearers' pension fund

During 1994 the government decided to fund the pension pay-outs for Public Office-Bearers and established the Political Office Bearers Pension Fund. The Remuneration of Public Office Bearers Act 20 of 1998 (Remuneration Act) was established to provide a framework for determining the salaries and allowances of the President, Deputy President, Ministers, Deputy Ministers, members of the Provincial Houses of Traditional Leaders and the Council of Traditional Leaders, Premiers, Member of the Executive Councils (MEC's), Members of the Legislatures and members of the Municipal Councils.

Currently, the POBPF has transitioned from a defined benefit to a defined contribution arrangement.

Members of the POBPF contribute 7.5% of their pensionable salary towards their retirement benefits. Members who have contributed for a period of at least 15 years may make a once-off irrevocable decision to cease their member contributions.

In addition to this, the employer contributes 17.0% of pensionable salary towards retirement and 5.5% in respect of risk benefits and expenses. These contributions of 22.5% make up part of the members' remuneration packages.

2.4.7.2.2 Former judges' pension benefit

- The Judges' Pension Act was enacted in 1978 in order to provide pension benefits to retired Judges and their surviving spouses. The Judges' Remuneration and Conditions of Employment Act 47 of 2001 sets out the salaries, allowances and benefits payable to judges of the Constitutional Court, the Supreme Court of Appeal and the High Courts.
- The benefits payable under this Act are paid as a direct charge against the National Revenue Fund. The benefits are in the form of a defined benefit arrangement.
- A Judge is discharged from service on attaining the age of 70 years, if he/she has completed at least 10 years of active service or completing a 12-year term of office, whichever occurs first. If the judge's period of active service at age 70 is less than 10 years, he/she is discharged from service upon completing 10 years of active service.

2.4.7.2.3 Public Service pension benefits

- The Government Employees Pension Fund (GEPF) was established in its current form on 1 May 1996 as an amalgamation of a number of previous retirement arrangements, with its core being the Government Services Pension Fund. The GEPF is a defined benefit fund open to new members employed in the Public Service and has a substantial pool of in-fund retirees in receipt of a monthly pension (annuity). The benefit summary of the GEPF was taken from the fund's member booklet as well as prior knowledge of the fund.
- Members of the GEPF contribute 7.5% of their pensionable salary towards their retirement benefits.
- In addition to this, the employer contributes 13% of pensionable salary in respect of its employees (other than members of the South African National Defence Force and the intelligence communities, for whom a higher contribution of 16% was made).
- The normal retirement age for members of the GEPF is age 60 years, unless otherwise stipulated in their conditions of service.
- The benefits payable on retirement depend on a member's period of pensionable service. Members with at least 10 years of pensionable service are entitled to both an annuity (pension) and a gratuity (lump sum) on exit, whereas members with less than 10 years of service are only entitled to receive a gratuity.

2.4.7.2.4 Submission from COGTA 2013

- Cogta presented a submission relating to the President's determinations of 2008 and 2009 where traditional leaders who were members of the NHTL or PHTL's should have been allowed to join the POBPF.
- In the submission, it was outlined that the determination did not define the structure of the pension benefit that should be provided. It would appear that, in terms of section 5(3)(a) of the Remuneration Act, it is not possible to determine a particular pension fund of which certain traditional leaders "should be allowed" to be members. The membership of pension funds was regulated by the rules of such fund.
- It was proposed that the pension benefit structure should consist of an employer contribution of 13% or 13% plus an additional 5.5% risk benefit that would result in a total contribution of 18.5% and an employee contribution of 7.5%. It was further proposed that all members of Houses of Traditional Leaders should qualify for benefits.

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2.4.7.2.5 Principles

In considering the retirement benefits of traditional leaders, the Commission has adopted the following guiding principles:

- Retirement age for Traditional and Khoi-San leaders (TKLs) to be 70 years, which would require legislative amendment
- Regents do not qualify for pension benefit because they act in the position and receive a total guaranteed package
- All TKLs in inherited positions are eligible for a pension benefit; and
- Members serving in structural positions are not eligible for a pension benefit because they only serve for a certain period.

2.4.7.3 Medical aid benefits

The President, in terms of the Proclamation No. 32770 of 2009, determined that traditional leaders should be members of the Government Employees' Medical Scheme (GEMS) and that the guidelines as well as the contribution rates applicable to the medical aid fund should be followed in this regard.

However, the proclamation was not implemented due to the challenges, which amongst others was that traditional leaders indicated that the recommended medical aid scheme was designed for employees not Public Office-Bearers.

The traditional leaders communicated the following key points to the Commission during the stakeholder engagements:

- The Gems contributions are a significant portion of their monthly salaries and therefore unaffordable
- GEMS prohibits their continuation as scheme members after age 65 and that this creates difficulties for them. However, according to the GEMS scheme rules, members are allowed to continue their membership after age 65; and
- They should have the choice of joining any medical aid scheme.

In 2017 the Commission recommended that Headmen/Headwomen should be members of GEMS effective from 01 April 2017 and that the guidelines and contribution rates applicable to the medical aid fund should be followed.

GEMS engaged the Department of Traditional Affairs and National House Traditional Leaders respectively through correspondences advising them about the resolution to implement the Presidential proclamation 85 of 2009.

It was indicated that GEMS agreed with the Department of Traditional Affairs on the structure that was different from that of public servants in order to accommodate traditional leaders. A code on PERSAL was created to enable the traditional leaders to pay their membership premiums.

2.4.7.3.1 Medical aid recommendation

- In light of the above, it is recommended that the previous Commission's recommendation that traditional leaders be allowed to join GEMS should be retained. This recommendation was extended to Principal Traditional Leaders, Senior Khoi-San Leaders, Branch Heads, and Headmen / Headwomen.

Table 34 reflects the current GEMS contribution structure (based on the R0 to R10 170.00 salary band).

TABLE 34: GEMS CONTRIBUTION STRUCTURE

Dependents	Contribution per month (2023)
Member with no dependents	R1 245.00
Adult dependent	R 984.00
Child dependent	R 536.00

2.4.8 Recommendations

- In the process of applying all the remuneration factors, some positions were elevated, based among others, on their scope, jurisdictional area and complexity of their work.
- In recommending the salary structure for Traditional and Khoi-San Leaders, the Commission considered all the remuneration factors. In particular, anchoring and parity philosophy for both hereditary as well as structural positions at national, provincial and local levels including guiding principles and leading practices. This was done in order to align with the public office bearer structures in the Executive, Legislative and Local Government for internal equity.

The Commission's recommendations for the remuneration structure of Traditional Leadership Sector Public Office-Bearers is indicated in Table 35 and 36.

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TABLE 35: RECOMMENDED REMUNERATION STRUCTURE OF TRADITIONAL LEADERSHIP SECTOR PUBLIC OFFICE-BEARERS

TRADITIONAL AND KHOI-SAN LEADERSHIP											
POSITION	PATERSON GRADE	CURRENT PAY	50th PERCENTILE OF THE ANCHOR POSITION	% RELATIVITY	SALARY RELATIVITY LINKED TO ANCHOR POSITION	COMPA-RATIO	7% INCREMENT 2023	5% INCREMENT 2024	COMPA-RATIO	VARIANCE	COMMISSION RECOMMENDATIONS
King/Queen	D4	1 388 764	1 388 764	100,00%	1 388 764	100		0		100	1 388 764
PTL	D4	1 277 668		95,00%	1 319 326	97		0		100	1 319 326
Senior Traditional Leader	B3	303 467		35,00%	486 067	62	324 710	340 945	89	11	486 067
Senior Khoi-San Leader	B3	-		35,00%	486 067		0	0			486 067
Headmen / Headwomen	B1	130 394		15,00%	208 315	63	139 521	146 497	89	11	208 315
Branch Head	B1	-		15,00%	208 315		0	0			208 315
Chairperson: NHTL	E1	1 045 305	1 525 959	100,00%	1 525 959	69	1 118 476	1 174 400	89	11	1 388 764
Chairperson: PHTL	D2	860 954		80,00%	1 220 767	71	921 221	967 282	89	11	1 220 767
Deputy Chairperson: NHTL	D2	799 501		80,00%	1 220 767	65	855 466	898 239	89	11	1 220 767
Deputy Chairperson: PHTL	C3	737 838		60,00%	915 575	81	789 487	828 961	89	11	915 575
Chairperson: LHTKL	C2	0		55,00%	839 277		0	0			839 277
Deputy Chairperson: LHTKL	C1	0		50,00%	762 980		0	0			762 980
Full time Member: NHTL	B3	464 945		35,00%	534 086	87	497 491	522 366	89	11	534 086
Full time Member: PHTL	B3	398 562		35,00%	534 086	75	426 462	447 785	89	11	534 086

The Commission assessed the market value of structural and hereditary positions and determined their pay relativities. Further, the Commission identified the positions of the Chairperson of NHTL and King/Queen as anchor positions for structural and hereditary positions respectively. Furthermore, the Commission chose to benchmark the position of Chairperson of NHTL remuneration with that of a King/Queen (R1 388 764), taking into account the affordability of the 32% rise from R1 045 305 to R1 525 959.

TABLE 36: RECOMMENDED SITTING ALLOWANCES IN THE TRADITIONAL LEADERSHIP SECTOR

Position	Sitting allowance (benchmarked with the sitting allowances determined by National Treasury)
Member: NHTKL	R1 719
Member: PHTKL	R1 473
Member: LHTKL	R1 341

2.4.8.4 Retirement benefit of Traditional Leaders

- It is recommended that the following Traditional and Khoi-San Leaders in inherited positions should be allowed to join the GEPF and pay contributions:
  - o King / Queen
  - o Principal Traditional Leader
  - o Senior Traditional Leader
  - o Senior Khoi-San Leader
  - o Branch Head
  - o Headman / Headwoman.

This would require the following legislative amendments:

- The Presidential Proclamation of December 2009, which stipulated that members of the structural National and Provincial Houses, would be eligible for pension benefits, must be amended to reflect the current position as articulated above and supported by the Department of Traditional Affairs.
- The GEPF to determine the retirement age (suggested 70 years cut-off retirement age) and period of continuous active service of traditional and Khoisan leaders, through an amendment of their rules to incorporate Traditional and Khoisan Leaders.
- The recommendation would be for the benefits to be housed within the GEPF, but under a separate section or membership category with the following structure:
  - o The employee contribution = 7.5% of the pensionable salary; and
  - o The employer contribution could be set at either 17% directed towards retirement or 22.5% where the additional 5.5% is directed towards risk (death and disability) benefits as compared to other members of the POBPF.

The above recommendation would require the amendments of the Presidential Proclamation of December 2009 and Political Office Bearers Fund rules.

2.4.8.5 Medical aid benefit of Traditional Leaders

The Commission relied on existing documents and the collation of information from stakeholder engagements to make the following recommendation.

It is recommended that the previous Commission's recommendation that traditional leaders be allowed to join GEMS should be retained. This recommendation was extended to Principal Traditional Leaders, Senior Khoi-San Leaders, Branch Heads and Headmen/Headwomen.

2.4.9 Tools of trade

The Commission has made recommendations that were gazetted in 2011 and provided a framework about the nature of appropriate tools of trade for Public Office-Bearers. This document sets out the primary guidelines and/or recommendations in which the tools of trade should be dealt with in different Public Office-Bearer categories.

The following are the key guiding principles for the allocation of tools of trade:

- *Accessibility:* All Public Office-Bearers should have lawful, adequate, open and fair access to tools of trade.
- *Affordability and cost control:* Efficient, economic and effective use of resources should be promoted. Public Office-Bearers should use the most cost-effective alternative available. The Public Office-Bearers should be given the means to undertake the duties for which they have been elected or appointed. Wherever practical and economic, such resources should be procured by relevant Public Office-Bearer institutions, subject to audit and public disclosure, to ensure propriety and value for money. There should be no cross-subsidisation between the provided resources. This is to enable Public Office-Bearers to undertake their duties and public activities. Preserving this boundary is important to gain public confidence in the arrangements and it must be rigorously monitored.

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- *Equity:* The allocation of tools of trade levels within institutions should be externally comparable. Differences in the allocated amounts should be informed by differences in job complexity or designation.
- *Flexibility:* Institutions should afford Public Office-Bearers the opportunity to select tools of trade that meet their individual needs without adding to the total expenditure of the Public Office-Bearer institutions. The tools of trade should be customised to institutions and designations.
- *Simplicity:* Tools of trade arrangements should be simple to administer and easily understood by the Public Office-Bearers.
- *Transparency and accountability:* Public Office-Bearer institutions should promote transparency and accountability, providing the public with timely, accessible and accurate information of Public Office-Bearer tools of trade to establish good governance. Individual Public Office-Bearers should be personally responsible for the way in which they use the public resources entrusted to them. Public Office-Bearers should publicly disclose their expenses annually.
- *Value of tools of trade:* Access to tools of trade should create appropriate value for Public Office-Bearer institutions, Public Office-Bearers and the public.

The Commission has made separate recommendations for the National Executive and Deputy Ministers, Parliament, the Provincial Executive, the Provincial Legislature, Local Government and Traditional and Khoisan Leaders (refer to Annexure 7.3).

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2.5 Independent Constitutional Institution Sector

2.5.1 Objectives

Over the years, the Independent Constitutional Institutions (ICIs) were governed by different statutes resulting in disparities in remuneration, benefits, allowances and tools of trade. In 2007, a Parliamentary Ad Hoc Committee on the Review of Chapter 9 and Associated Institutions (Parliamentary Ad Hoc Committee) was established and was tasked with the following:

- Reviewing the appropriateness of the appointment and employment arrangements for commissions and their secretariats with a view to enhanced consistency, coherence, accountability and affordability;
- Reviewing institutional governance arrangements in order to develop a model of internal accountability and efficiency;
- Improving the co-ordination of work between the institutions covered in this review, as well as improving co-ordination and co-operation with government and civil society
- Recognising the need for a more structured oversight role by Parliament in the context of their independence; and
- Reviewing the funding models of the institutions, including funding derived from transfers and licences and other fees, with a view to improving accountability, independence and efficiency.

In the light of the significant differences in the various statutes governing the remuneration of the ICIs office-bearers and the apparent differences in the roles, status, duties and responsibilities, the Commission has undertaken a review to establish appropriate remuneration for the ICIs office-bearers and make recommendations.

The Commission also analysed the Parliamentary Ad Hoc Committee Report and conceded that it had a direct bearing on the work of the Commission, given the various matters of concern raised by the ICIs during consultations. It was therefore necessary for the Commission to undertake a major review to address the identified disparities.

2.5.2 Review methodology

The Commission approached its task in four stages. First, the Commission sought to complete the job profiling of ICIs positions and conduct thorough job evaluation of all office-bearer positions. Secondly, during the job evaluation process, the Commission ranked all Public Office-Bearer positions into appropriate grades that would represent a fair vertical and horizontal relationship with other positions. The third stage dealt with the benchmarking of office-bearer positions in the most appropriate manner to determine remuneration levels that would be both fair and equitable. In the fourth stage, the Commission, having considered all the material and submissions, assessed and fixed actual pay levels for each Public Office-Bearer position.

The following approach was adopted:

- Desktop research to solicit international benchmarking information that would assist the Commission during the review;
- Questionnaires were drafted to gather information aimed at enabling the Commission to draft role profiles;
- Assessment of the previous major review reports of the Commission, related legislation and prescripts; and
- Review of documentation provided by stakeholders.

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TABLE 37: STAGES OF ICI REVIEW PROCESS

Job profiling	Job grading / evaluation	Benchmarking	Total remuneration packages	Final report
Activities • Structured interviews • Submissions • Primary data research • Confirmatory consultation (validation)	Activities • Analyse, assess and evaluate jobs • Expert grading by consultants • Composite grading tool • Compile draft grading tables • Grading results consultations with stakeholders	Activities • Consider various benchmarking options • Private sector • Public sector • State owned enterprises • International comparatives	Activities • Conceptualisa-tion and component design • Pay level determination	Activities • Draft report • Publication for comment • Stakeholder roadshows • Statutory consultations • Consider input • Final report
Outcomes • Comprehensive job profiles for each office bearer position • Established basis for grading	Outcomes • Vertically and horizontally integrated grading structures • Basis for benchmarking	Outcomes • Comparative ranges for fair remuneration options	Outcomes • Total remuneration packages for all office bearer positions	Outcomes • Stated philosophy for office bearer remuneration • Comprehensive job profiles • Fair, transparent and flexible remuneration structure for office bearers

2.5.3 Stakeholder engagement

The following stakeholders were consulted in the process:
- Minister of Finance
- Minister of Justice and Correctional Services
- Minister of Cooperative and Governance and Traditional Affairs
- Minister of Communications, Telecommunications and Postal Services
- Minister of Women and People Living with Disabilities
- Minister of Home Affairs
- Independent Constitutional Institutions (FSID) (not prescribed)
- Parliament

2.5.4 Reports review and stakeholder submission / engagement

2.5.4.1 Reports review

The review was performed by undertaking a desktop review of relevant documentation such as existing role profiles; relevant legislation such as the Constitution, the Commission Act, the ICI Act, and previous major review reports.

2.5.4.2 Stakeholder management

The Commission held numerous stakeholder engagements with the ICI office-bearers. These were some of the issues raised by ICIs:
- Most ICI office-bearers are appointed without being provided with terms and conditions of employment/ service
- There is a disparity amongst ICIs in respect of remuneration, benefits, allowances as well as tools of trade
- Permanent / full-time ICI office-bearers are statutorily precluded from engaging in remunerative work while still holding office
- Benchmarking must be done with other ICI positions
- Categorisation of Public Office-Bearers must be based on the scale of responsibilities
- Part-time Commissioners are doing the same work as full-time Commissioners, with disparities in remuneration.
- Commissioners' roles are not clearly defined.

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- CEOs' powers are more defined than those of Commissioners.
- Some ICI office-bearers are not covered in the Determination of the Remuneration of Office-bearers of Independent Constitutional Institutions Laws Amendment Act 22 of 2014.
- The ICIs' independence must align with the Constitution of the Republic of South Africa, 1996.
- Other institutions that address a similar constitutional agenda must be considered.

2.5.5 International benchmarking

For international benchmarking exercise, the Commission conducted desktop research to ascertain information on how other countries remunerate their ICIs.

The Commission conducted a comparative study collecting information and identified metrics within agreed countries outside South Africa. The following countries were considered for benchmarking:

- United Kingdom
- Namibia
- Kenya
- India
- Tanzania
- Ghana

Countries that were identified, were found to have an independent institution that determines salaries of members of commissions (similar to ICIs) and that their salaries are charged directly from the National Revenue Fund.

The research gathered information through the benchmarking process in the abovementioned countries, is based on these countries having similar jurisprudence as South Africa, similar practice in administrating and determining public representatives' remuneration, including the pegging of salaries and profiling office-bearers positions, allowances, and tools of trade, and the same jurisprudence. (See Annexure 11 on the snapshot of benchmark research)

Public Office-Bearers in the UK are referred to as public officials due to their roles in safeguarding democratic principles. The independent constitutional institutions are often referred to as "non-departmental public bodies" which operate at arm's length from the government and are tasked with specific functions, often regulatory or advisory in nature i.e. Amongst others the Electoral Commission, the Office of Communications and The Equality and Human Rights Commission. However, the Comptroller and Auditor General dows not fall under the category of non-departmental public bodies because it is a constitutional office holder rather than a separate organisation or body.

Some countries have an independent institution that determines the salaries of members of the Commission and their salaries are charged directly from the National Revenue Fund, which is similar to South Africa.

The Commission membership comprises a Chairperson / Chairman / Commissioner, Deputy Chairperson / Vice Chairperson / Deputy Commissioner and Commissioners and assistant Commissioners all of whom are appointed by the President on 5- or 6-year term.

The Auditor Generals in most countries are appointed on a permanent basis and their allowances, benefits and salaries are legislated. The appointment in some countries is made by the President and in others by the Minister.

2.5.6 Desktop research: International benchmarking on ICI benefits and allowances

Desktop research was conducted to ascertain information from the United Kingdom, Namibia and Kenya. The information sought included the nature of the benefits and allowances available to the Independent Constitutional Institution office-bearers internationally.

2.5.6.1 United Kingdom

- Public officials may have different pension arrangements depending on their specific roles, the institutions they are affiliated with, and the pension schemes available to them. The research conducted indicated that there is no uniform pension regime for all Public Office-Bearers in these institutions.
- Some constitutional office holders, such as members of regulatory bodies or ombudsman, might be considered public officials and eligible for certain pension benefits. These benefits are based on their role and terms of appointment. The

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pension arrangements are often subject to negotiations and can differ even among individuals holding similar roles in different institutions.

- These schemes provide retirement benefits to employees in various public sector roles, including those working for government agencies, regulatory bodies, and oversight institutions. Examples of such public sector pension schemes include:
  - o Civil Service Pension Scheme: This scheme covers employees in various government departments, agencies, and public bodies, including some independent institutions
  - o Local Government Pension Scheme: Employees of local government authorities, including certain independent regulatory bodies, might participate in this scheme
  - o NHS Pension Scheme: Employees of healthcare-related institutions, including oversight bodies, may be covered by this scheme
  - o Teachers' Pension Scheme: Employees of educational institutions, including regulatory and oversight bodies in the education sector, could participate in this scheme; and
  - o Parliamentary Contributory Pension Scheme: This scheme covers employees of the UK Parliament, which includes employees working for parliamentary bodies.
- The Comptroller and Auditor General (C&AG) is a constitutional officer responsible for auditing the government's financial statements and ensuring transparency and accountability in public finances. The Comptroller and Auditor General's benefits can vary based on factors such as the individual's terms of employment, the prevailing regulations, and any changes in policies over time.
- Typically, senior civil servants and individuals in constitutional roles like the C&AG may be entitled to certain pension benefits upon retirement. These benefits can include:
  - o Civil Service Pension Scheme: The C&AG, as a senior civil servant, might be eligible to participate in one of the public sector pension schemes available to civil servants, such as the Principal Civil Service Pension Scheme (PCSPS) or other relevant schemes. These schemes offer retirement benefits based on factors like salary and service years
  - o Defined Benefit Pension: Defined benefit (DB) pension schemes provide a guaranteed pension amount based on a formula that considers the individual's salary and service years. As a senior figure in the civil service, the C&AG has access to a Defined benefit pension scheme; and
  - o Other Benefits: In addition to pension benefits, civil servants in senior positions like the C&AG have access to other benefits, such as healthcare plans, insurance, and other employee benefits.

2.5.6.2 Namibia

- Public Office-Bearers include the Auditor General, who subscribes to the Members of Parliament and Other Office-Bearers Pension Fund, which is managed by the Government Institutions Pension Fund (GIPF). The Retirement Fund is limited to employees of Government Institutions and State-owned Institutions. Public Office-Bearers may leave at any stage during their tenure. A Defined Contribution Fund is available to Public Office-Bearers and the defined benefit to civil servants.
- The contribution structure is fixed with an option of Additional Voluntary Contribution (AVC) for members. No corresponding employer AVC is made. The level of contribution (as a % of pensionable salary) is as follows:

Employer contribution towards retirement:	16.7%
Employee contribution towards retirement:	10%
Total contribution	**26,7%**

- The Namibian Government Institution Pension Fund and the Members of Parliament and Other Office Bearers Pension Fund pay a death benefit which is twice the member's pensionable salary. The employer does not provide risk benefits. Universal employment-linked defined risk benefits are provided by the Social Security Commission in terms of the Social Security Commission Act, 1994 (Act No. 34 of 1994). A funeral benefit is provided for active members and pensioners under the Pension Fund for Political and Other Office-Bearers by the Government Institutions Pension Fund (GIPF).
- All Public Office-Bearer categories are provided with a housing allowance. If official accommodation is provided, the housing allowance does not apply. All Office-bearers within the sphere of the Commission are provided with a housing allowance. Household cook, security upgrades, water, electricity and garden services are provided in respect of the Prime Minister. A reimbursement allowance with different amounts for the usage of water and electricity is provided to the Speaker of the National Assembly. Other Public Office-Bearer categories are provided with a water and electricity allowance monthly.
- Official transport and drivers are assigned to the Auditor General. All other Public Office-Bearer categories not listed above are provided with a transport allowance. The Ministry of Works and Transport in collaboration with the Ministry of Safety and Security determines and sets the vehicle value, type and make per Public Office-Bearer category. A new fleet of official motor vehicles to be assigned to Office-bearers is procured at the commencement of each five-year term of public office and a 1.5% tax of the purchase value of the motor vehicle is payable by Office-bearers monthly.

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- Office-bearers do not pay for fuel and running expenses while on leave. They are allowed to purchase assigned official motor vehicles upon exit from office or at the lapse of term. There is no flexibility to structure the assigned official motor vehicle as part of the total package.
- First Class travel is permitted for the Auditor General and s/he is not entitled to receive additional air tickets for discretionary travel by their immediate families.

2.5.6.3 Kenya

- Office-bearers are offered a compulsory defined contribution scheme or gratuity at the end of the term and not both. Membership in the fund is not compulsory, however, it is open to other outside members. The retirement fund is hybrid, meaning is a combination of a pension and provident fund. It does not offer an investment choice and it is administered by a third party.
- The employer contributes towards the fund, and the contribution is not subject to tax. However, interest accrual due to investment of the contribution is subjected to corporate tax of 30%. The accrued contribution is payable to the Office-bearers upon termination of employment and is payable in two portions i.e. lump sum and monthly instalments.
- The level of contribution is the 7.5% basic salary of minimum percentage contribution by the Office-bearers and the employer contributes up to 15% of basic salary. Office-bearers are allowed to loan against the fund. No additional benefits are offered by the state upon termination.
- The employer offers risk benefits i.e. group life assurance including funeral benefits and group personal accident benefit which is capped at a maximum percentage contribution being three times of one year`s basic salary, except funeral expense that is provided in absolute figure at the same rate irrespective of seniority in government.
- Official residence is offered based on the unique nature of the duties and responsibilities. Housing allowance is not paid since the salary is consolidated. If the state house is offered the Office-bearers will be liable to a fringe benefit tax.
- Transport facilitation can be offered either in the form of an official car for official use or a monthly commuter allowance offered to Office-bearers. For air travel business class is permitted only for Office-bearers at the level of cabinet secretary and above and economy for all other Office-bearers.

2.5.7 Role profiles, grading and integrated remuneration structure

2.5.7.1 Role profiles

The sections below discuss the methodology and job analysis process followed in undertaking a job profile. The methodology and job analysis process are as follows:

- Request letter for interviews;
- Conduct survey; and
- Conduct job profile interviews for full-time and part-time incumbents. The interviews conducted entail, amongst others, ascertaining what role a particular position plays within the institution, what the main outputs that are attached to the position, what are the recommended qualifications, knowledge, level of expertise and experience required for an incumbent to be in such position.

The ICI Sector comprises of the Chairperson; Deputy Chairperson/ Vice Chairperson; and Full-time and Part-time Commissioners.

2.5.7.2 Role profile methodology

The Commission conducted virtual consultative sessions with incumbents in the roles listed in (See Annexure 12).
In addition to the existing profiles, information was obtained during the consultative sessions from the incumbents as well as from the respective draft handbook for Members of the Electoral Commission of South Africa.

The updated role profiles reflect a generic stance (this means that the content is not too specific/exclusive, and it allows for broad content), thereby resulting in roles being streamlined to reflect common key areas and detailed descriptors of processes.

It is important to note that the profiles are written as output-based profiles and are not designed as a performance and monitoring tool.

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The scope of the job-profiling and job evaluation process covers the following list of Public Office-Bearer positions within the ICI sector:

TABLE 38: ICI PROFILES POSITIONS

No.	Institution	Profiled position
1.	ICASA	Chairperson Councillor
2.	FFC	Chairperson Deputy Chairperson Part-time Commissioner
3.	Auditor-General of South Africa	Auditor-General
4.	Public Protector of South Africa	Public Protector Deputy Public Protector
5.	CRL	Chairperson Deputy Chairperson Part-time Commissioner
6.	IEC	Chairperson Vice Chairperson Full-time Commissioner Part-time Commissioner
7.	CGE	Chairperson Deputy Chairperson Full-time Commissioner Part-time Commissioner
8.	SAHRC	Chairperson Deputy Chairperson Full-time Commissioner Part-time Commissioner

The existing profiles provided for the above positions were reviewed to obtain an understanding of the current roles and they were correctly profiled to reflect the accurate content.

The job profiles were validated. See Annexure 12 in this regard.

2.5.8 Job Grading

The Commission conducted a job grading exercise where the profiles were considered with regards to size and complexity,

2.5.8.1 Paterson job evaluation system

For the ICI review, the Paterson method was considered as well as additional factors that considered the breadth and the depth of responsibility undertaken by incumbent's which plays a vital role. This includes the consideration of the following factors:

- Consideration of the complexity of the constitutional mandate as well as alignment and synergies between the various institutions
- The direct responsibility that the ICI has for enforcing the rights that are outlined in Chapter 2 of the Constitution
- Consideration of institutions that develop policies and regulations
- Consideration of fiscal, judicial, administrative, regulatory and enforcement consequences; and
- Consideration of institutions that have judicial and administrative consequences.

Using the Paterson points system enables a defence of the fairness of any differentiations in grades, ensuring both internal and external equity, and that you can comply with the principle of Equal Pay for Work of Equal Value.

A total of 18 jobs were graded (see Table 39). The ICI positions included were internally graded and re-evaluated by an external service provider.

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TABLE 39: GRADING RESULTS

No.	Institution	Profiled position	Grading results	Reason for grading
1.	ICASA	Chairperson Councillor	F1 E3	Consideration of the complexity of the mandate which is fiscal, judicial, administrative, regulatory and enforcement consequences.
2.	FFC	Chairperson Deputy Chairperson Part-time Commissioner	E5 E3	Consideration of the complexity of the mandate which is fiscal, judicial, administrative, regulatory and enforcement consequences.
3.	Auditor-General of South Africa	Auditor-General	F2	Consideration of the complexity of the mandate which is fiscal, judicial, administrative, regulatory and enforcement consequences.
4.	Public Protector of South Africa	Public Protector Deputy Public Protector	E5 E3	Consideration of the complexity of the mandate which has a judicial and administrative consequence.
5.	CRL	Chairperson Deputy Chairperson Part-time Commissioner	E5 E3	Consideration of the complexity of the mandate which is directly responsible for enforcing the rights.
6.	IEC	Chairperson Vice Chairperson Full-time Commissioner Part-time Commissioner	F1 E5 E4	Consideration of the complexity of the mandate which is fiscal, judicial, administrative, regulatory and enforcement consequences.
7.	CGE	Chairperson Deputy Chairperson Full Time Commissioner Part-Time Commissioner	E5 E3 E2	Consideration of the complexity of the mandate which is directly responsible for enforcing the rights
8.	SAHRC	Chairperson Deputy Chairperson Full Time Commissioner Part-Time Commissioner	E5 E3 E2	Consideration of the complexity of the mandate which is directly responsible for enforcing the rights

The correlation and grading results for ICI roles are reflected in Table 40.

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TABLE 40: CORRELATION TABLE[39]

Position		Current grades	Proposed Paterson grades	Paterson points	Paterson Broadband	Peromnes	Task	HAY	Equate	JE Manager	Mercer IPE
ICASA	Chairperson	Level 16	FI	28	F Lower	1	23	1801-2140 (1960)	16	225-234	68
	Councillor	Level 15	E3	25	E Mid	3	20	1056-1260 (1142)	15	195-204	63/64
FFC	Chairperson	Level 15	E5	27	E Upper	2	22	1508-1800 (1628)	16	215-224	66/67
AGSA	AG		F2	29	F Lower	1	24	2142-2550 (2328)	16	235-244	69
Public protector of South Africa	Public Protector	JC	E5	27	E Upper	2	22	1508-1800 (1628)	16	215-224	66/67
	Deputy Public Protector		E3	25	E Mid	3	20	1056-1260 (1142)	15	195-204	63/64
CRL	Chairperson	A	E5	27	E Uppe	2	22	1508-1800 (1628)	16	215-224	66/67
	Deputy Chairperson		E3	25	E Mid	3	20	1056-1260 (1142)	15	195-204	63/64
IEC	Chairperson	JC	E5	27	E Upper	2	22	1508-1800 (1628)	16	215-224	66/67
	Vice Chair-person	JC	E3	25	E Mid	3	20	1056-1260 (1142)	15	195-204	63/64
	Full-time Commis-sioner	JC	E3	25	E Mid	3	20	1056-1260 (1142)	15	195-204	63/64
CGE	Chairperson	A1	E5	27	E Upper	2	22	1508-1800 (1628)	16	215-224	66/67
	Deputy Chairperson	A1	E3	25	E Mid	3	20	1056-1260 (1142)	15	195-204	63/64
	Full-time Commis-sioner	A1	E2	24	E Lower	3	19	880-1055 (954)	15	185-194	62
SAHRC	Chairperson	Level 15	E5	27	E Upper	2	22	1508-1800 (1628)	16	215-224	66/67
	Deputy Chairperson	Level 14	E3	25	E Mid	3	20	1056-1260 (1142)	15	195-204	63/64
	Full-time Commis-sioner	Level 13	E2	24	E Lower	3	19	880-1055 (954)	15	185-194	62

39 Part-time Commissioners are excluded from this table as there are no data for them.

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2.5.9 Design principles and methodology

The design of a salary structure is guided by a number of key leading practice principles, as well as the reality of the history and context within which the sector operates.

The process of establishing a remuneration structure consists of the following five (5) steps and takes into consideration internal and external equity:

1. Conduct a salary survey to determine the prevailing specific salary rates for a specific job
2. Determine the worth of each job to ensure internal equity
3. Create pay grades by grouping similar jobs to a particular pay grade
4. Assign pay rate or price to each pay grade
5. Create a pay structure by generating pay ranges. The ideal pay structure design has the right balance between affordability and competitiveness. Pay structures are typically designed to support both internal equity and external competitiveness

Internal equity refers to the relative grade assigned to different jobs within an organisation. The focus on external competitiveness is on external equity and is based on the organisation's need to compete in open market for skills (attracting and retaining talent).

The level at which a pay structure is anchored in the market distribution is determined by the remuneration policy and affordability. A pay structure is influenced by the current reality of actual pay distribution.

Consideration of the appropriate market data is for benchmarking the ICIs remuneration and how a consistent set of data may assist in determining the appropriate remuneration levels within this sector.

Where no peer group can be surveyed by the established survey houses, an appropriate market will have to be determined. However, it is accepted that the remuneration of office-bearers in the ICI sector will not be able to compete with that of the private sector.

There are three (3) options to use when determining a remuneration level:
1. Use a relevant grading methodology to determine the level applicable to the role and benchmark remuneration from one or more national surveys
2. Develop pay structures using appropriate data on remuneration practices
3. Look at internal relativities and develop a remuneration structure using similar positions in the public sector

However, it is crucial to note that with ICIs, anchoring will not be possible as ICI independence is guaranteed by the Constitution. These institutions are state institutions but are not part of the government. Hence, their independence refers to being independent from the government.

The most critical characteristic of ICIs is that these institutions perform their functions in terms of national legislation but are not subject to national executive control. They are part of governance but not part of government.

In designing the remuneration structure for ICIs, the Commission had regard to the existing salaries, allowances and benefits of ICI office-bearers and selected to make comparisons with the State-Owned Enterprises (SOEs) market.

2.5.10 Remuneration structures

The Commission obtained benchmark data to establish a comparison between current practice as per the President's determinations and that of the SOE market. The SOE market used was the relevant market as of September 2022. The market data reflects the 50th percentiles.

The market sample included the percentiles / spread of pay for the grade within:
- *National market:* the database used included information from a service provider covering over 700 organisations within South Africa.
- *State-Owned Entities (SOEs) market:* the database used included information covering 42 state-owned entities within South Africa.
- *Comparison:* benchmarks have been based on a consideration of the level and complexity of the role, the span of control, consequence of the position relative to the size, type and structure of the institutions.

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The tables below compare the current remuneration against the SOE market.

To determine a relative market position overall, the tables below provide a comparison of actual salaries (per individual) against that of the market data. The comparative ratio or "Compa-ratio" is simply the actual salary divided by the market data, multiplied by 100, for the appropriate position.

The comparative ratio would be the key to interpreting the results. From a remuneration point of view, a compa-ratio of < 75 and > 125 would highlight specific areas/positions to focus on. It is used to reflect relativity to the market, as well as positioning within the proposed pay scale.

Table 41 indicates the comparator ratios of the independent constitutional institutions' roles as compared to the SOE market median.

TABLE 41: COMPARATOR RATIOS

Position		SOE				Comparative Ratio		
		Paterson grades	Peromnes	2022 salary	50th percentile		Compa-ratio	Variances
ICASA	Chairperson	F1	1	R2,498,817	R2,800,020	The Chairperson is paid below the market and requires adjustment to the market median	89%	11%
	Councillor	E3	3	R2,175,568	R1,794,348	This group is paid above the market	121%	17.5%
FFC	Chairperson	E5	2	R1,880,736	R2,574,898	Paid below the market and needs to be adjusted	73%	27%
AGSA	AG	F2	1	R5,233,022	R3,299,628	The AG's remuneration is a scarce and critical skill attracted from the Private sector therefore the remuneration should be compared with the Private sector	159%	36.9%
Public protector of South Africa	Public Protector	E5	2	R3,449,406	R2,574,898	This position is scarce and critical and therefore pays a premium	134%	25.3%
	Deputy Public Protector	E3	3	R1,871,493	R1,794,348	The variance is acceptable	104%	4.1%
CRL	Chairperson	E5	2	R1,354,773	R2,574,898	This Position needs to be adjusted gradually until it is paid at the market median. At least over two years	53%	47.3%
	Deputy Chairperson	E3	3	R1,151,439	R1,794,348	The same recommendation as the Chairperson	64%	35.8%
IEC	Chairperson	E5	2	R2,625,443	R2,574,898	This is in line with the market	102%	1.9%
	Commissioner	E3	3	R2,311,609	R1,794,348	This is above the market	129%	22.3%
CGE	Chairperson	E5	2	R1,151,639	R2,574,898	Need multiple adjustments to reach the market median	45%	55.2%
	Deputy Chairperson	E3	3	R 995,085	R1,794,348	Highly underpaid, need multiple adjustments to the median	55%	44.5%
	Full-time Commissioner	E2	3	R 926,741	R1,667,970	Need multiple adjustments to market median	56%	44.4%
SAHRC	Chairperson	E5	2	R1,472,328	R2,574,898	Need multiple adjustments to the median	57%	42.8%
	Deputy Chairperson	E3	3	R1,248,804	R1,794,348	Need multiple adjustments to the median	70%	30.4%
	Full-time Commissioner	E2	3	R1,142,340	R1,667,970	Need multiple adjustments to the median	68%	31.5%

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Table 42 indicates the cost-based comparator ratios of the ICS' roles as compared to the SOE market median.

TABLE 42: MARKET MEDIAN COST ANALYSIS BASED ON THE 50TH PERCENTILE

Position	Paterson	No. of incumbents	Current salaries	50th Percentile	Budget	Current Salary Budget	Salary Difference	
Chairperson (ICASA)	F1	1	2,498,817	2,800,020	2,800,020	2,498,817	(301,203)	
Auditor General (AGSA)	F2	1	5,233,022	3,299,628	3,299,628	5,233,022		1,933,394
Chairperson (FFC)	E5	1	1,880,736	2,574,898	2,574,898	1,880,736	(694,162)	
Public Protector (PPSA)	E5	1	3,449,406	2,574,898	2,574,898	3,449,406		874,508
Chairperson (IEC)	E5	1	2,625,443	2,574,898	2,574,898	2,625,443		50,545
Chairperson (CRL)	E5	1	1,354,773	2,574,898	2,574,898	1,354,773	(1,220,125)	
Chairperson (CGE)	E5	1	1,151,639	2,574,898	2,574,898	1,151,639	(1,423,259)	
Chairperson (SAHRC)	E5	1	1,472,328	2,574,898	2,574,898	1,472,328	(1,102,570)	
Councillor (ICASA)	E3	7	2,175,568	1,794,348	12,560,436	15,228,976		381,220
Deputy Public Protector (PPSA)	E3	1	1,871,493	1,794,348	1,794,348	1,871,493		77,145
Deputy Chairperson (CRL)	E3	1	1,151,439	1,794,348	1,794,348	1,151,439	(642,909)	
Commissioner (IEC)	E3	4	2,311,609	1,794,348	7,177,392	9,246,436		517,261
Deputy Chairperson (SAHRC)	E3	1	1,248,804	1,794,348	1,794,348	1,248,804	(545,544)	
Deputy Chairperson (CGE)	E3	1	995,085	1,794,348	1,794,348	995,085	(799,263)	
Full-time Commissioner (CGE)	E2	4	926,741	1,667,970	6,671,880	3,706,964	(741,229)	
Full-time Commissioner (SAHRC)	E2	4	1,142,340	1,667,970	6,671,880	4,569,360	(525,630)	
TOTAL					61. 808. 016	57,685,721	(7,995,894)	3,834,073
Additional required								(7,995,894)

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2.5.11 Benefits review

Part of the review of the remuneration of office-bearers of Independent Constitutional Institutions positions includes the review of pension, medical aid and tools of trade. Currently, Independent Constitutional Institution office-bearers receive a total package that is structured according to their requirements. The total package also has a pension and medical aid component, which provides members with an option to choose from different retirement and medical aid funds.

Most of the Government Employees Pension Fund members are represented by their trade unions in negotiations with the Government Employees Pension Fund about pension-related matters. However, this is not the case with some of the smaller member groups such as Magistrates and IEC office-bearers. It was found that no uniformity exists in the procedures for determining the remuneration, allowances, benefits and tools of trade of the Independent Constitutional Institutions office-bearers. Differences between the Independent Constitutional Institutions exist due to various statutes for governing the remuneration of Independent Constitutional Institutions office-bearers and differences in the roles and responsibilities of the office-bearers.
It is also necessary to determine whether benefits offered to Independent Constitutional Institutions office-bearers and the practices for determination and usage thereof have kept pace with developments in remuneration practices.

Independent Constitutional Institutions positions have been included within the purview of the Commission and they are therefore defined as office-bearers. This was done without necessarily aligning their remuneration, benefits and allowances with an appropriate comparator.

The processes for allocating tools of trade, as well as the nature and extent of such, vary widely across institutions. The Commission has been informed on several engagements with the Independent Constitutional Institutions that tools of trade currently made available to them are not commensurate with or customized to the requirements of their jobs and are inadequate.

Again, the process for determining and allocating tools of trade for office-bearers must be fair and open to public scrutiny. While it would be inappropriate to attempt to achieve absolute parity amongst positions with immeasurably different performance requirements, there should be a degree of comparability in both the process and actual benefits and tools of trade.

2.5.12 Review methodology

The methodology for the review of the pension, medical aid and tools of trade for the Independent Constitutional Institutions was as follows:
- Review of existing reports, rules and legislation relating to benefits and tools of trade
- Collection and analysis of current benefits and tools of trade
- Stakeholder consultations supplemented by written submissions; and
- International and local benchmarking (desktop study).

2.5.13 Stakeholder engagements and submissions

The Commission engaged the Independent Constitutional Institutions office-bearers throughout this second phase of its major remuneration review. These consultations were aimed at gathering information, testing different philosophies, approaches, and suggestions developed by different institutions on pension and medical aid benefits as well as tools of trade. The Independent Constitutional Institutions office-bearers submitted that there is a lack of a uniform mechanism in that regard.

2.5.14 Pension benefits

Currently, some Independent Constitutional Institutions office-bearers have the option of voluntary membership in different pension funds and some are obligated to belong to a prescribed pension fund. This makes creating a uniform and consistent structure for all office-bearers in this sector challenging.

2.5.14.1 Current practices

There are disparities in the current benefits for Independent Constitutional Institution office-bearers, namely pension fund, provident fund, death cover, spouse cover (optional), disability cover and funeral benefit, when compared to the benefits for Magistrates, Executives, Legislators and Judges. Table 43 shows these disparities.

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TABLE 43: DISPARITIES IN BENEFITS FOR ICI OFFICE-BEARERS VERSUS MAGISTRATES, EXECUTIVES, LEGISLATORS AND JUDGES

ICI office-bearer	Benefits
South African Human Rights Commission	The President determines as a total package the remuneration for Commissioners. However, Commissioners are allowed to structure their salaries according to their personal needs. They contribute to a provident fund. Commissioners are appointed on a seven (7) year term (non-renewable).
Auditor-General of South Africa (AGSA	AGSA receives the total cost of the employment package as follows: • The total cost-of-employment package is inclusive of the retirement fund contribution; and • A 30% deferred compensation is deducted from the annual salary and is payable at the end of the seven (7) year-term (non-renewable).
Independent Communications Authority of South Africa (ICASA)	The Councillors receive the following benefits during their five (5) year term (non-renewable): • Total cost-of-employment package inclusive of a pension fund contribution of 7.5 % • Provident fund contributions ranging from 10% to 17%; and • Optional risk benefits include death cover for main member and spouse, disability cover and funeral benefits.
Electoral Commission of South Africa (IEC)	• Commissioners are appointed on a seven (7) year term (renewable) • Commissioners get a basic salary that is equivalent to that of a High Court Judge; and • The benefits applicable to a Director-General of a State Department of the Public Service apply to a full-time Chairperson and full-time Commissioners of the Electoral Commission.
Commission for the Promotion and Protection of the Rights of Cultural, Religious and Linguistic Communities (CRL)	• The Chairperson and Deputy Chairperson are appointed full-time on a fixed term contract of five (5) years (renewable); and • They are both on a structured total guaranteed package that is all-inclusive of benefits that they have structured according to their needs such as pension.
Financial and Fiscal Commission (FFC)	• The Commissioners' remuneration is on a total guaranteed package that Commissioners are allowed to structure according to their personal needs • They do not contribute to any provident or pension fund but they can individually choose to do so if they wish; and • Commissioners are appointed on a five (5) year term (non-renewable).
Commission on Gender Equality (CGE)	• The remuneration for Commissioners is structured on a cost-to-company basis • Commissioners are allowed to structure their package according to their personal needs • Some contribute to a provident fund with a contribution of 12% of the total cost-to-company that they can individually choose; and • Commissioners are appointed on a five (5) year term (non-renewable).
Public Protector (PP) and Deputy Public Protector (DPP) of South Africa	• The PP gets an annual salary at a rate equal to that of a Judge of the Supreme Court of Appeal of South Africa • A contribution is made towards a medical scheme equal to the contribution made in respect of a Judge of the Supreme Court of Appeal, who gets a car and resettlement allowance • The PP is not affiliated with any pension fund • The PP is paid a gratuity at the end of the term of office. The gratuity is calculated as follows: • D/7 x 2 x (E+3) x F: in which: (a) D represents the salary (basic per annum) at the end of term of office applied to the office of the Public Protector (b) E represents the period in years of his or her period in such office; and (c) F represents the provision for the calculation of income tax calculated at a marginal rate of 40%; and • The DPP`s remuneration is pegged to that of a Chief Director within the public service. The DPP is not required to be affiliated to any pension fund and the conditions of service of the Deputy Public Protector do not provide for a gratuity.

There are different types of retirement benefit options available to individuals in South Africa based on their employment circumstances. (See Annexure 13 for descriptions of the various options)

Defined Benefit Funds are generally more suitable for long-term employees for several reasons including:
- No withdrawal penalties if employees stay until retirement age; and
- The sponsor retains the investment risk and the Fund as the pension receivable on retirement is guaranteed.

Defined Contribution Funds are often suitable for individuals with short tenures of employment due to their portability, flexibility, and individual ownership characteristics. Generally, it is more advantageous to be members of large funds, if managed efficiently and can negotiate favourable fees due to economies of scale.

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In general, given their limited duration contract, Independent Constitutional Institution office-bearers can belong to a defined contribution system.

These funds are known as "money purchase" or "fixed contribution" funds. The rules of the fund specify the contributions to be paid by the employer and member but do not guarantee the retirement benefit. The benefits are dependent on the following factors:

- The value of contributions paid by the employer and the member
- The performance of the underlying investments in the fund
- Administration costs
- Allocation of withdrawal credits when other members leave
- Prevailing annuity rates at the time the pension is withdrawn

2.5.15 Medical aid benefits

The provision of healthcare costs is a very important aspect to consider when designing the benefits provided to employees. The employer should include the cost before and after retirement in the design process. The need for healthcare benefits increases dramatically with age. Typically, the income of an individual would reduce after retirement. This disparity between the healthcare need and the ability to fund this need implies that the provision for the cost of healthcare after retirement is an integral part of designing a set of employee benefits and will similarly apply to Public Office-Bearers.

2.5.15.1 Current practices

- Public Office-Bearers in the Independent Constitutional Institution sector subscribe to different medical aid schemes.
- The Public Office-Bearers in this Independent Constitutional Institution sector are remunerated on a total cost-to-company basis and may opt to join various medical aid schemes.
- Given the cost-to-company remuneration philosophy in this sector and the diverse entities within this sector, it is less desirable to recommend one particular medical aid scheme for all Independent Constitutional Institution office-bearers.

2.5.16 Recommendations

The Commission's recommendations for the remuneration structure for Independent Constitutional Institution sector Public Office-Bearers is set out in Table 44.

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TABLE 44: COMMISSION RECOMMENDATIONS FOR THE REMUNERATION STRUCTURE FOR ICI SECTOR PUBLIC OFFICE-BEARERS

INDEPENDENT CONSTITUTIONAL INSTITUTIONS											
INSTITUTION	POSITION	GRADE	2024/2025 SALARY	50 PERCENTILE OF NM	COMPA-RATIO	7% INCREMENT 2023	COMPA-RATIO	5% INCREMENT 2024	COMPA-RATIO	VARIANCE	COMMISSION RECOMMENDATION
Auditor-General (AG)	Auditor General	F2	5 690 506	3 299 628	172		N/A	-	N/A	N/A	5 690 506
Independent Electoral Commission (IEC)	Chairperson	F1	2 717 270	2 534 014	107		N/A	-	N/A	N/A	2 717 270
ICASA	Chairperson	F1	2 106 509	2 534 014	83	2 253 965	89	2 366 663	93	7	2 366 663
Office of Public Protector	Public Protector (PP)	E5	2 595 054	2 153 912	120		N/A	-	N/A	N/A	2 595 054
Finance & Fiscal Commission (FFC)	Chairperson	E5	2 106 509	2 153 912	98		N/A		0		2 153 912
SA Human Rights Commission (SAHRC)	Chairperson	E5	1 610 096	2 153 912	75	1 722 803	80	1 808 943	84	16	1 808 943
Independent Electoral Commission (IEC)	Vice Chairperson	E4	2 365 762	1 900 510	124		N/A	-	N/A	N/A	2 365 762
CRL	Chairperson	E4	1 517 407	1 900 510	80	1 623 625	85	1 704 807	90	10	1 704 807
Commission for Gender Equality (CGE)	Chairperson	E4	1 287 734	1 900 510	68	1 377 875	73	1 446 769	76	24	1 446 769
Independent Electoral Commission (IEC)	Commissioner	E3	2 365 762	1 780 800	133		N/A	-	N/A	N/A	2 365 762
Office of Public Protector	Deputy Public Protector (DPP)	E3	2 031 835	1 780 800	114		N/A	-	N/A	N/A	2 031 835
ICASA	Councillor	E3	1 665 371	1 780 800	94		N/A		N/A	N/A	1 780 800
SA Human Rights Commission (SAHRC)	Deputy Chairperson	E3	1 366 463	1 780 800	77	1 462 115	82	1 535 221	86	14	1 535 221
CRL	Deputy Chairperson	E2	1 289 664	1 658 237	78	1 379 940	83	1 448 937	87	13	1 448 937
SA Human Rights Commission (SAHRC)	Commissioners	E2	1 252 591	1 658 237	76	1 340 272	81	1 407 286	85	15	1 407 286
Commission for Gender Equality (CGE)	Deputy Chairperson	E2	1 102 306	1 658 237	66	1 179 467	71	1 238 441	75	25	1 238 441
Commission for Gender Equality (CGE)	Commissioner	E1	1 025 758	1 243 678	82	1 097 561	88	1 152 439	93	7	1 152 439
	Total		60 784 174								

The remuneration paid to the Auditor General is in line with the salaries paid to the Financial Services Sector who are paid a short and long-term incentive.

There was no need to adjust Public Office Bearers whose remuneration were closer or above the market median. Public Office Bearers whose remuneration had large disparities were adjusted by 7% and where disparities still exist, a further 5% adjustment was implemented.

Further adjustments will be required in for Public Office Bearers who still fall outside the market median.

- The Commission recommends the job profiles as completed and validated by Independent Constitutional Institution office-bearers and the relevant authorities in Annexure 12.
- The Commission recommends the grading and remuneration structure of Independent Constitutional Institution office-bearer positions in Table 32.
- The Commission considers international benchmarking and recommends leading practices from the countries it has researched.
- The Commission considered the local benchmarking and comparison to the SOE market at the 50th percentile and recommends that it is a reliable comparison as it means that 50% of the market earn at this level.

2.5.17 Retirement benefit of Independent Constitutional Institutions

After examining all the information that was collected and considering the principles as discussed in paragraph 1.8, the following recommendation is made:

- A defined contribution pension scheme is recommended as is likely to be more suitable for employees employed for 5 or 7 years. However, the overall appropriateness of the scheme depends on several factors, including the employee's financial goals, and the employer's contribution structure.
- Additional advantages of a defined contribution pension scheme are:
  - The in-built preservation feature of pension funds is an important feature to ensure that retirement savings are preserved
  - It is more practical to enable portability and individual control; and
  - Tax advantages: contributions to pension schemes are tax-deductible, providing immediate tax benefits for office-bearers.
- The level of contribution recommended is a minimum 7,5% employee contribution and 14,5% employer contribution as part of the total cost-to-company.
- Members can contribute more than the minimum and also elect to purchase risk cover inclusive of funeral cover.
- Additional considerations to support this recommendation are:
  - There should be a mechanism in place to ensure that all Office-bearers are consulted before significant changes are made
  - A suitable pension scheme should be as flexible as possible in their benefit design to ensure that the Office-bearers are accommodated sufficiently in the pension scheme; and
  - There are possible legislative amendments and changes in pension scheme rules to accommodate new categories of members.

2.5.17.1 Illustration

- An illustration of the impact of the pension is contained in Table 45. One scenario is based on 22% and the other on 17,5% total pension contribution which is depicted by three income scenarios.
- The impact on earning R2m (assuming that 80% of total remuneration is pensionable) can be as much as R16k per month on net pay. The retirement savings would be R29k per month. This is a significant saving for retirement and although the Office-bearers only serve for a relatively short period, this will contribute positively to their overall retirement savings.

TABLE 45: ILLUSTRATION OF THE LIKELY IMPACT OF THE PROPOSAL

Total cost-to-company	R2 000 000,00	R1 000 000,00	R700 000,00
Total pension contribution (80% pensionable)	R352 000,00	R176 000,00	R123 200,00
Employee (7,5%)	R150 000,00	R75 000,00	R52 500,00
Employer (14,5%)	R290 000,00	R145 000,00	R101 500,00
Taxable Income	R1 648 000,00	R824 000,00	R576 800,00
Tax	R575 362,59	R237 841,61	R144 622,64
Net income	R1 072 637,41	R586 158,39	R432 177,36
Per month (with pension)	R89 386,45	R48 846,53	R36 014,78
Tax (without pension)	R726 613,55	R309 682,59	R189 481,61
Net income (without pension)	R1 273 386,45	R690 317,41	R510 518,39
Per month (without pension)	R106 115,54	R57 526,45	R42 543,20
Net effect on monthly pay	**-R16 729,09**	**-R8 679,92**	**-R6 528,42**

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2.5.18 Medical benefit of Independent Constitutional Institutionss

Having considered all the information collected, the following recommendations are made:

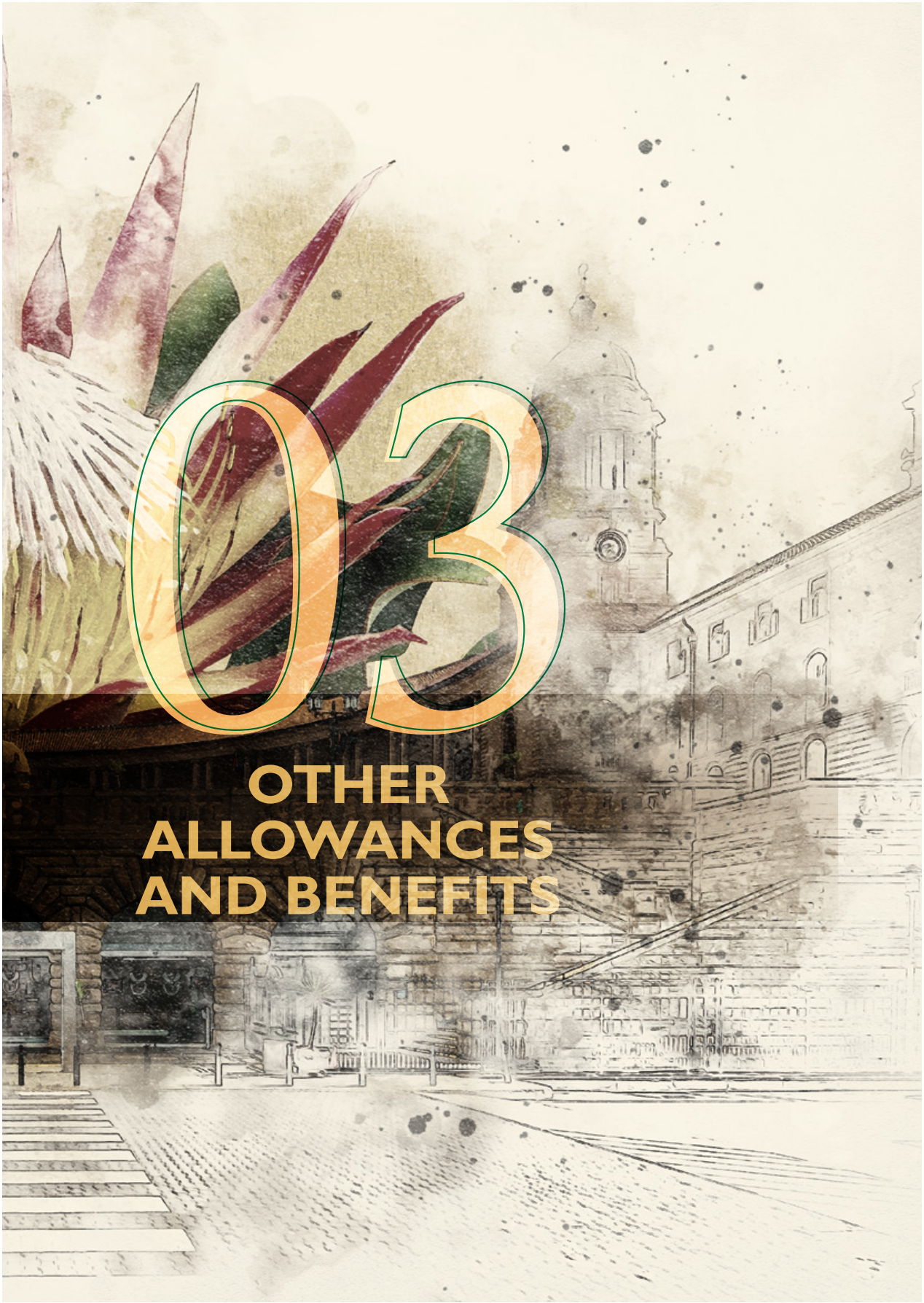
- The Office-bearers should be required to belong to any medical aid scheme of their choice, whether directly as main members or through their spousal PARMED medical aid scheme
- No recommendation is made in terms of subsidy levels or amounts for medical aid scheme contributions, given the total-cost-to-company remuneration philosophy; and
- No recommendation is made in terms of post-retirement subsidies for medical aid scheme contributions, given the short-term nature of their service.

2.5.19 Tools of trade

- There are significant differences in the approaches adopted by Independent Constitutional Institutions regarding the allocation of tools of trade to Public Office-Bearers. However, there is no uniformity in the provision of tools of trade for the Independent Constitutional Institution office-bearers.
- These differences in administering tools of trade make it challenging to manage costs as well as ensure transparency and accountability.
- Independent Constitutional Institutions to consider the Tools of Trade Framework for other Public Office-Bearers as an attempt to standardize saying (refer to Annexure 7.3) .

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03
OTHER
ALLOWANCES
AND BENEFITS

3. OTHER ALLOWANCES AND BENEFITS

3.1 Once-off gratuity payment for all Public Office Bearers

3.1.1 The purpose of once off gratuity payment for the elected public office-bearers (POBs) was to compensate for the loss of income at the point of exit. It was prompted at the time by requests from various POB sectors.

3.2 Public Office-Bearers of Executive and Legislative Sector

3.2.1 During the publication of the first Major Review Report on 17 April 2008, the Legislative Sector Forum made representation to the President for the payment of gratuity of 13.33% of final pensionable salary for each year of service to assist the member to pay off debts such as mortgage bond and car loan. As part of cost-mitigation, this would be capped after 15 years. The gratuity would be de-linked from pensions to ensure that the exiting members have access to cash-on-hand without having to sacrifice any part pension benefits of a Member of Parliament or Provincial Legislature at the end of a term in instances where such a member is not re-elected following an election.

3.2.2 The President forwarded the request to the Commission for consideration. Following a consultation process with the Minister of Finance, the Commission accepted the proposal to offer the "once-off gratuity". However, on 15 October 2008 the Commission recommended that the payment of a "once-off gratuity" for a member of Parliament or Provincial Legislature who had served five years or more and whose term of office had ended, should be entitled to the "once-off gratuity" equal to four months of the pensionable salary for every five years of service or pro rata of the five-year period.

3.2.3 The Commission's recommendation was endorsed by the President determination as published on 12 November 2008. So far, the above determination on the members of Parliament and legislatures had not been repealed.

3.3 Public Office Bearers for Local Government

3.3.1 In May 2011, the Commission was again approached by the Minister of Cooperative Governance and Traditional Affairs as well as South African Local Government Association for the payment of a similar "once-off gratuity" (although this time it was 3 months' pensionable salary) to non-returning Councillors following the 2011 Local Government elections. The gratuity benefit at the time was motivated as remuneration needed by the non-returning Councillors to "bridge" their remuneration shortfalls and consequent financial constraints following their non-election. This was to be done as a stopgap measure while the Councillors were making alternative employment arrangements or waiting for the processing of their retirement benefits.

3.3.2 The Commission consulted with various relevant stakeholders and was assured by the Minister of Finance that such gratuity was affordable, and agreed to the request. On 29 August 2011, the Commission recommended to the President that a "once-off gratuity" for non-returning Local Councillors who had served a full term from 01 March 2006 to 18 May 2011 should be paid a once-off gratuity of three months of their pensionable salary from the National Fiscus. The Commission's recommendation was endorsed by the Minister of Minister of Cooperative Governance and Traditional Affairs on 06 December 2011.

3.4 Post 2016 Local Government Elections

3.4.1 The Commission conceded that there is a precedent based on the recommendation for the 2011 term of office and this may have created a legitimate expectation. The Commission understood from the Minister's submission that funds were sourced for that purpose. Notwithstanding this, the Commission concluded that this model was not sustainable and should be revisited.

3.4.2 The Commission recommended that only non-returning Municipal Councillors who had served for a minimum period of 24 consecutive months prior to the 03 August 2016 Local Government elections qualify to receive the "once-off gratuity payment".

3.4.3 The payment of the "once-off gratuity" was based on the basic salary and not on the annual total remuneration package (ATRP) because the employer's contribution towards the benefit funds were included in the total package.

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3.5 Post 2021 Local Government Elections

3.5.1 The request for payment of gratuity for POBs dated 02 June 2021 was discussed at a special Commission meeting held on Friday 28 May 2021. Having debated the matter extensively, the Commission ascribed to the views that there is a precedent and this may have created some expectation. The Commission considered that the expectation should be eradicated by making clear before January 2017 or very soon thereafter that the termination bonus is unsustainable and unjustifiable.

3.5.2 In considering the above, the Commission indicated to the Ministry that due to the pending pronouncement of the remuneration review report of POBs and constraints faced by the fiscus, the Commission, in all good conscience, cannot recommend to the President that a gratuity payment be made.

3.6 Traditional Leadership Sector

3.6.1 On 15 July 2013, the National Department of Traditional Affairs and the National House of Traditional Leaders made a presentation to the Commission on the "Ex-gratia" payment for traditional leaders serving in various houses of traditional leaders.

3.6.2 The submission indicated that there was no uniformity in respect of the payment of gratuities to traditional leaders serving in the various houses of traditional leaders at the end of their term. Such payments were largely dependent on the discretion of the relevant authority. Furthermore, there had been instances where members would receive "Ex-gratia" payments from both the National and Provincial House of Traditional Leaders.

3.6.3 The National Department of Traditional Affairs and the National House of Traditional Leaders proposed the following to the Commission:

- A three months' pensionable salary for any full-time member who had served a five-year term and was not returning for a consecutive term;
- An equivalent of three months of sitting allowances calculated on the average of the allowances paid to a part-time member during the last year of her or his term;
- A member who received a gratuity or sitting allowances from the National House of Traditional Leaders, was not entitled to a gratuity or sitting allowances from the provincial or local house, and a person who was not a member of the National House but received gratuity or sitting allowances from the relevant provincial house, was not entitled to a gratuity of sitting allowance from the local house; and
- A full-time or part-time member who did not serve the full period of five years would receive a pro-rata gratuity or sitting allowance.

3.6.4 The Commission at its meeting held on 14 September 2013 resolved that the payment of "once-off gratuity / ex-gratia was "…not a benefit arrangement that should feature as part of its Recommendations". The Commission could not at that stage motivate for such a benefit arrangement.

3.7 Reconsideration of Gratuity Payments

3.7.1 Across the various POB sectors there has been a past practice of paying once-off gratuities of various forms to those POBs whose term of office had come to an end. The Commission had on numerous occasions expressed its view that the payment of a gratuity on leaving office was not appropriate and placed an unnecessary strain on the fiscus.

3.7.2 There is a view that a benefit expectation had already been created in respect of some of the current serving POBs. It is important to point out that if this benefit had already been formalised and agreed to with the POBs there should be no reason to request a recommendation from the Commission at the end of any term of office.

3.7.3 When such a recommendation is made it therefore implies that the payment of gratuity is not a foregone conclusion and the outcome is uncertain and requires the Commission to apply its mind.

3.7.4 It is abundantly clear that a precedent had been set for the payment of the "once-off gratuity / ex-gratia" benefits to members of Parliament, Legislature and the National and Provincial Houses of Traditional Leaders, as well as to Local Government Councillors. As stated earlier, the Commission does not support the continued payment of gratuities as it is not sustainable.

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3.7.5 The Commission considered that the circumstances at the time of endorsing the previous payment of once-off gratuity / ex-gratia and retirement arrangement were substantially different. Currently there is an appropriate retirement benefit arrangement to which all POBs are eligible to contribute towards.

3.8 Recommendations

3.8.1 The recommendations in respect of gratuity payments for all Public Office-Bearers within the Executive, Legislative and Local Government sectors are as follows:

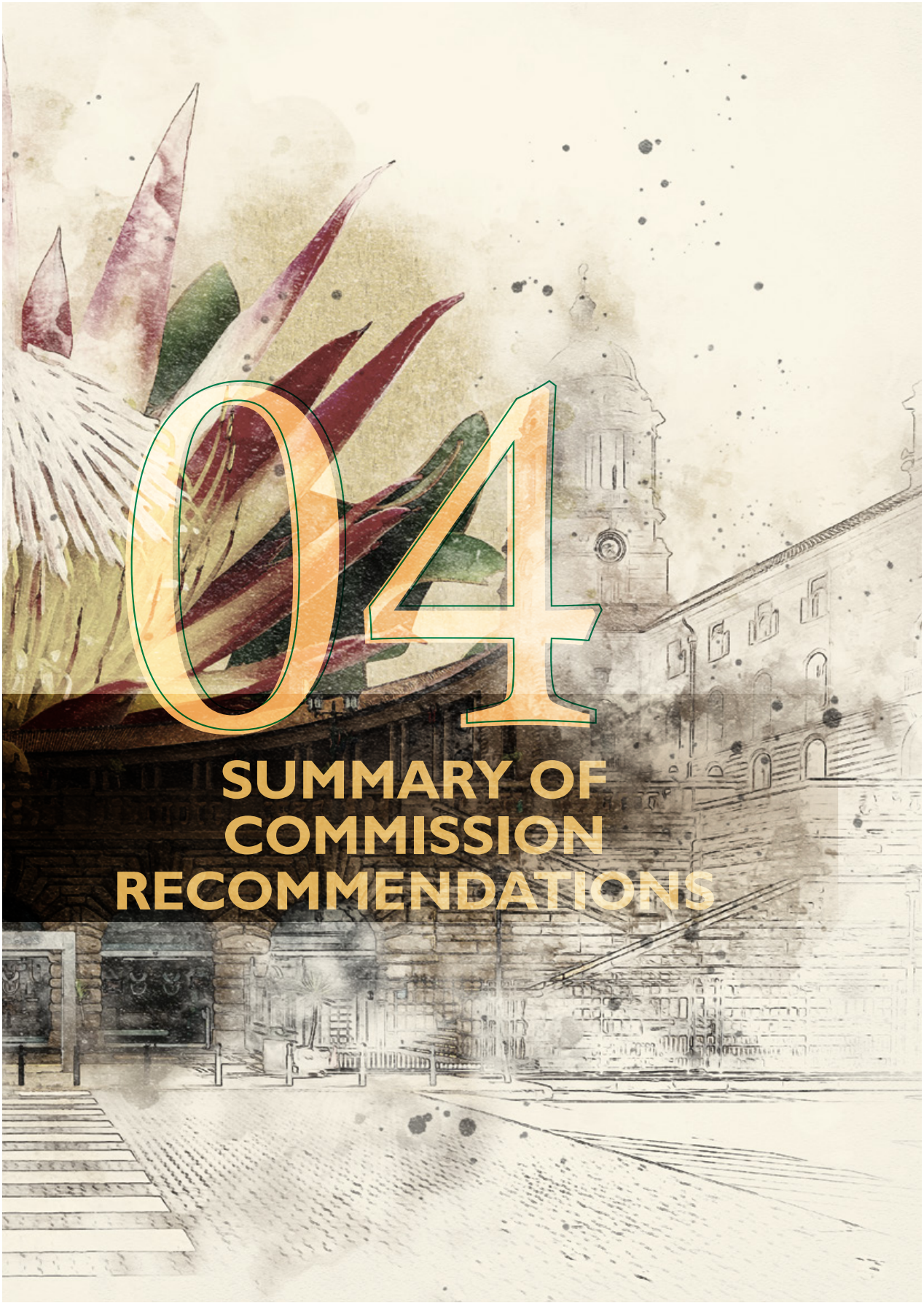
- To the extent that a benefit expectation has already been created the Commission recommends that:
  - Gratuity in respect of members of the Executive and Legislative sectors who qualify for all terms of office should be paid at the end of their respective terms in 2029 and no further benefit will accrue thereafter. The existing members will receive gratuity at the end of 2029 before closing down the practice.
  - Gratuity in respect of members of the Local Government sector who qualify for all terms of office should be paid at the end of their respective terms in 2026 and no further benefit will accrue thereafter.
- After a thorough consideration, the Commission found that this practice is not sustainable and recommends phasing it out in 2026 for Local Government and 2029 for members of the Executive and Legislative sectors respectively.

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04
SUMMARY OF COMMISSION RECOMMENDATIONS

4. SUMMARY OF COMMISSION RECOMMENDATIONS

4.1 REMUNERATION

4.1.1 Local Government

The Commission recommends the following remuneration structure of Local Government Public Office-Bearers outlined in Table 2.

TABLE 2: PROPOSED REMUNERATION STRUCTURE FOR LOCAL GOVERNMENT PUBLIC OFFICE-BEARERS

LOCAL GOVERNMENT													
Paterson	Positions and Municipal Grade	2022: REMUNERATION	3%: 2023	2,5%: 2024		Salary relativity	Compa-ratio	Variance	7% Proposed Adjustment	5% Proposed Adjustment	Compa-ratio	Variance	Commission Recommendations
D5	Exe Mayor 6	1 501 351	1 546 392	1 585 051	100%	1 930 439	82	18	1 696 005	1 780 805	89	11	1 780 805
	5	1 119 386	1 152 968	1 181 792	90%	1 737 395	68	32	1 264 517	1 327 743	89	11	1 327 743
	4	955 651	984 321	1 008 929	80%	1 544 351	65	35	1 079 554	1 133 531	89	11	1 133 531
	3	920 379	947 990	971 690	70%	1 351 307	72	28	1 039 708	1 091 694	89	11	1 091 694
	2	861 797	887 651	909 842	60%	1 158 263	79	21	973 531	1 022 208	89	11	1 022 208
	1	836 690	861 791	883 335	50%	965 219	92	8	945 169	992 427	89	11	992 427
D4	Mayor / DepExe Mayor 6	1 212 520	1 248 896	1 280 118	100%	1 803 853	71	29	1 369 726	1 438 213	89	11	1 438 213
	5	895 548	922 414	945 475	90%	1 623 468	58	42	1 011 658	1 062 241	89	11	1 062 241
	4	764 518	787 454	807 140	80%	1 443 082	56	44	863 640	906 822	89	11	906 822
	3	736 304	758 393	777 353	70%	1 262 697	62	38	831 768	873 356	89	11	873 356
	2	689 438	710 121	727 874	60%	1 082 312	67	33	778 825	817 767	89	11	817 767
	1	675 723	695 995	713 395	50%	901 926	79	21	763 332	801 499	89	11	801 499
D2	Speaker/Chairperson/Deputy Mayor 6	1 142 175	1 176 440	1 205 851	100%	1 582 327	76	24	1 290 261	1 354 774	89	11	1 354 774
	5	839 539	864 725	886 343	90%	1 424 094	62	38	948 387	995 807	89	11	995 807
	4	716 738	738 240	756 696	80%	1 265 862	60	40	809 665	850 148	89	11	850 148
	3	690 286	710 995	728 769	70%	1 107 629	66	34	779 783	818 772	89	11	818 772
	2	652 503	672 078	688 880	60%	949 396	73	27	737 102	773 957	89	11	773 957
	1	633 488	652 493	668 805	50%	791 164	85	15	715 621	751 402	89	11	751 402

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CONTINUES ON PAGE 130 OF BOOK 2

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LOCAL GOVERNMENT													
Paterson	Positions and Municipal Grade	2022: REMUNERATION	3%: 2023	2,5%: 2024		Salary relativity	Compa-ratio	Variance	7% Proposed Adjustment	5% Proposed Adjustment	Compa-ratio	Variance	Commission Recommendations
C5	Member of the Exec Committee, Chairperson of sub-council, Member Mayoral Committee, Whip 6	1 142 175	1 176 440	1 205 851	100%	1 265 862	95	5	1 290 261	1 354 774	89	11	1 354 774
	5	839 539	864 725	886 343	90%	1 139 275	78	22	948 387	995 807	89	11	995 807
	4	716 738	738 240	756 696	80%	1 012 689	75	25	809 665	850 148	89	11	850 148
	3	690 286	710 995	728 769	70%	886 103	82	18	779 783	818 772	89	11	818 772
	2	652 503	672 078	688 880	60%	759 517	91	9	737 102	773 957	89	11	773 957
	1	633 488	652 493	668 805	50%	632 931	106	-6	715 621	751 402	89	11	751 402
C4	Chair Section 79 Comm 6	1 108 670	1 141 930	1 170 478	100%	1 170 922	100	0	1 252 412	1 315 032	89	11	1 315 032
	5	814 913	839 360	860 344	90%	1 053 830	82	18	920 569	966 597	89	11	966 597
	4	695 712	716 583	734 498	80%	936 738	78	22	785 913	825 208	89	11	825 208
	3	676 417	696 710	714 127	70%	819 645	87	13	764 116	802 322	89	11	802 322
	2	633 363	652 364	668 673	60%	702 553	95	5	715 480	751 254	89	11	751 254
	1	614 906	633 353	649 187	50%	585 461	111	-11	694 630	729 362	89	11	729 362
C2	Municipal councillor 6	562 265	579 133	593 611	100%	1 075 982	55	45	635 164	666 922	89	11	666 922
	5	354 244	364 871	373 993	90%	968 384	39	61	400 173	420 181	89	11	420 181
	4	302 428	311 501	319 288	80%	860 786	37	63	341 639	358 720	89	11	358 720
	3	291 266	300 004	307 504	70%	753 188	41	59	329 029	345 481	89	11	345 481
	2	272 728	280 910	287 933	60%	645 589	45	55	308 088	323 492	89	11	323 492
	1	264 462	272 396	279 206	50%	537 991	52	48	298 750	313 688	89	11	313 688

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4.1.2 Executive and legislative sector

The Commission recommends the following remuneration structure of Executive and Legislative Public Office-Bearers outlined in Table 10 -12.

TABLE 10: PROPOSED SALARY BASE FOR NATIONAL EXECUTIVE AND DEPUTY MINISTERS AFTER THE 2024/2025 DETERMINATION BY THE PRESIDENT

PATERSON GRADE	POSITION	CURRENT SALARY	% RELATIVITY	SALARY RELATIVITY	COMPA-RATIO	NO. OF INCUMBENTS	COMMISSION RECOMMENDATIONS
G1	President	3 348 761	110%	3 481 119	96	1	3 481 119
F4	Deputy President	3 164 654	100%	3 164 654	100	1	3 164 654
E5	Minister	2 689 937	85%	2 689 956	100	36	2 689 956
E4							-
E3	Deputy Minister	2 215 220	75%	2 373 490	93	38	2 373 490

TABLE 11: PROPOSED SALARY STRUCTURE BASE FOR MEMBERS OF PARLIAMENT

MEMBERS OF PARLIAMENT								
PATERSON GRADE	POSITION	CURRENT SALARY	% RELATIVITY	SALARY RELATIVITY	COMPA-RATIO	NUMBER OF INCUMBENT	COMMISSION'S RECOMMENDATION	
F4	Speaker: National Assembly	3 164 654	100%	3 164 654	100%	1	3 164 654	
F4	Chairperson: NCOP	3 164 654	100%	3 164 654	100%	1	3 164 654	
							-	
E3	Leader of Opposition	1 792 595	70%	2 215 258	81%	1	2 215 258	
E3	Deputy Speaker: National Assembly	2 215 220	70%	2 215 258	100%	1	2 215 258	
E3	Deputy Chairperson: NCOP	2 215 220	70%	2 215 258	100%	1	2 215 258	
E2	House Chairperson	2 108 472	67%	2 120 318	99%	5	2 120 318	
E2	Parliamentary Counsellor: President	1 792 595	67%	2 120 318	85%	1	2 013 981	
E2	Parliamentary Counsellor: Deputy President	1 792 595	67%	2 120 318	85%	1	2 013 981	
D5		-					-	
D4	Chief Whip: Majority Party	1 792 595	70%	2 215 258	81%	1	2 215 258	E3
D4	Chief Whip: NCOP	1 792 595	70%	2 215 258	81%	1	2 215 258	E3
D3		-					-	
D2	Chairperson of a Committee	1 675 314	55%	1 740 560	96%	53	1 740 560	
D2	Deputy Chief Whip: Majority Party	1 507 841	50%	1 582 327	95%	1	1 582 327	
D2	Chief Whip: Largest Minority Party	1 507 841	50%	1 582 327	95%	1	1 582 327	
D2	Leader of a Minority Party	1 507 841	50%	1 582 327	95%	9	1 582 327	
D1	Whip	1 399 201	45%	1 424 094	98%	73	1 424 094	
		-					-	
C5	Member: National Assembly	1 274 536	40%	1 265 861	101%	206	1 265 861	
C5	Permanent Delegate: NCOP	1 274 536	40%	1 265 861	101%	28	1 265 861	

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TABLE 12: PROPOSED SALARY STRUCTURE BASE FOR PROVINCIAL EXECUTIVES AND LEGISLATURES

PATERSON GRADE	POSITION	CURRENT SALARY	% RELATIVITY	SALARY RELATIVITY	COMPA-RATIO	NUMBER OF INCUMBENT	COMMISSION'S RECOMMENDATIONS
Anchor	Deputy President	3 164 654					
		-					
E5	Premier	2 531 760	85%	2 689 956	94%	9	2 689 956
		-	-		-	-	-
E4	Speaker	2 215 220	80%	2 531 723	87%	9	2 488 799
		-	-		-	-	-
E3	Member of Executive Council	2 215 220	75%	2 373 490	93%	90	2 373 490
		-	-		-	-	-
		-	-		-	-	-
E1	Leader of Opposition	1 507 844	65%	2 057 025	73%	9	2 057 025
		-	-		-	-	-
		-	-		-	-	-
D4	Deputy Speaker: PL	1 792 595	60%	1 898 792	94%	-	1 898 792
D4	Chief Whip: Majority Party	1 675 314	60%	1 898 792	88%	9	2 057 025
D4	Chairperson of Committees: PL	1 507 844	60%	1 898 792	79%	-	1 898 792
		-	-		-	-	-
D2	Deputy Chairperson of Committees	1 418 612	50%	1 582 327	90%	6	1 582 327
		-	-		-	-	-
		-	-		-	-	-
D1	Chairperson of a Committee: PL	1 507 844	45%	1 424 094	106%	-	1 507 844
D1	Deputy Chief Whip: Majority Party	1 418 612	45%	1 424 094	100%	7	1 424 094
D1	Chief Whip: Largest Minority Party	1 418 612	45%	1 424 094	100%	7	1 424 094
D1	Leader of a Minority Party	1 418 612	45%	1 424 094	100%	19	1 424 094
C5	Whip	1 274 536	40%	1 265 861	101%	47	1 265 861
		-	-		-	-	-
C4	Member of Provincial Legislature	1 233 559	40%	1 265 861	97%	99	1 265 861
		-	-		-	-	-
	Parliamentary Counsellor to a King	1 274 536	40%	1 265 861	101%	0	1 265 861

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4.1.3 Judicial sector

The Commission's recommendations for the remuneration structure of Judicial Sector Public Office-Bearers are set out in Table 29 and 30.

TABLE 29: RECOMMENDED REMUNERATION STRUCTURE FOR JUDGES

REVIEWED GRADE	POSITION	CURRENT SALARY	% RELATIVITY	SALARY BASED ON RELATIVITY	INCREASE TO THE MARKET	COMMISSION RECOMMENDATIONS
				3 243 771	7%	
F4	Chief Justice	3 243 771	100	3 243 771	3 470 835	3 470 835
F2	Deputy Chief Justice	2 919 317	90	2 919 394	3 123 751	3 123 751
F2	President Supreme Court of Appeal	2 919 317	90	2 919 394	3 123 751	3 123 751
E5	Dep President Supreme Court of Appeal	2 757 186	85	2 757 205	2 950 210	2 950 210
E4	Judge Constitutional Court	2 595 054	80	2 595 017	2 776 668	2 776 668
E3	Judge Supreme Court of Appeal	2 595 054	80	2 595 017	2 776 668	2 776 668
E3	Judge President High Court	2 432 922	75	2 432 828	2 603 126	2 603 126
E2	Deputy Judge President High Court	2 270 601	70	2 270 640	2 429 584	2 429 584
E1	Judge High Court	2 108 470	65	2 108 451	2 256 043	2 256 043

TABLE 30: RECOMMENDED REMUNERATION STRUCTURE FOR MAGISTRATES

MAGISTRATES						
REVIEWED GRADE	POSITION	CURRENT SALARY	% RELATIVITY	RELATIVITY REMUNERATION	COMPA RATIO	COMMISSION RECOMMENDATION
				3 470 835		
D5	Special Grade Chief Magistrate	1 689 981	60	2 082 501	81	2 082 501
D5	Regional Court President	1 689 981	60	2 082 501	81	2 082 501
D4	Chief Magistrate	1 516 364	55	1 908 959	79	1 908 959
D4	Regional Magistrate	1 516 364	55	1 908 959	79	1 908 959
D3	Snr Magistrate	1 256 919	50	1 735 417	72	1 735 417
D2	Magistrate	1 161 674	45	1 561 876	74	1 561 876

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4.1.4 Traditional Leadership sector

The Commission's recommendations for the remuneration structure of Traditional Leadership Sector Public Office-Bearers is indicated in Table 35 and 36.

TABLE 35: RECOMMENDED REMUNERATION STRUCTURE OF TRADITIONAL LEADERSHIP SECTOR PUBLIC OFFICE-BEARERS

POSITION	PATERSON GRADE	CURRENT SALARY	50th PERCENTILE OF THE ANCHOR POSITION	% RELATIVITY	SALARY RELATIVITY LINKED TO ANCHOR POSITION	COMPA-RATIO	COMPA-RATIO	VARIANCE	COMMISSION RECOMMENDATIONS
King/Queen	D4	1 388 764	1 388 764	100,00%	1 388 764	100		100	1 388 764
PTL	D4	1 277 668		95,00%	1 319 326	97		100	1 319 326
Senior Traditional Leader	B3	303 467		35,00%	486 067	62	89	11	486 067
Senior Khoi-San Leader	B3	-		35,00%	486 067				486 067
Headmen / Headwomen	B1	130 394		15,00%	208 315	63	89	11	208 315
Branch Head	B1	-		15,00%	208 315				208 315
Chairperson: NHTL	E1	1 045 305	1 525 959	100,00%	1 525 959	69	89	11	1 388 764
Chairperson: PHTL	D2	860 954		80,00%	1 220 767	71	89	11	1 220 767
Deputy Chairperson: NHTL	D2	799 501		80,00%	1 220 767	65	89	11	1 220 767
Deputy Chairperson: PHTL	C3	737 838		60,00%	915 575	81	89	11	915 575
Chairperson: LHTKL	C2	0		55,00%	839 277				839 277
Deputy Chairperson: LHTKL	C1	0		50,00%	762 980				762 980
Full time Member: NHTL	B3	464 945		35,00%	534 086	87	89	11	534 086
Full time Member: PHTL	B3	398 562		35,00%	534 086	75	89	11	534 086

TABLE 36: RECOMMENDED SITTING ALLOWANCES IN THE TRADITIONAL LEADERSHIP SECTOR

Position	Sitting allowance (benchmarked with the sitting allowances determined by National Treasury)
Member: NHTKL	R1 719
Member: PHTKL	R1 473
Member: LHTKL	R1 341

4.1.5 Independent Constitutional Institution Sector

The Commission's recommendations for the remuneration structure for Independent Constitutional Institution Sector Public Office-Bearers is set out in Table 44.

TABLE 44: COMMISSION RECOMMENDATIONS FOR THE REMUNERATION STRUCTURE FOR ICI SECTOR PUBLIC OFFICE-BEARERS

INDEPENDENT CONSTITUTIONAL INSTITUTIONS											
INSTITUTION	POSITION	GRADE	2024/2025 SALARY	50 PERCENTILE OF NM	COMPA-RATIO	7% INCREMENT 2023	COMPA-RATIO	5% INCREMENT 2024	COMPA-RATIO	VARIANCE	COMMISSION RECOMMENDATION
Auditor-General (AG)	Auditor General	F2	5 690 506	3 299 628	172		N/A	-	N/A	N/A	5 690 506
Independent Electoral Commission (IEC)	Chairperson	F1	2 717 270	2 534 014	107		N/A	-	N/A	N/A	2 717 270
ICASA	Chairperson	F1	2 106 509	2 534 014	83	2 253 965	89	2 366 663	93	7	2 366 663
Office of Public Protector	Public Protector (PP)	E5	2 595 054	2 153 912	120		N/A	-	N/A	N/A	2 595 054
Finance & Fiscal Commission (FFC)	Chairperson	E5	2 106 509	2 153 912	98		N/A		0		2 153 912
SA Human Rights Commission (SAHRC)	Chairperson	E5	1 610 096	2 153 912	75	1 722 803	80	1 808 943	84	16	1 808 943
Independent Electoral Commission (IEC)	Vice Chairperson	E4	2 365 762	1 900 510	124		N/A	-	N/A	N/A	2 365 762
CRL	Chairperson	E4	1 517 407	1 900 510	80	1 623 625	85	1 704 807	90	10	1 704 807
Commission for Gender Equality (CGE)	Chairperson	E4	1 287 734	1 900 510	68	1 377 875	73	1 446 769	76	24	1 446 769
Independent Electoral Commission (IEC)	Commissioner	E3	2 365 762	1 780 800	133		N/A	-	N/A	N/A	2 365 762
Office of Public Protector	Deputy Public Protector (DPP)	E3	2 031 835	1 780 800	114		N/A	-	N/A	N/A	2 031 835
ICASA	Councillor	E3	1 665 371	1 780 800	94		N/A		N/A	N/A	1 780 800
SA Human Rights Commission (SAHRC)	Deputy Chairperson	E3	1 366 463	1 780 800	77	1 462 115	82	1 535 221	86	14	1 535 221
CRL	Deputy Chairperson	E2	1 289 664	1 658 237	78	1 379 940	83	1 448 937	87	13	1 448 937
SA Human Rights Commission (SAHRC)	Commissioners	E2	1 252 591	1 658 237	76	1 340 272	81	1 407 286	85	15	1 407 286
Commission for Gender Equality (CGE)	Deputy Chairperson	E2	1 102 306	1 658 237	66	1 179 467	71	1 238 441	75	25	1 238 441
Commission for Gender Equality (CGE)	Commissioner	E1	1 025 758	1 243 678	82	1 097 561	88	1 152 439	93	7	1 152 439

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4.2 PENSION

4.2.1 Executive, Legislative and Local Government Sectors

The Commission recommends the following for the pension benefits of the Public Office-Bearers within Executive, Legislative and Local Government Sectors:

- A single defined contribution fund for all political office bearers of the Executive, Legislatures and Local Government within POBPF.
- This migration of Public Office-Bearers in the Local Government Sector should result in the amendment of relevant legislation and to accommodate the current and new members.

4.2.2 Judicial Sectors

The Commission recommends the following retirement benefits of Public Office-Bearers within the Judicial Sector as follows:

- For Judges, the "Salary for Life" continue as it is applied currently to judges. The Commission further does not deem it necessary to introduce a pension regime for judges to contribute to a fund.
- Magistrates continue to participate in the GEPF and are afforded representation on the Board of the GEPF.

4.2.3 Traditional Leadership Sector

It is recommended that the following Traditional and Khoi-San Leaders in inherited positions should be allowed to join the GEPF and pay contributions:

- King/Queen
- Principal Traditional Leader
- Senior Traditional Leader
- Senior Khoi-San Leader
- Branch Head
- Headman/Headwoman.

This would require the following legislative amendments:

- The Presidential Proclamation of December 2009, which stipulated that members of the structural National and Provincial Houses, would be eligible for pension benefits, must be amended to reflect the current position as articulated above and supported by the Department of Traditional Affairs.
- The GEPF to determine the retirement age (suggested 70 years cut-off retirement age) and period of continuous active service of traditional and Khoisan leaders, through an amendment of their rules to incorporate Traditional and Khoisan Leaders.
- The recommendation would be for the benefits to be housed within the GEPF, but under a separate section or membership category with the following structure:
  - The employee contribution = 7.5% of the pensionable salary; and
  - The employer contribution could be set at either 17% directed towards retirement or 22.5% where the additional 5.5% is directed towards risk (death and disability) benefits as compared to other members of the POBPF.

- The above recommendation would require the amendments of the Presidential Proclamation of December 2009 and Political Office Bearers Fund rules.

4.2.4 Independent Constitutional Institution Sector

The following recommendation is made:

- A defined contribution pension scheme is recommended as is likely to be more suitable for employees employed for 5 or 7 years. However, the overall appropriateness of the scheme depends on several factors, including the employee's financial goals, and the employer's contribution structure.
- The level of contribution recommended is a minimum 7,5% employee contribution and 14,5% employer contribution as part of the total cost-to-company.
- Members can contribute more than the minimum and also elect to purchase risk cover inclusive of funeral cover.
- Additional considerations to support this recommendation are:
  - There should be a mechanism in place to ensure that all Office-bearers are consulted before significant changes are made;

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- o A suitable pension scheme should be as flexible as possible in their benefit design to ensure that the Office-bearers are accommodated sufficiently in the pension scheme; and
- o There are possible legislative amendments and changes in pension scheme rules to accommodate new categories of members.

4.3 MEDICAL AID

4.3.1 Executive. Legislative and Local Government Sectors

- The Commission recommends a single scheme for the provision of the medical aid benefits for the Public Office-Bearers in the Executive, Legislative, Local Government and Judiciary Sectors:
  - o The employee contribution (subsidies) of the Public Office-Bearers form part of their total cost salary package.
  - o The introduction of a single scheme requires the amendment of the relevant legislation to accommodate the current and new members.

4.3.2 Judiciary Sector

The Commission recommends no changes to the policy requiring judges to belong to PARMED.

The Commission recommends that the current policy that allows Magistrates to join any registered scheme of their choice should continue.

4.3.3 Traditional Leadership sector

It is recommended that the previous Commission's recommendation that traditional leaders be allowed to join GEMS should be retained. This recommendation was extended to Principal Traditional Leaders, Senior Khoi-San Leaders, Branch Heads and Headmen/Headwomen.

4.3.4 Independent Constitutional Institution Sector

The following recommendations are made:

- The Office-bearers should be required to belong to any medical aid scheme of their choice, whether directly as main members or through their spousal PARMED medical aid scheme
- No recommendation is made in terms of subsidy levels or amounts for medical aid scheme contributions, given the total-cost-to-company remuneration philosophy; and
- No recommendation is made in terms of post-retirement subsidies for medical aid scheme contributions, given the short-term nature of their service.

4.4 TOOLS OF TRADE OF ALL PUBLIC OFFICE BEARERS

The Recommended Tools of Trade handbook published in Government Gazette No. 34569 dated 29 August 2011 by the Commission is updated by the **Tools of Trade Framework for Public Office-Bearers (Annexure 7.3)** to provide the best outline for tools of trade that members need and is more closely aligned to the international comparators' tools of trade guidelines than the individual provincial legislature handbooks and the Ministerial Handbook.

Relevant Handbooks or Facilities should be updated to reflect the tools of trade guidelines proposed in the Recommended Tools of Trade Framework, which provides tools of trade guidelines in terms of the following:

- o Official and private accommodation;
- o Offices, office supplies and stationery;
- o Information communication and technology (ITC) equipment;
- o Adequate and professional staff support;
- o Official and private travelling facilities;
- o Reimbursement allowances;
- o Security;
- o Study aids; and
- o Other facilities.

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In addition to the legislative requirements to make annual recommendations on Public Office-Bearer's remuneration, Section 8 of the Commission Act obliges the Commission to publish annual recommendations relating to the resources that are necessary to enable a Public Office-Bearer other than a member of the Judiciary (judges and Magistrates) to perform the office-bearer's functions effectively.

In the absence of legislative mandate to the Commission regarding the recommendations of tools of trade of judges and Magistrates, the Commission is recommending amendment of Section 176 (3) of the Constitution read with the provisions of the Judges Remuneration and Conditions of Employment Act 47 of 2001 and including its Regulations.

4.5 ONCE OF GRATUITY OF EXECUTIVE, LEGISLATIVE AND LOCAL GOVERNMENT PUBLIC OFFICE BEARERS

The recommendations in respect of gratuity payments for all Public Office-Bearers within the Executive, Legislative and Local Government sectors are as follows:

- To the extent that a benefit expectation has already been created the Commission recommends that:
  - Gratuity in respect of members of the Executive and Legislative sectors who qualify for all terms of office should be paid at the end of their respective terms in 2029 and no further benefit will accrue thereafter. The existing members will receive gratuity at the end of 2029 before closing down the practice.

- Gratuity in respect of members of the Local Government sector who qualify for all terms of office should be paid at the end of their respective terms in 2026 and no further benefit will accrue thereafter.
  - After a thorough consideration, the Commission found that this practice is not sustainable and recommends phasing it out in 2026 for Local Government and 2029 for members of the Executive and Legislative sectors respectively.

5. ANNEXURES

Annexures to the review report are available on the Commission's website **(www.remcommission.gov.za)**

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