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Justice

**Custodian of Good Governance**

## THE DETERMINATION OF REMUNERATION OF MEMBERS OF CONSTITUTIONAL INSTITUTIONS MATTERS AMENDMENT BILL – A PUBLIC SERVICE COMMISSION POSITION

After an unsuccessful attempt at an earlier stage of the Bill's legislative process, the Public Service Commission is grateful for the opportunity to engage the National Assembly's Portfolio Committee of Justice and Constitutional Development in the hope of addressing a particular concern it has regarding the Bill.

### **The PSC Concern**

The Public Service Commission which is established as a Commission through section 196(1) of chapter ten of the Constitution of the RSA (Act 108 of 1996) would, in respect of The Determination of Remuneration of Members of Constitutional Matters Amendment Bill, wish to argue the following position:

That the Bill in question seeks to give effect to section 219(5) of the Constitution. This section reads:

“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** (own emphasis).

### **An Interpretation of the Constitution**

1. We wish to submit that the Constitution, through section 219(5), does not in any way allow for the omission from the Bill of any commission that it has provided for. Therefore, by omitting the Public Service Commission and limiting its attention to the Chapter nine institutions, as listed in section 181 of the Constitution, the Bill does not fully meet the requirements of the Constitution.
2. We also wish to go beyond this literal interpretation of section 219(5) and to argue that the rationale which underpins the purpose and intentions of section 219(5) would apply as much to the Public Service Commission as it does to the institutions currently specified in the Bill. The merits of aligning all the institutions referred to in Section 219(5) within a common framework which determines their salaries and allowances would seem to be clear.
3. Finally, the Commission would wish to advise that it, like the chapter nine institutions, has long experienced a need for greater certainty around the remuneration of its members – a certainty which only a rational and law based framework can bring about.

### **A Request to the Committee**

It is with these arguments in mind that Public Service Commission respectfully requests the Portfolio Committee to apply its mind to its concern and to consider amending the Bill so as to include the Commission.