

**EXPLANATORY NOTE:  
DETERMINATION OF REMUNERATION OF OFFICE-BEARERS OF  
INDEPENDENT CONSTITUTIONAL INSTITUTIONS LAWS  
AMENDMENT BILL, 2013 [B 31B—2013],**

The content of the Bill could be summarised as follows:

At present, the various pieces of enabling legislation which govern each of the Chapter 9 Institutions, other Commissions referred to in the Constitution, as well as the broadcasting authority referred to in section 192 of the Constitution, all provide for different procedures to be followed and for different functionaries to play a role in the determination of the remuneration, allowances and other terms and conditions of employment of office-bearers of those institutions.

Section 219 of the Constitution deals with the remuneration of persons holding public office. Section 219(5) 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."

In order to eliminate these disparities, the Bill seeks to amend the relevant legislation to provide for the following uniform procedure to be followed in respect of the determination of the salary, allowances and benefits of the office-bearers of these institutions, including the Independent Communications Authority of South Africa:

- (a) The Public Protector, the Deputy Public Protector, the Auditor-General and office-bearers of the other Chapter 9 Institutions, including the Independent Communications Authority of South Africa, will be entitled to such salary, allowances and benefits,—
  - (i) as determined by the President, from time to time, by notice in the *Gazette*, after taking into consideration the recommendations of the Independent Commission for the Remuneration of Public Office-bearers (the Independent Commission); and
  - (ii) approved by the National Assembly.
- (b) The Independent Commission must, when investigating or considering the salary, allowances and benefits of the office-bearers of these institutions, consult with the responsible Cabinet member and the Cabinet member responsible for finance.
- (c) The notice just referred to may commence with effect from a date specified in the notice, but that date may not be more than one year before the date of publication of the notice.
- (d) The notice must be submitted to the National Assembly for approval before publication thereof.
- (e) The National Assembly must, by resolution—
  - (i) approve the notice, whether in whole or in part; or
  - (ii) disapprove the notice.

This procedure is very similar to that followed in determining the salary, allowances and benefits of judicial officers. It is not new and its application should therefore not pose any challenges.

The Bill amends the following Acts of Parliament:

- the Public Protector Act, 1994 (Act No. 23 of 1994);
- the Commission for Gender Equality Act, 1996 (Act No. 39 of 1996);
- the Electoral Commission Act, 1996 (Act No. 51 of 1996);
- the Independent Commission for the Remuneration of Public Office-bearers Act, 1997 (Act No. 92 of 1997);
- the Independent Communications Authority of South Africa Act, 2000 (Act No. 13 of 2000);
- the Commission for the Promotion and Protection of the Rights of Cultural, Religious and Linguistic Communities Act, 2002 (Act No. 19 of 2002);
- the Public Audit Act, 2004 (Act No. 25 of 2004); and
- the South African Human Rights Commission Act, 2013 (Act No. 40 of 2013).