



ANNUAL REPORT 2006

THE INDEPENDENT COMMISSION FOR THE REMUNERATION OF PUBLIC OFFICE BEARERS



Justice DE Moseneke
Chairperson



Dr ATM Mokgokong
Deputy Chairperson



Mr R Martin
Member



Ms AM Mokgabudi
Member



Dr SM Motsuenyane
Member



Mr ML Ndlovu
Member



Ms N Newton-King
Member



Dr FA Sonn
Member



The Independent Commission for the Remuneration of Public Office Bearers - 2006

- Seated: Justice DE Moseneke
(Chairperson)
Dr ATM Mokgokong
(Deputy Chairperson)
Dr SM Motsuenyane
- Back: Mr R Martin
Ms AM Mokgabudi
Mr ML Ndlovu
Dr FA Sonn
Mr N Ulrich (Secretary)
- Absent: Ms N Newton-King



To: Mr TM Mbeki, the President of the Republic of South Africa

I have the honour to submit to you in terms of section 10(1) of the Independent Commission for the Remuneration of Public Office Bearers Act, 1997 (Act No. 92 of 1997), this Commission's report on its activities from 01 January to 31 December 2006.

Yours sincerely



Justice DE Moseneke
Chairperson

The administrative offices of the Independent Commission for the Remuneration of Public Office Bearers are situated in the Union Building, Pretoria.

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1. OVERVIEW

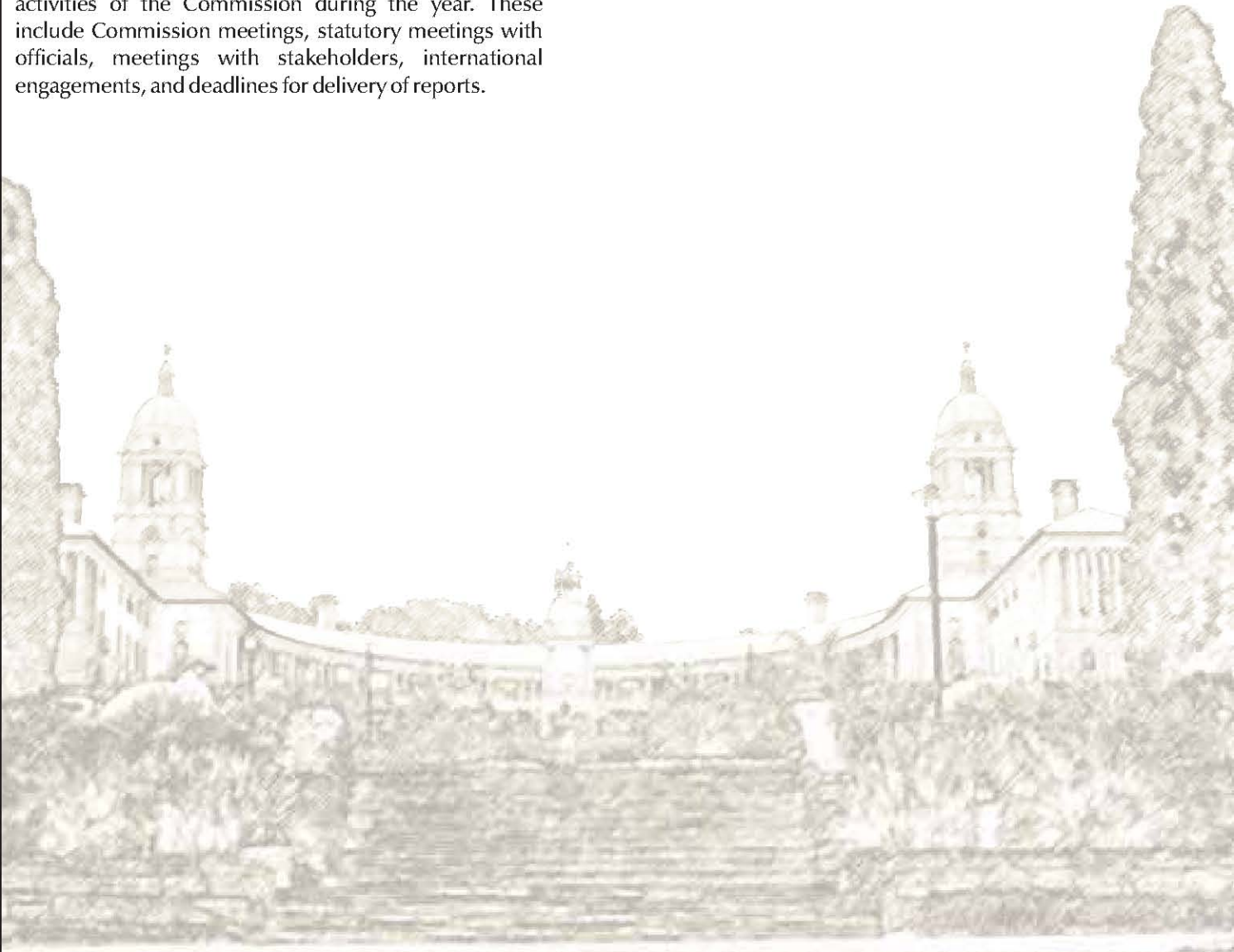
This Annual Report covers the period from 01 January 2006 to 31 December 2006.

The Report starts off by setting out briefly the history, mandate and legislative framework of the Commission. The aim thereof is to create an understanding amongst readers of the report, of the role and responsibilities of the Commission, and in particular an understanding of how the Commission's current activities fit into this structure. The composition and administration of the Commission is also stated. The Commission's current short and long term objectives are set out for purposes of clarity and transparency.

The Report summarises the Commission's program for 2006 by highlighting some of the most significant activities of the Commission during the year. These include Commission meetings, statutory meetings with officials, meetings with stakeholders, international engagements, and deadlines for delivery of reports.

The Report further contains progress reports in respect of the major projects embarked upon by the Commission during 2006, and the achievement of some milestones by the Commission. These include the Commission's mandatory annual remuneration recommendations, the major review of the remuneration structure for all public office bearers, increased capacity and resources for the Commission, open and transparent communication with all relevant stakeholders, and the development of a website for the Commission.

One of the most significant activities embarked upon by the Commission during 2006 was an international comparative study tour in its search for international best practice in the remuneration of public office bearers. This report contains highlights and photos from these study tours.



2. HISTORY, MANDATE, LEGISLATIVE FRAMEWORK, GOVERNANCE AND OBJECTIVES

2.1 BRIEF HISTORY OF THE COMMISSION

In order to understand the role and functions of the Commission, it is necessary to make a brief reference to its historical background.

In 1985, the Parliament of the time established a Commission, known as the Schlebusch Commission of Inquiry, to inquire into the structure of the remuneration and conditions of service of the then State President, Ministers, Deputy Ministers, Members of Parliament and members of the President's Council. As a result of the continuous need for adjustments to the remuneration and conditions of service of those members, the Melamet Commission was appointed to establish a consistent and coherent remuneration structure for national and provincial legislatures.

Section 207 of the Interim Constitution of 1993 promulgated a Commission to make recommendations to Parliament, the provincial legislatures and local governments regarding the nature, extent and conditions of the remuneration and allowances of the members of all elected legislative bodies of the national, provincial and local governments, and members of provincial houses and the Council of Traditional Leaders. The Commission on Remuneration of Representatives was therefore instituted in terms of the Commission on Remuneration of Representatives Act, 1994 (Act 37 of 1994), which Commission functioned from 21 April 1995 to 05 April 1998. The first Chairperson of this Commission was Justice HW Levy, who was succeeded from 06 March 1996 by Justice JH Steyn.

With the promulgation of the Constitution of the Republic of South Africa, 1996, (Act 108 of 1996), Section 219 thereof prescribed that an Act of Parliament should establish a framework for determining the salaries, allowances and benefits, or upper limits thereof, as the case may be, of certain public office bearer positions. As a consequence, the Independent Commission for the Remuneration of Public Office Bearers Act, 1997 (Act 92 of 1997), established the current Commission to make recommendations concerning the salaries, allowances and benefits of defined office-bearers. The first Chairperson appointed in terms of this Act was Justice JH Steyn, who served as such from 21 August 1998 to 30 April 2000, when he was succeeded by Justice RJ Goldstone. Justice Goldstone served as Chairperson until 31 March 2004, when he was succeeded by the current Chairperson, Justice DE Moseneke.

2.2 THE COMMISSION'S MANDATE

The Commission obtains its mandate mainly from:

- The Constitution of the Republic of South Africa, Act 108 of 1996
- The Independent Commission for the Remuneration of Public Office Bearers Act, Act 92 of 1997
- The Remuneration of Public Office Bearers Act, Act 20 of 1998

Section 219 of the Constitution of the Republic of South Africa, 1996, (Act 108 of 1996) stipulates that an Act of Parliament must establish a framework for determining the salaries, allowances and benefits, or the upper limits thereof, as the case may be, of public office bearers. It further stipulates that national legislation must establish an independent commission to make recommendations concerning the above salaries, allowances and benefits.

Pursuant to the provisions of Section 219 of the Constitution, 1996, the Independent Commission for the Remuneration of Public Office-Bearers Act, 1997 (Act No. 92 of 1997) (hereafter referred to as the Commission Act) was enacted, which, amongst other things established this Commission.

In terms of Section 8(4) of the Commission Act, the Commission shall, after taking into consideration the factors referred to in subsection (6), publish annually in the Gazette recommendations concerning -

- a) the salaries, benefits and allowances of any office-bearer, as defined in section 1 (a), (d) and (e) of the Commission Act;
- b) the upper limits of the salaries, benefits and allowances of any office-bearer as defined in section 1 (b) and (c) of the Commission Act, and
- c) the resources which are necessary to enable an office-bearer, as defined in section 1 (a), (b), (c) and (e) of the Commission Act, to perform the office-bearer's functions effectively.

In terms of Section 1 the Commission Act, as amended by section 7 of the Judicial Officers (Amendment of Conditions of Service) Act, No. 28 of 2003, 'office-bearer' means-

- a) any Member of the Cabinet, any Deputy Minister, any member of the National Assembly, and any permanent delegate to the National Council of Provinces;

- b) any Member of the Executive Council of a Province or any Member of any Provincial Legislature;
- c) any Member of any Municipal Council of any category or type of municipality;
- d) any person holding the office of-
 - i) Constitutional Court judge or a judge, as defined in section 1 of the Judges' Remuneration and Conditions of Employment Act, 2001 (Act No. 47 of 2001); and
 - ii) magistrate, who is appointed under section 9 of the Magistrates' Courts Act, 1944 (Act No. 32 of 1944), read with section 10 of the Magistrates Act, 1993 (Act No. 90 of 1993); and
- e) any member of the National House of Traditional Leaders, any member of any Provincial House of Traditional Leaders or any Traditional Leader"

Section 5(5) of the Remuneration Act defines a Traditional leader as -

"a person identified by the Minister for Provincial Affairs and Constitutional Development after consultation with the Premier concerned, by notice in the Gazette, for the purpose of this Act".

2.3 THE COMMISSION'S LEGISLATIVE FRAMEWORK

Table 1 below sets out briefly the legislative framework within which the Commission and its predecessor operated since 1993, and indicates, where applicable, which Acts have been repealed in the meantime.

It is necessary to draw attention to provisions in the following three Acts which, as stated above, are the main determinants of the Commission's mandate:

- The Constitution of the Republic of South Africa, 1996
- The Independent Commission for the Remuneration of Public Office Bearers Act, 1997
- The Remuneration of Public Office Bearers Act, 1998



2. HISTORY, MANDATE, LEGISLATIVE FRAMEWORK, GOVERNANCE AND OBJECTIVES (continued)

Table 1: Legislative framework

Act	Act No.	Relevance	Repealed by Act
Magistrates Act	90/1993	Provides for remuneration and conditions of employment of Magistrates	N/A
Constitution of the Republic of South Africa	200/1993	Promulgated legislation establishing a Commission to make recommendations on remuneration of office-bearers	108/1996
Commission on Remuneration of Representatives Act	37/1994	Establishes Commission to make recommendations regarding the nature, extent and conditions of remuneration and allowances of all elected members of national, provincial and local legislative bodies, and traditional leaders	92/1997
Payment of Members of Parliament Act	6/1994	Provided for payment of remuneration and allowances to Members of Parliament	20/1998
Remuneration and Allowances of Executive Deputy Presidents, Ministers and Deputy Ministers Act	53/1994	Provided for payment of remuneration and allowances to Executive Deputy Presidents, Ministers, Deputy Ministers	20/1998
Remuneration of Traditional Leaders Act	29/1995	Provided for the remuneration of certain traditional leaders	20/1998
Constitution of the Republic of South Africa	108/1996	Provides for legislation and independent Commission to make recommendations regarding salaries, allowances and benefits of certain stated office-bearers	N/A
Independent Commission for the Remuneration of Public Office Bearers Act	92/1997	Established this Commission to make recommendations regarding salaries, allowances and benefits of office-bearers	N/A
Remuneration of Public Office Bearers Act	20/1998	Provides a framework for determining salaries, allowances and benefits of defined office-bearers	N/A
Remuneration of Public Office Bearers Amendment Act	9/2000	Further regulates remuneration of political office bearers	N/A
Remuneration of Public Office Bearers Second Amendment Act	21/2000	Regulates remuneration of Traditional Leaders holding more than one office	N/A
Judges' Remuneration and Conditions of Employment Act	47/2001	Provides for remuneration and conditions of employment of all Judges	N/A
Judicial Officers (Amendment of Conditions of Service) Act	28/2003	Includes all judicial office bearers in the scope and definition of office-bearers	N/A
Traditional Leadership and Governance Framework Act	41/2003	Changes the structure of traditional leadership office-bearer positions	N/A