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REPUBLIC OF NAMIBIA

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Government Notice

OFFICE OF THE PRIME MINISTER

No. 48		2005
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PROMULGATION OF ACT OF PARLIAMENT

The following Act which has been passed by the Parliament and signed by the President in terms of the Namibian Constitution is hereby published in terms of Article 56 of that Constitution.

No. 3 of 2005: Public Office-Bearers (Remuneration and Benefits) Commission Act, 2005.

Act No. 3, 2005 **PUBLIC OFFICE-BEARERS (REMUNERATION AND BENEFITS)
COMMISSION ACT, 2005**

ACT

To provide for the establishment of the Public Office-Bearers (Remuneration and Benefits) Commission; to provide for the powers and functions of the Commission; to provide for procedural matters relating to the Commission; to provide for the determination of remuneration and benefits of public office-bearers by the President; and to provide for incidental matters.

(Signed by the President on 19 April 2005)

ARRANGEMENT OF SECTIONS

Section

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BE IT ENACTED by the Parliament of the Republic of Namibia, as follows:-

Definitions

1. In this Act, unless the context otherwise indicates -

“Commission” means the Public Office-Bearers (Remuneration and Benefits) Commission established in terms of section 2;

“financial year” means a financial year as defined in the State Finance Act, 1991 (Act No. 31 of 1991);

“Member of Parliament” means a person elected or appointed in terms of the Namibian Constitution as a Member of the -

- (a) National Assembly; or
- (b) National Council;

“public office-bearer” means -

- (a) a Member of Parliament and includes a member of a Regional Council;
- (b) any person who the President has, by proclamation in the *Gazette*, declared to be a public office-bearer.

Establishment of Commission

2. (1) There is established a Commission to be known as the Public Office-Bearers (Remuneration and Benefits) Commission.

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(2) The Commission consists of seven members appointed by the President.

(3) When appointing members of the Commission the President must ensure that the persons appointed are fit and proper persons and have the necessary knowledge of, or experience in, matters relating to the functions of the Commission.

(4) A member of the Commission serves in a part-time capacity.

(5) The President must designate one member of the Commission as chairperson and another as deputy chairperson of the Commission.

(6) If the chairperson is absent or for any reason is unable to act as chairperson, the deputy chairperson must act as the chairperson of the Commission.

Disqualified persons

3. (1) The following persons are disqualified from membership of the Commission -

- (a) a public office-bearer;
- (b) an unrehabilitated insolvent;
- (c) a person who has been convicted of an offence of which dishonesty is an element and for which that person has been sentenced to imprisonment for a period of 12 or more months without the option of a fine.

(2) For the purpose of subsection (1)(c), no person is considered to have been sentenced until an appeal against the conviction or sentence has been disposed of or until the period has expired within which an appeal may be lodged, as the case may be.

Functions of the Commission

4. (1) The Commission may, on its own motion or on instructions of the President, investigate and consider any matter relating to the remuneration, benefits and other conditions of office of public office-bearers, and may after consultation with the Minister responsible for finance, make recommendations in that regard to the President for his or her consideration.

(2) The Commission may conduct or cause to be conducted such research, or may obtain or cause to be obtained from any public body or institution such information, as is required for the performance of the functions of the Commission under this Act or any other law.

(3) The Commission may do anything that is required for the proper and effective carrying out of its duties, the performance of its functions or the exercise of its powers under this Act or any other law.

Conditions of appointment, term of office, filling of vacancies and allowances

5. (1) Subject to subsection (2), a member of the Commission serves for a period not exceeding three years, and may be re-appointed.

(2) Any vacancy in the Commission must be filled by the appointment of a new member for the unexpired portion of the term of office of the member who has vacated the office.

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(3) A member of the Commission who is in the employment of the State may be paid such allowances for traveling and subsistence expenses incurred by him or her in the performance of his or her functions in terms of this Act as the President may, with the concurrence of the Minister responsible for finance, determine.

(4) A member of the Commission who is not in the employment of the State, may be paid such remuneration, including allowances for traveling and subsistence expenses incurred by him or her in the performance of his or her functions in terms of this Act, as the President may, with the concurrence of the Minister responsible for finance, determine.

Vacation of Office

6. (1) The office of a member of the Commission becomes vacant if that member -

- (a) becomes subject to a disqualification referred to in section 3;
- (b) through a written notice addressed to the President, resigns from office;
- (c) is removed from office by the President for inability to perform his or her duties due to ill health; or
- (d) is for any other reasonable cause removed from office by the President.

(2) Before removing a member from office in terms of subsection (1)(d), the President must -

- (a) in writing, notify the member concerned of the grounds on which the member is to be removed from membership of the Commission;
- (b) give that member an opportunity to make an oral or a written representation on the matter to the President or to any other person designated by the President for that purpose; and
- (c) consider any representation made.

Meetings of the Commission

7. (1) The Commission must hold a meeting at least once every year at a time and place determined by the chairperson of the Commission.

(2) The chairperson of the Commission or, in his or her absence, the deputy chairperson of the Commission must, at the written request of the President or of at least three members of the Commission, convene a special meeting of the Commission.

(3) The chairperson of the Commission, or in his or her absence, the deputy chairperson, presides at meetings of the Commission, or if both the chairperson and the deputy chairperson are absent from the meeting, or are unable to preside at the meeting, the members present must elect one member from among their number to preside at the meeting.

(4) Five members of the Commission constitute a quorum for a meeting of the Commission.

(5) The Commission determines the procedures to be followed at its meetings.

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(6) A decision of a majority of members of the Commission present at a meeting is the decision of the Commission and, if there is an equality of votes, the person presiding at the meeting has a casting vote in addition to that person's ordinary vote.

Determination of remuneration and benefits by President

8. (1) The President must, after taking into consideration -
- (a) recommendations of the Commission made in terms of section 4;
 - (b) the role, duties, functions and responsibilities of different categories of public office-bearers;
 - (c) the financial means of the State;
 - (d) current principles and levels of remuneration in society in general; and
 - (e) inflation.

by proclamation in the *Gazette*, determine the remuneration and benefits payable to public office-bearers.

(2) A proclamation made under subsection (1) may provide for the payment of different rates of remuneration and benefits for the different categories of public office-bearers.

Annual report

9. (1) The Commission must within three months after the end of each financial year, or soon thereafter, submit to the President a report on the Commission's activities during that year.

(2) The President must, as soon as is reasonably possible, cause a copy of the report submitted in terms of subsection (1) to be presented in the National Assembly and the National Council.

Administration of Commission

10. (1) The Secretary to the Cabinet must, after consultation with the Commission, designate such numbers of staff members of the Public Service as may be necessary to perform work incidental to the exercise of the powers, the carrying out of the duties and the performance of the functions of the Commission.

(2) The expenditure incidental to the exercise of the powers, the carrying out of the duties or the performance of the functions of the Commission must be defrayed out of the State Revenue Fund from moneys appropriated by Parliament.

Regulations

11. The President may, after consultation with the Minister responsible for finance and the Commission, make regulations relating to -

- (a) any other benefits or conditions of office to which public office-bearers are entitled to or subject to, including but not limited to, medical aid or sick leave benefits; or
- (b) any other matter which is necessary to achieve the objects of this Act.

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Short title and commencement

12. This Act is called the Public Office-Bearers (Remuneration and Benefits) Commission Act, 2005, and comes into operation on a date to be fixed by the President by proclamation in the *Gazette*.
