

**REGULATIONS ON THE SUBMISSION OF SALARIES AND REMUNERATION PROPOSALS
AND PAY DETERMINATION FOR STATE OFFICERS AND ADVISING ON REMUNERATION
FOR OTHER PUBLIC OFFICERS**

PART I—PRELIMINARY

- Citation. 1. These regulations may be cited as the Salaries and Remuneration (Review of Salaries and Remuneration, Submission of Proposals and Pay Determination and Advice) Regulations, 2012.
- Application. 2. These regulations provide the procedure for—
- (a) review of salaries and remuneration of State and public officers by the Commission;
 - (b) submission of salaries and remuneration proposals to the Commission;
 - (c) setting and review of remuneration and benefits for State officers; and
 - (d) advising on remuneration and benefits for other public officers.
- Interpretation. 3. In these regulations—
- “Commission” means the Salaries and Remuneration Commission established under Article 230 of the Constitution;
 - “expert” means a person with a special skill in or knowledge of a particular field;
 - “public office” has the meaning assigned to it under Article 260 of the Constitution;
 - “public officer” has the meaning assigned to it under Article 260 of the Constitution;
 - “public service organization” includes a State organ and any organization in the public service;
 - “public service” has the meaning assigned to it under Article 260 of the Constitution;
 - “review cycle” means the period of four years after which salaries, remuneration and benefits for public officers are reviewed;
 - “State officer” has the meaning assigned to it under Article 260 of the Constitution;
 - “State organ” has the meaning assigned to it under Article 260 of the

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Constitution;

“Salary and remuneration” has the same meaning assigned in the Salaries and Remuneration Commission Act, 2011.

“union” means an association of employees who band together to secure favourable wages, improved working conditions, and better work hours and to resolve grievances against employers; and

“unionisable employees” means employees who are lawfully able to form, join or band together to participate in the activities and programmes of a trade union to secure favourable wages, improved working conditions and better work hours and to resolve grievances.

PART II—REVIEW OF SALARIES AND REMUNERATION AND PROCEDURE FOR SUBMISSION OF PROPOSALS

- Review cycle. 4. (1) The Commission shall undertake a review of remuneration and benefits of State and public officers every four years.
- (2) A review under sub-regulation (1) shall be conducted at the same time across the public sector.
- Study to precede review. 5. (1) The Commission shall, at least one year before the review, cause to be conducted a study on the following—
- (a) labour market dynamics; and
- (b) prevailing economic situations including a comprehensive job evaluation.
- (2) The report prepared pursuant to sub-regulation (1) shall be the basis for the review.
- (3) A review shall be communicated to the Cabinet Secretary responsible for finance, the Judicial Service Commission, the Parliamentary Service Commission and the county governments for inclusion in the subsequent budgetary estimates.
- (4) Parliament shall allocate funds for the implementation of the review.
- (5) Subject to the budgetary allocations approved by Parliament, a review may be implemented in phases across the public sector.
- Special review. 6. (1) Despite regulation 4, the Commission shall cause special reviews to —
- (a) ensure attraction and retention of critical or scarce professional skills

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required to effectively execute the functions of the public service; or

(b) compensate for increased cost of living.

(2) A special review shall not interrupt or replace the four year review cycle.

Application to the
Commission by a
public office.

7. (1) Nothing under these regulations may be construed as precluding a State or public office from making an application, in writing, to the Commission seeking guidance on the remuneration and benefits accruing to its officers.

(2) The Commission shall deal with any application made under this regulation expeditiously.

Procedure
submission
proposals.

for
of

8. (1) Whenever a review is due, the Commission shall by notice in the Gazette and at least two daily newspapers with wide circulation, require every public service organization to submit proposals, if any, on remuneration and benefits for their respective State and public officers.

(2) Submission of proposals under sub regulation (1) shall be—

(a) in writing; and

(b) made by the fourth quarter of the third year of the review cycle.

Factors to be
considered when
preparing and
submitting proposals
for salary review.

9. (1) When submitting proposals on the review of salaries under regulation (5), a public service organization shall take the following factors into account—

(a) components of remuneration;

(b) social, economic and environmental issues;

(c) results of job evaluation;

(d) key elements and factors of pay for consideration;

(e) prevailing market rates from the result of comparative market surveys;

(f) existing collective bargaining agreements;

(g) specific cost of employment in relation to the resource capacity of the organization;

(h) affordability and sustainability of compensation or proposed award to the organization, the job market and available budgetary provisions;

(i) performance or the productivity of the employee;

(j) benchmark with similar organizations;

(k) equity and competitiveness; and

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(l) any other matter relevant to remuneration advice.

(2) In addition to the factors mentioned in sub regulation (1), a state corporation shall also take into account the corporation's performance and financial turnover.

Factors to be considered when preparing and submitting proposals for allowances and other remunerative benefits.

10. (1) When submitting proposals on the review of allowances and other remunerative benefits under regulation (5), a public service organization shall take the following factors into account—

- (a) existing legal provisions;
- (b) comparative market surveys;
- (c) prevailing market rates;
- (d) justification for the allowances or benefits;
- (e) best practices;
- (f) objectives of the allowances or benefits;
- (g) impact on salary package;
- (h) ratio of the allowance or benefits to the salary;
- (i) affordability and sustainability;
- (j) prevailing policy on allowances and other remunerative benefits; and
- (k) any other issue relevant in determination of allowances and other remunerative benefits.

(2) In addition to the factors mentioned in sub regulation (1), a state corporation shall also take into account the corporation's performance and financial turnover.

PART III—FACTORS TO BE CONSIDERED IN PAY DETERMINATION AND ADVICE AND COMMUNICATION BY THE COMMISSION

Factors for pay determination for State officers and advice on remuneration for other public officers.

11. In setting and reviewing the salaries of State officers and advising on remuneration for other public officers, the Commission shall consider—

- (a) the components of the remuneration;
- (b) the surrounding social, economic and environmental issues;
- (c) results of job evaluation;

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- (d) results of market studies;
- (e) key elements and factors of pay for consideration;
- (f) market rates from the results of comparative market surveys;
- (g) existing collective bargaining agreements;
- (h) the overall and specific cost of employment, relating it to the resource capacity of the organization;
- (i) affordability and sustainability of compensation or award to Government and within the job market;
- (j) linkage to the national objectives, priorities and the human resource management strategy;
- (k) level of performance or productivity of employee;
- (l) prevailing salary structures in the public service;
- (m) benchmark with similar organizations or those the organization loses staff to;
- (n) equity and competitiveness; and
- (o) any other relevant matter to remuneration setting and advice.

Factors for determination of allowances or benefits for State officers and advising on allowances for other public officers.

12. In addition to the guidelines set out in regulation (9) in relation to basic salary, the Commission shall in determining and advising on allowances and other remunerative benefits consider—

- (a) existing legal provisions;
- (b) comparative market surveys;
- (c) prevailing rates in the market;
- (d) justification and purpose for the allowances or benefits;
- (e) best practices;
- (f) objective of the allowance or benefit;
- (g) impact on the salary package;
- (h) ratio of the allowance or benefits to the salary;

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- (i) affordability and sustainability;
- (j) policy on allowances and other remunerative benefits; and
- (k) any other relevant issue in determination of allowances or benefits.

Communication of set salaries. **13.** (1) The Commission shall communicate the set salaries and remuneration and benefits for State officers or advice thereon on for other public officers not later than the second quarter of the fourth year of the review.

(2) Where a reviewed salary and remuneration or benefit is due, it shall be granted with effect from the beginning July of the subsequent financial year after being factored in the national budget.

PART IV— MISCELLANEOUS

Annual increment. **14.** (1) A State or public officer shall be entitled to an annual salary increment.

(2) The effective date of an annual increment under sub regulation (1) shall be the date of appointment.

(3) An annual increment under this regulation shall be awarded at least after one year of service.

Pension reviews. **15.** (1) The Commission shall conduct periodic review of pensions to compensate for the rise in the cost of living.

- (2) Pension reviews under sub regulation (1) —
- (a) shall be subject to the prevailing economic conditions; and
 - (b) may be conducted during a salary review for State and public officers.

Hearings. **16.** (1) The Commission may conduct a hearing whenever—

(a) it considers to a request to advise the national or a county government; or

(b) it reviews the remuneration for State officers.

(2) The Commission may request for written or oral representations during the hearings.

(3) The Commission may conduct a hearing in any part of the country.

(4) In the conduct of a hearing, the Commission shall consider views from —

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- (a) representatives from the organization seeking the advice of the Commission;
- (b) relevant unions and professional bodies; and
- (c) members of public.

(5) Nothing under sub regulation (4) shall preclude any interested party from submitting views to the Commission during a hearing.

Negotiations with
Trade Unions.

17. (1) The Commission shall not negotiate with a trade union.

(2) The management of a public service organization with unionisable staff shall seek the advice of the Commission before the commencement of any collective bargaining process with the respective union on the sustainability of the proposal of the union.

(3) Where the collective bargaining process referred to in sub regulation (2) above is successful, the management shall, before the signing of the agreement, confirm the fiscal sustainability of the negotiated package with the Commission.

Hiring of an expert.

18. (1) Where a public service organization seeks to acquire the services of an expert whose remuneration is likely to be outside the public service remuneration structure, the concerned organization shall refer the issue of the expert's remuneration to the Commission.

(2) An expert under sub regulation (1) shall be —

- (a) sourced competitively from the labour market, including the international labour market; and
- (b) hired for a fixed term and remuneration for the assignment as advised by the Commission.

(3) In determining the remuneration of the expert hired under this regulation the Commission shall, in addition to the provisions under sub regulation (2), take into consideration—

- (a) prevailing market rate for such expertise;
- (b) need for such expertise;
- (c) sustainability of such expertise;
- (d) duration; and
- (e) scope of the assignment.

(4) Where the service period of the expert requires extension or the job subsequently

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takes a permanent nature, the special remuneration package shall cease and the expert shall adopt the prevailing remuneration package of an equivalent existing position in the public service.