

12 April 2025

**TO:** Speaker of the National Assembly  
Ms Thoko Didiza  
**PER:** (Email) [speaker@parliament.gov.za](mailto:speaker@parliament.gov.za)  
**CC:** [parliament@actionsa.org.za](mailto:parliament@actionsa.org.za)

Dear Honourable Thoko Didiza

## **SUBMISSION ON THE REMUNERATION OF PUBLIC OFFICE BEARERS AMENDMENT BILL, 2025**

### **INTRODUCTION**

1. The Organisation Undoing Tax Abuse (“OUTA”) is a proudly South African non-profit civil action organisation, comprising of and supported by people who are passionate about improving the prosperity of our nation. OUTA was established to challenge the abuse of authority, particularly the abuse of taxpayers’ money.
2. As a matter of principle, OUTA does not oppose the introduction of new laws and regulations by government but rather wishes to ensure that these laws and regulations are capable of effective execution and are aligned with the basic principles envisaged in our Constitution.
3. This submission is made in response to the notice published in Government Gazette No. 52274 on 13 March 2025, inviting comment on the Remuneration of Public Office Bearers Amendment Bill, 2025 (“the Amendment Bill”). The proposed legislation seeks to rectify a critical legislative gap by introducing transparency and accountability in the granting of benefits and allowances to senior members of the Executive.
4. OUTA welcomes the Amendment Bill as a necessary intervention to ensure constitutional compliance, fiscal discipline and the restoration of public trust in the democratic oversight of executive expenditure.

### **GENERAL COMMENTARY**

5. The core merit of the Amendment Bill lies in its attempt to bring the Ministerial Handbook – a document long used to grant discretionary benefits to the Executive – into a framework of

statutory regulation, public reporting and parliamentary oversight. By extending the role of the Independent Commission for the Remuneration of Public Office Bearers and compelling the President to report changes to Parliament, the Bill aligns with principles of transparency, democratic accountability and separation of powers.

6. The Remuneration of Public Office Bearers Act, 1998 (“the Act”) and the proposed Remuneration of Public Office Bearers Amendment Bill, 2025 (“the Amendment Bill”) reflect markedly different legislative approaches and priorities concerning how public office bearers in South Africa are compensated.

## **COMPARISON BETWEEN THE ACT AND THE AMENDMENT BILL**

### **PURPOSE AND LEGISLATIVE CONTEXT**

7. The Act established a comprehensive framework for determining the salaries, allowances, pension and medical aid benefits of public office bearers. It applies to a wide range of political and traditional leaders across all three spheres of government, ensuring consistency and accountability through the role of the Independent Commission for the Remuneration of Public Office Bearers.
8. The Amendment Bill is a targeted reform measure, driven by concerns over the lack of transparency and unchecked executive discretion, particularly related to the Ministerial Handbook. It was triggered by controversial amendments made in 2022 that increased benefits for Ministers and Deputy Ministers without parliamentary or public scrutiny.
9. While the Remuneration of Public Office Bearers Act, 1998 laid the foundation for structured and equitable remuneration in the public sector, the 2025 Amendment Bill represents a necessary evolution of that framework, particularly in the context of public expectations of fiscal responsibility and democratic oversight. It reinforces the rule of law by limiting executive discretion and ensuring that even non-salary benefits are subject to scrutiny, economic rationale and parliamentary oversight.

### **SCOPE AND COVERAGE**

10. The Act covers President, Deputy President, Ministers, Deputy Ministers, MPs, permanent delegates, Premiers, MECs, provincial legislators, municipal councillors and traditional leaders.

11. The Act addresses remuneration (salary and allowances), pension contributions, medical aid, and associated benefits.
12. The Act gives legal effect to salary scales and benefits based on formal proclamations and Commission recommendations.
13. The Amendment Bill specifically targets President, Deputy President, Ministers and Deputy Ministers.
14. The Amendment Bill focuses on benefits, allowances and tools of trade introduced via the Ministerial Handbook.
15. The Amendment Bill seeks to subject the President's discretion to statutory checks, particularly by mandating adherence to recommendations from the Independent Commission.

#### ROLE OF THE INDEPENDENT COMMISSION

16. In the Act the Commission's role is advisory but deeply embedded in all determinations of salaries and benefits.
17. The Act's recommendations must be considered by the President and relevant legislative bodies (e.g., National Assembly, provincial legislatures).
18. The Amendment Bill elevates the Commission's role by making it a mandatory consideration before the President can make any changes to benefits/ tools of trade.
19. The Amendment Bill seeks to plug the loophole that allows the President to unilaterally change the Ministerial Handbook without consulting the Commission.

#### TRANSPARENCY AND OVERSIGHT MECHANISMS

20. The Act emphasises affordability, uniformity, and legislative oversight, but lacks explicit provisions on reporting benefit changes or cost models.
21. In the Act parliamentary resolutions are required for setting certain salaries (e.g., President), but Ministerial Handbook changes are not mentioned.
22. The Amendment Bill introduces explicit reporting obligations: any changes to allowances or tools of trade must be reported to the National Assembly within 30 days.

23. The Amendment Bill requires the inclusion of costing models and other relevant economic justifications when implementing benefit changes.

#### ADDRESSING EXCESSIVE EXPENDITURE

24. The Act promotes fiscal discipline indirectly by requiring consideration of affordability and inflationary pressures.
25. The Act provides structured payment systems, but no clear enforcement mechanisms for curbing excessive benefits.
26. The Amendment Bill is a direct response to excessive and unaccounted-for executive spending, such as the R87 million expansion of ministerial offices.
27. The Amendment Bill enforces accountability and cost-consciousness in executive benefits, addressing a public demand for austerity and good governance.

#### MECHANISMS FOR REVIEW

28. The Act does not provide for periodic reviews of benefits or allowances.
29. In the Act, adjustments are typically made via presidential proclamation or legislative resolution, with limited public engagement.
30. The Amendment Bill introduces a requirement for regular and comprehensive reviews of all tools of trade, allowances, and benefits for senior executive office bearers.
31. The Amendment Bill enhances legislative and public participation through required reporting and review mechanisms.

#### **CRITICAL OBSERVATIONS**

32. The Act was a landmark in creating structured, lawful determination of public office bearer compensation but has aged inadequately in addressing executive overreach, especially concerning benefits not directly covered by parliamentary process.
33. The Amendment Bill addresses a governance gap by bringing transparency to non-salary benefits, previously handled opaquely under the Ministerial Handbook.

34. The Amendment Bill does not seek to amend the salary structure, but instead to create legal boundaries around the power of the President, enhancing accountability and public trust.

## **DETAILED COMMENTARY AND RECOMMENDATIONS**

### **LEGISLATIVE OVERSIGHT OF THE MINISTERIAL HANDBOOK**

35. The current legal vacuum around the Ministerial Handbook has allowed for unmonitored expansion of benefits, resulting in wasteful expenditure—such as the R87 million expansion of ministerial offices. These decisions, made without parliamentary involvement, erode constitutional accountability.
36. The Amendment Bill should include explicit reference to the Ministerial Handbook in the text of the principal Act, not only in its preamble or memorandum.
37. It should be made clear that any instrument (such as the Handbook) that confers benefits or tools of trade upon the Executive must be treated as a delegated legislative instrument and thus subject to tabling before Parliament.

### **MANDATORY CONSIDERATION OF INDEPENDENT COMMISSION RECOMMENDATIONS**

38. The requirement that the President must consider the recommendations of the Independent Commission is welcomed. However, the Amendment Bill should ensure that this requirement is binding, not merely advisory or procedural.
39. Include a clause stating that the President may not enact or amend any benefit or tool of trade unless and until a report from the Commission has been received and considered.
40. Provision should be made for a summary of the Commission's findings to be included in the President's report to the National Assembly.

### **TRANSPARENCY AND PUBLIC DISCLOSURE**

41. The 30-day reporting requirement to the National Assembly is a progressive step. However, the Bill should go further in enhancing public access to information.
42. Require that the report submitted to Parliament also be published on the Presidency's official website within the same 30-day period.

43. Require the inclusion of a cost-benefit analysis, comparative international benchmarks, and long-term fiscal implications for each benefit change introduced.

#### PERIODIC REVIEW OF BENEFITS

44. The provision for regular reviews of tools of trade and allowances is crucial for ongoing fiscal prudence.
45. Specify a fixed periodic review cycle (e.g., every five years) for all benefits and allowances, to be led by the Independent Commission in consultation with Treasury and the Auditor-General.
46. Include a requirement that such reviews must consider equity across public service remuneration, including comparisons with public sector wage growth and GDP.

#### CONSEQUENCES OF NON-COMPLIANCE

47. The Amendment Bill currently lacks any provisions outlining the consequences should the President fail to comply with its provisions.
48. Introduce a clause stipulating that any benefits granted outside of the process outlined in the amended Act shall be deemed null and void, and any expenditure incurred shall be classified as unauthorised expenditure under the Public Finance Management Act (PFMA).
49. Consider empowering the Auditor-General to flag non-compliant benefits in their annual audit of the Presidency.

#### DEFINITION OF “TOOLS OF TRADE” AND “BENEFITS”

50. The terms “tools of trade” and “benefits” are central to the Amendment Bill but remain undefined in law, which risks ambiguity.
51. Provide statutory definitions for “tools of trade”, “benefits”, and “allowances”, including examples such as personal security, domestic staff, official vehicles, office furniture, and housing entitlements.
52. Clarify that benefits in kind (e.g., free utilities, private medical cover, luxury fittings) are included.

#### ALIGNMENT WITH THE CONSTITUTION

53. Section 96 of the Constitution prohibits members of the Cabinet from using their position to improperly enrich themselves or others. The unchecked expansion of benefits risks violating this clause.
54. Insert a clause stating that any benefit determined under this Act must comply with Section 96 of the Constitution and must not confer disproportionate personal gain to office bearers.

### **CONCLUDING REMARKS**

55. While some may contend that increased statutory controls restrict executive flexibility, it is crucial to ensure that such flexibility does not compromise fiscal responsibility and public trust.
56. The Remuneration of Public Office Bearers Amendment Bill, 2025, represents an essential legislative advance in ensuring transparency, accountability and fiscal responsibility in the remuneration of South Africa's political executive. It provides an overdue corrective to the opaque and discretionary nature of the Ministerial Handbook.
57. We urge Parliament to:
- 57.1. Strengthen the Bill by incorporating the recommendations above;
- 57.2. Ensure rigorous enforcement mechanisms are built in;
- 57.3. Facilitate robust public consultation during the legislative process; and
- 57.4. Champion the Bill as a cornerstone of ethical governance reform.
58. We trust these comments are received with due consideration and we look forward to receiving your response. Should you have any questions, please do not hesitate to contact us.

Yours sincerely

  
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