

FREE STATE PROVINCE

# PROVINCIAL GAZETTE

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# PROVINSIALE KOERANT

PROVINSIE VRYSTAAT

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OFFICE OF THE PREMIER

No. 2

1 March 1996

It is hereby notified that the Premier has assented to the following Act which is hereby published for general information:-

No. 3 of 1996: Powers, Privileges and Immunities of the Provincial Legislature Act, 1996

KANTOOR VAN DIE PREMIER

No. 2

1 Maart 1996

Hierby word bekend gemaak dat die Premier die onderstaande Wet bekragtig het, wat hierby ter algemene inligting gepubliseer word:-

No. 3 van 1996: Wet op die Bevoeghede, Voorregte en Immuniteite van die Provinsiale Wetgewer, 1996.

Act No 3, 1996

POWERS, PRIVILEGES AND IMMUNITIES  
OF THE PROVINCIAL LEGISLATURE ACT, 1996**ACT****To define and declare the powers, privileges and immunities of the Provincial  
Legislature, and to provide for matters incidental thereto.****B**E IT ENACTED by the Provincial Legislature of the Free State Province, as follows:-*(Afrikaans text signed by the Premier.)  
(Assented to 28 February 1996)***Definitions**

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

"committee" means any committee consisting of members of the Provincial Legislature;

"immediate precincts" means the building housing the Provincial Legislature;

"journals" means the minutes of the proceedings of the Provincial Legislature;

"member" means a member of the Provincial Legislature, and includes a Member of the  
Executive Council;"officer" means the Secretary, and any other person who may be appointed to the staff of  
the Provincial Legislature;"Provincial Legislature" means the legislature established for the province in terms of  
section 125(1) of the Constitution;"Secretary" means the Secretary to the Provincial Legislature appointed in terms of section  
143 of the Constitution;"Speaker" means the Speaker of the Provincial Legislature referred to in section 131 of the  
Constitution;"standing orders" means the rules and orders made by the Provincial Legislature in  
connection with the order and conduct of its business and proceedings in terms of section  
137(1) of the Constitution; and"the Constitution" means the Constitution of the Republic of South Africa, 1993 (Act No.  
200 of 1993), as amended.**CHAPTER 1****FREEDOM OF SPEECH AND DEBATE****Freedom of speech and debate**2. (1) Subject to the standing orders, there shall be freedom of speech and  
debate in or before the Provincial Legislature and any committee, and such freedom shall  
not be impeached or questioned in any court or place outside the Provincial Legislature.(2) For the purposes of subsection (1), a member shall not be liable to any  
civil or criminal proceedings, arrest, imprisonment or damages by reason of anything -(a) which he or she may have said or produced in or before or to  
the Provincial Legislature or any committee; or

(b) which may have been revealed as a result of anything which he or she may have said or produced in or before or to the Provincial Legislature or any committee.	5
(3) The provisions of subsection (1) shall not apply to any person, other than a member, giving evidence before the Provincial Legislature or any committee.	
<b>Liability in respect of publications of Provincial Legislature</b>	10
3. No person shall be liable to any civil or criminal proceedings, arrest, imprisonment or damages for or on account or in respect of the publication by him or her, or his or her servant, of any report, paper, minutes or minutes of the proceedings of the Provincial Legislature or any committee by order or under the authority of the Provincial Legislature, any such committee or the Speaker.	15
<b>Protection in respect of extracts and abstracts</b>	20
4. If in any legal proceedings instituted as a result of the publication of any extract from or abstract of any report, paper, minutes or minutes of the proceedings of the Provincial Legislature or any committee, the court is satisfied that such extract or abstract was published in good faith and without malice, judgment may be given for the defendant or the accused, as the case may be.	25
<b>Offences relating to unauthorised printing</b>	30
5. Any person who -	
(a) prints or causes to be printed a copy of any law of the Provincial Legislature or a copy of any report, paper, minutes or minutes of the proceedings of the Provincial Legislature or any committee as purporting to have been printed by the Government Printer or the printer of the Provincial Legislature or by order or under the authority of the Provincial Legislature, any committee or the Speaker, while it has not been so printed; or	35
(b) tenders in evidence any such copy as purporting to have been so printed, knowing that it was not so printed,	45
shall be guilty of an offence and on conviction be liable to imprisonment for a period not exceeding 3 years.	50

## CHAPTER 2

### THE PROVINCIAL LEGISLATURE 55

#### Persons creating disturbance

6. Any person creating or joining in any disturbance in the Provincial Legislature while the Provincial Legislature is sitting may be arrested without warrant and on the verbal order of the Speaker, and may be kept in the custody of an officer of the Provincial Legislature designated by the Speaker until a warrant can be issued for his or her imprisonment.	60
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**Execution of warrants and verbal orders**

7. Every sheriff and his deputies and their officers and all police officers, constables and other persons shall assist in the arrest and detention of any person in pursuance of any such verbal order as is referred to in section 6 and shall aid and assist in the execution of any warrant and where any such warrant directs that the person mentioned therein shall be imprisoned in any goal or other place, the person in charge thereof shall on production to him or her of such warrant receive such person into his or her custody in the said goal or other place and there imprison him or her according to the tenor of the warrant. 5  
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**Powers and privileges of Provincial Legislature in respect of contempt**

8. Subject to the provisions of the Constitution, the Provincial Legislature shall have all such powers and privileges as may be necessary for enquiring into, passing judgment on or pronouncing upon any act, matter or thing declared in this Chapter to be contempt of the Provincial Legislature, and taking the disciplinary action provided therefore by this Chapter. 15  
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**Contempt of Provincial Legislature**

9. Any member shall be guilty of contempt of the Provincial Legislature if he or she- 25
- (a) wilfully fails or refuses to obey any rule, order or resolution of the Provincial Legislature; 30
  - (b) commits an offence in terms of this Act; or
  - (c) is guilty of an act or omission which, in terms of the standing orders, constitutes contempt of the Provincial Legislature. 35

**Disciplinary action against members**

10. (1) Any member adjudged guilty of contempt of the Provincial Legislature may, in addition to any other penalty to which he or she is liable in terms of this Act or any other law - 40
- (a) be cautioned and reprimanded; 45
  - (b) be imposed a fine not exceeding R5 000, which fine may be recovered by deducting specified instalments from his or her remuneration; or 50
  - (c) be suspended for a period not exceeding 2 years. 55

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(2) All fines payable in terms of subsection (1) may be recovered by means of civil action in a competent court by the Member of the Executive Council responsible for Finance, if he or she is authorised by the Provincial Legislature to institute legal proceedings for the recovery thereof.

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(3) Any amount recovered in respect of any such fine shall be paid into the Provincial Revenue Fund.

### **Offences relating to Provincial Legislature**

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11. Any person who -

(a) while the Provincial Legislature is sitting, creates or joins in any disturbance within the Chamber of such Legislature or within the immediate precincts thereof, whereby the proceedings of the Provincial Legislature are or are likely to be interrupted; or

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(b) commits any act which is calculated to hold the Provincial Legislature or its proceedings in contempt,

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shall be guilty of an offence and on conviction be liable to a fine or to imprisonment for a period not exceeding 2 years or to both such fine and such imprisonment.

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## **CHAPTER 3**

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### **MEMBERS AND OFFICERS**

#### **Arrest and summons of members within precincts of Provincial Legislature**

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12. (1) Notwithstanding anything to the contrary contained in any other law but subject to the provisions of section 6, no person shall arrest any member within the precincts of the Provincial Legislature, or serve any summons or subpoena upon him or her thereat, while the Provincial Legislature or any committee is sitting.

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(2) Any person who contravenes a provision of subsection (1) shall be guilty of an offence and on conviction be liable to a fine or to imprisonment for a period not exceeding 6 months or to both such fine and imprisonment.

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#### **Duty of criminal court in respect of members**

13. Whenever in any criminal proceedings any member has been sentenced to imprisonment without the option of a fine, the court so sentencing that member shall, in writing, inform the Speaker of the nature of the offence and the sentence imposed.

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#### **Giving evidence of proceedings**

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14. (1) No member or officer and no reporter employed to take minutes of evidence given before the Provincial Legislature or any committee shall, without first having obtained the special leave of the Provincial Legislature, give evidence elsewhere regarding the contents of any evidence given or of any manuscript or document produced before the Provincial Legislature or any committee, or regarding any proceedings or examination before the Provincial Legislature or before any committee.

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(2) During any recess or adjournment of the Provincial Legislature the said leave may be given by the Speaker.

**Attendance of members before Parliament or other provincial legislature**

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15. No member shall attend before Parliament, any other provincial legislature or any committee of Parliament or such other provincial legislature without the consent, or an order of the Provincial Legislature or, during any recess or adjournment, without the consent of the Speaker.

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**Matters in which members have direct pecuniary interest**

16. (1) Subject to the provisions of subsection (3), a member shall not in or before the Provincial Legislature or any committee vote upon, or take part in the discussion of, any matter in which he or she has a direct pecuniary interest.

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(2) Any member who contravenes a provision of subsection (1) shall be guilty of an offence and on conviction be liable to a fine not exceeding R5 000.

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(3) The provisions of subsection (1) shall not apply to any vote or discussion in connection with the remuneration or allowances to be received by members in their capacity as such members, or to any interest in any matter which a member may have in common with the public generally, or with any class or section of the public.

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**Offences relating to members and officers**

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17. Any person who -

(a) threatens, obstructs or insults any member -

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(i) proceeding to or leaving any sitting of the Provincial Legislature or a committee; or

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(ii) on account of the member's conduct in the Provincial Legislature or a committee;

(b) attempts by force, insult or menace to compel any member to declare himself or herself in favour of or against any proposition or matter pending or expected to be brought before the Provincial Legislature or a committee; or

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(c) hinders or obstructs any officer in the execution of his or her duty or while proceeding to or leaving the Provincial Legislature or a committee in the course of or in connection with his or her official duties,

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shall be guilty of an offence and on conviction be liable to a fine or to imprisonment for a period not exceeding 12 months or to both such fine and such imprisonment.

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POWERS, PRIVILEGES AND IMMUNITIES  
OF THE PROVINCIAL LEGISLATURE ACT, 1996  
CHAPTER 4

**WITNESSES AND DOCUMENTS**

**Order to attend before Provincial Legislature or committee**

18. The Provincial Legislature or any committee authorised to require the attendance of persons or the production of documents may order any person to attend before the Provincial Legislature or such committee, as the case may be, and to produce any paper, book, record or document in his or her possession or custody or under his or her control. 5  
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**Summoning of witnesses**

19. (1) Notice of an order to attend, or to produce any document before, the Provincial Legislature or any committee shall be given to the person required to attend or to produce the paper, book, record or document - 15

- (a) in the case where such person is a member of the National Assembly, the Senate or any other provincial legislature, by means of a request in writing addressed by the Speaker to the presiding officer of the House concerned; 20

- (b) in the case where such person is being detained in any prison, by means of a warrant issued by the Speaker under his or her hand; or 25

- (c) in any other case, by means of a summons issued by order of the Speaker under the hand of the Secretary. 30

- (2) (a) In every summons referred to in subsection (1), there shall be stated the time and the place at which the person summonsed is required to attend, and the particular paper, book, record or document, if any, which he or she is required to produce. 35

- (b) Such summons shall be served on the person mentioned therein either by delivering to him or her personally a copy thereof or by leaving such copy with some adult person at the first-mentioned person's usual or last known place of residence. 40  
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- (3) A person summonsed in terms of subsection (2) may be paid such amount for his or her expenses as may be approved by the Speaker in accordance with the standing orders. 50

**Examination of witnesses**

20. Whenever the Provincial Legislature or any committee requires that any fact, matter or thing relating to the subject of the enquiry before the Provincial Legislature or such committee be verified or otherwise ascertained by the oral examination of any witness, the Speaker, the chairperson of such committee or a person specially designated by the Speaker for that purpose may - 55  
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- (a) call upon and administer an oath to, or accept an affirmation from, any person present at the enquiry who was or could have been summonsed in terms of section 19; 65

(b)	examine such person; or	
(c)	require such person to produce any paper, book, record or document in his or her possession or custody or under his or her control which may have a bearing on the subject of the enquiry.	5
<b>Privilege of witnesses</b>		
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21.	In connection with the examination of any person by, or the production of any paper, book, record or document before, the Provincial Legislature or any committee in terms of section 20, the law relating to privilege, as applicable to a witness summonsed to give evidence or to produce any paper, book, record or document before a court of law, shall apply.	15
<b>Offences relating to conduct of witnesses</b>		
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22.	Any person who -	
(a)	has been duly summonsed in terms of section 19 and who fails, without sufficient cause -	25
(i)	to attend at the time and place specified in the summons; or	
(ii)	to remain in attendance until excused from further attendance by the person presiding at the enquiry;	30
(b)	has been called upon in terms of section 20(a) and who refuses to be sworn in or to make an affirmation as a witness; or	35
(c)	fails, without sufficient cause -	
(i)	to answer fully and satisfactorily any question lawfully put to him or her in terms of section 20(b); or	40
(ii)	to produce any paper, book, record or document in his or her possession or custody or under his or her control which he or she has been required to produce in terms of section 20(c),	45
	shall be guilty of an offence and on conviction be liable to a fine or imprisonment for a period not exceeding 12 months or to both such fine and such imprisonment.	50
<b>Witnesses not liable to legal proceedings</b>		
23.	(1) Except in the case of perjury or any offence in terms of section 24(b) or (c), no witness who is in possession of a certificate referred to in subsection (2) shall be liable to any civil or criminal proceedings, arrest, imprisonment or damages by reason of anything said by him or her in the course of giving his or her evidence before the Provincial Legislature or such committee.	55
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	(2) If a witness has answered fully and satisfactorily all questions put to him or her by the Provincial Legislature or any committee, he or she shall, at his or her request, be entitled to receive a certificate under the hand of the person presiding at the enquiry, stating that the particular witness did so answer all questions upon his or her examination: Provided that such certificate may, in the case of a witness before any such committee, be signed by the Speaker.	65



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POWERS, PRIVILEGES AND IMMUNITIES  
OF THE PROVINCIAL LEGISLATURE ACT, 1996**Miscellaneous offences**

24. Any person who - 5
- (a) with fraudulent intent, threatens, obstructs or in any way unduly influences any witness required to give evidence or to produce any paper, book, record or document before the Provincial Legislature or any committee; 10
- (b) with intent to deceive the Provincial Legislature or any committee, produces to the Provincial Legislature or such committee any false, untrue, fabricated or falsified paper, book, record or document; or 15
- (c) wilfully furnishes the Provincial Legislature or any committee with information, or makes a statement before it, which is false or misleading, 20
- shall be guilty of an offence and on conviction be liable to a fine or to imprisonment for a period not exceeding 2 years or to both such fine and such imprisonment.

**CHAPTER 5** 25**GENERAL****Receiving of compensation by certain persons prohibited** 30

25. (1) No attorney, law agent or parliamentary agent who, in the practice of his or her profession, is a partner of or in the service of a member shall accept or receive, either directly or indirectly, any fee, compensation, gift or reward for or in respect of the promotion or opposition to any bill, resolution, matter, rule or thing submitted or proposed to be submitted to the Provincial Legislature or any committee for its consideration. 35

(2) Any person who contravenes a provision of subsection (1) shall be guilty of an offence and on conviction be liable to a fine not exceeding R5 000 and, in addition, to payment of the amount or the value of the fee, compensation, gift or reward accepted or received by him or her. 40

**Admissibility of journals as evidence** 45

26. At any enquiry relating to or affecting the powers, privileges and immunities of the Provincial Legislature or of any member, any copy of the journals printed or purporting to have been printed by order of the Provincial Legislature or the Speaker shall be admitted as evidence of such journals in all courts and places in the Republic without any proof being given that such copy was so printed. 50

**Speaker or committee may act on behalf of Provincial Legislature** 55

27. (1) Subject to the standing orders, the Provincial Legislature may authorise the Speaker or any committee to perform any act which may be performed by the Provincial Legislature in terms of this Act. 60

(2) For the purposes of the performance of any act referred to in subsection (1), the Speaker or committee shall have the powers with which the Provincial Legislature is invested in terms of this Act for the performance of such act. 65

**Financial arrangements in respect of the Provincial Legislature**

28. (1) The control of the expenditure and the appropriation of moneys for the services of the Provincial Legislature shall be vested in the Speaker, and his or her authorization for such expenditure and appropriation of moneys, as well as receipts issued by the accounting officer referred to in subsection (2) on his or her behalf, with reference to all matters affecting those services shall, notwithstanding anything to the contrary contained in any law but subject to the provisions of this section, be *prima facie* taken to be in all respects good, valid and effectual. 5  
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- (2) Subject to the provisions of this Act, and unless otherwise directed by the Speaker, the Secretary shall be the accounting officer charged with the collection, receipt, custody and payment of moneys for the services of the Provincial Legislature, as well as the receipt, custody and control of property acquired for the administration of the Provincial Legislature, and the Secretary shall keep proper accounts of all moneys received and paid out by him or her and of all his or her financial transactions. 15  
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- (3) The Secretary shall requisition the moneys required for the services of the Provincial Legislature from the Treasury. 25
- (4) The Secretary shall maintain at a deposit-taking institution registered as such under the Deposit-taking Institutions Act, 1990 (Act No. 94 of 1990), and approved by the Speaker an account into which shall be deposited all moneys received by him or her and from which all payments shall be made by him or her, and the Secretary may authorize a person or persons in the employ of the Provincial Legislature to sign the necessary cheques for the said payments. 30
- (5) Notwithstanding anything to the contrary contained in any law, the Speaker may approve that a saving under a main division of the vote in an appropriation Act may be applied towards the defrayment of excess expenditure under another main division, or of expenditure under a new main division of that vote: Provided that amounts appearing in "Column 2" of a schedule to such an appropriation Act in respect of the said vote shall not be exceeded, and the savings thereon shall not be applied for a purpose other than that for which the money was granted as indicated in such schedule. 35  
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- (6) At the end of each financial year the Secretary shall cause statements of account to be prepared showing in detail the moneys received by him or her, and the expenditure incurred by him or her during the financial year in question and these statements shall be submitted to the Rules and Orders committee. 45  
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- (7) At the end of a financial year the Secretary shall surrender to the Treasury for redepositing in the Exchequer Account, any unexpended balance of moneys received from the Treasury. 55
- (8) The provisions of sections 7, 15, 20 and 21 of the Exchequer Act, 1994 (Act No. 1 of 1994), shall *mutatis mutandis* apply in respect of the services, vote, accounts, moneys and property of the Provincial Legislature and in such application - 60
- (a) any reference to sections 15, 20 and 21 to an accounting officer shall be deemed to be a reference to the Secretary;
- (b) any reference in section 20(1)(c) to the Treasury shall be deemed to be a reference to the Speaker; 65

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OF THE PROVINCIAL LEGISLATURE ACT, 1996**

- (c) any reference in section 21 to the responsible Member and the Treasury shall be deemed to be a reference to the Speaker; and
- (d) any reference in section 21 to a person who is or was in the employ of the Province, shall be deemed to be a reference to a person who is or was in the employ of the Provincial Legislature.
- (9) The accounts of the Provincial Legislature shall, subject to the provisions of subsection (1), be investigated, examined and audited by the Auditor-General, and in the carrying out of such an audit the provisions of sections 5(1), 5(7)(a) and (b) and 5(8), 6(1) and (2A), 7 and 14(1) and (1A) of the Auditor-General Act, 1989 (Act No. 52 of 1989), shall *mutatis mutandis* apply, and in such application the references in sections 5(1) and 6(1), to an accounting officer and to persons in the public service shall be deemed to be references to the Secretary and to persons in the employ of the Provincial Legislature, respectively.
- (10) For the purposes of this section the expressions -
- (a) "Auditor-General" in subsection (9);
- (b) "Exchequer Account" in subsection (7);
- (c) "financial year" in subsections (6) and (7);
- (d) "Treasury" in subsections (3) and (7); and
- (e) "vote" and "appropriation Act" in subsection (5),
- shall bear the respective meanings assigned thereto in section 1(1) of the Exchequer Act, 1994.
- Application of Act in case of committee meeting beyond seat or during recess or adjournment**
- 29.** In so far as it may be necessary for the achievement of the objects of this Act in the case of any committee which, in terms of any authority conferred upon it by the standing orders, performs its functions beyond the seat of the Provincial Legislature or while the Provincial Legislature is in recess or adjourned, the provisions of this Act shall apply as if the premises where the committee meets for the performance of its functions were within the precincts of the Provincial Legislature, or as if the Provincial Legislature were in sitting, as the case may be.
- Liability for acts done under authority of Provincial Legislature**
- 30.** No person shall be liable in damages or otherwise for any act done under the authority of the Provincial Legislature and within its legal powers, or under any warrant issued by virtue of these powers.
- Short title**
- 31.** This Act shall be called the Powers, Privileges and Immunities of the Provincial Legislature Act, 1996, and shall be deemed to have come into operation on 1 April 1995.