

Western Cape, South Africa

## Payment of Members of the Western Cape Provincial Legislature Law Act 3 of 1994

Legislation as at 9 September 1994

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Act 2 of 1998.

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# Western Cape South Africa

## Payment of Members of the Western Cape Provincial Legislature Law Act 3 of 1994

Published in Western Cape Provincial Gazette 4877 on 9 September 1994

**Assented to on 7 September 1994**

**Commenced on 27 April 1994**

*[This is the version of this document as it was from 9 September 1994 to 15 January 1998.]*

**To provide for the payment of remuneration and allowances to members of the Western Cape Provincial Legislature and for matters incidental thereto.**

(Afrikaans text signed by the Premier.)

BE IT ENACTED by the Provincial Legislature of the province of Western Cape, as follows:-

### 1. Definition

In this Law, unless the context otherwise indicates-

- (i) "**committee**" means any committee consisting of members of the 5 Provincial Legislature and appointed for or in connection with the business and proceedings of the Provincial Legislature;
- (ii) "**Constitution**" means the [Constitution of the Republic of South Africa, 1993 \(Act 200 of 1993\)](#);
- (iii) "**member of the Provincial Legislature**" means a member of the 10 Provincial Legislature, including the Premier and a member of the Executive Council, and "members of the Provincial Legislature" has a corresponding meaning;
- (iv) "**office-bearer**" means an office-bearer of the Provincial Legislature referred to in [section 2\(1\)](#), and "office" has a corresponding meaning;
- (v) "**Premier**" means the Premier of the Province acting in terms of section 147(2) of the [Constitution](#);
- (vi) "**Province**" means the province of Western Cape;
- (vii) "**Provincial Legislature**" means the Provincial Legislature of the Province;
- (viii) "**Secretary**" means the Secretary or provisional secretary of the Provincial Legislature appointed in terms of section 143 of the [Constitution](#), and
- (ix) "**Speaker**" means the Speaker of the Provincial Legislature elected in terms of section 131(1) of the [Constitution](#).

### 2. Remuneration and allowances of members and office-bearers

- (1) Members of the Provincial Legislature and such office-bearers as may be determined by the Premier by proclamation in the *Provincial Gazette* shall be paid such remuneration and allowances as may, in respect of such members and each such office-bearer, be so determined by the Premier, having due regard to the recommendations of the Commission on Remuneration of Representatives contemplated in section 207 of the [Constitution](#).

- (2) Notwithstanding subsection (1) a person who holds different offices at the same time shall be entitled to remuneration and allowances only in respect of such of the offices concerned as bears the highest remuneration.
- (3)
  - (a) Paragraph (d) of section 8(1) of the Income Tax Act, 1962 (Act 58 of 1962), shall apply to such portion of the remuneration of a member of the Provincial Legislature or an office-bearer as may be determined by the Premier, as if that portion were an allowance granted to the member or office-bearer as contemplated in that paragraph.
  - (b) Different portions may be determined under paragraph (a) in respect of different amounts of remuneration.

### 3. Deductions on account of absence

- (1) Subject to the provisions of subsections (2) and (3), there shall be deducted from the amount payable by virtue of this Law to a member of the Provincial Legislature (excluding the Premier and the Speaker), an amount of R100 for every day on which he or she fails to attend a meeting of-
  - (a) the Provincial Legislature;
  - (b) the Executive Council, if he or she is a member, or
  - (c) a committee of which he or she is a member, 5 unless the meeting which is not attended by the member takes place at the same time as any other meeting referred to in paragraph (a), (b) or (c), which other meeting is attended by him or her.
- (2) For the purposes of subsection (1), a member of the Provincial Legislature shall not be regarded as having attended a meeting of a committee unless he or she remained in attendance until the adjournment of the meeting or was excused from further attendance by the chairperson of the committee before the adjournment.
- (3) No deduction shall be made in terms of subsection (1) on account of the failure of a member of the Provincial Legislature-
  - (a) to attend any meeting referred to in that subsection, if the member's absence is due to-
    - (i) his or her illness or the summons or subpoena of a competent court with the exclusion of a summons to appear on a criminal charge upon which he or she is convicted;
    - (ii) the death or serious illness of his or her spouse or child, and such absence is condoned by the Speaker in the case of a meeting referred to in subsection (1)(a) and (c) and the Premier in the case of a meeting referred to in subsection (1)(b), or
    - (iii) his or her serving with the National Defence Force, or with any other force or service established by or under the Defence Act, 1957 ([Act 44 of 1957](#)), during a state of national defence;
  - (b) to attend a meeting of the Provincial Legislature, referred to in subsection (1)(a), in respect of any further period of absence not exceeding 15 days during any calendar year in addition to any absence on account of circumstances referred to in paragraph (a), or
  - (c) to attend a meeting of a committee referred to in subsection (1)(c), if his or her absence is not due to any circumstances referred to in paragraph (a) but is condoned by the Speaker, on good cause shown by him or her, even if such meeting is held during the 15 days referred to in paragraph (b).

#### 4. Payment of remuneration and allowances

The Secretary shall pay to every member of the Provincial Legislature the remuneration and allowances to which he or she is entitled in terms of this Law, after deduction of any amounts contemplated in [section 3](#) in monthly instalments, the first month to be reckoned-

- (a) in the case of a member designated in terms of item 16 of Schedule 2 to the [Constitution](#), from the date of publication of the list of names of representatives as contemplated in subitem (3) of the said item, and
- (b) in the case of a member nominated in terms of section 133(2), read with section 44(2) of the [Constitution](#), to fill a vacancy, from the date on which the previous member vacated his or her seat in the Provincial Legislature or the date of receipt of the nomination by the Speaker, whichever is the later date.

#### 5. Charge to the Provincial Revenue Fund

The amount payable in respect of remuneration and allowances in terms of this Law shall be charged annually to the Provincial Revenue Fund, and the provisions of this section shall be deemed to be an appropriation of every such amount.

#### 6. Savings

- (1) Any remuneration or allowances paid to any member of the Provincial Legislature or to an office-bearer by the Secretary after 27 April 1994, but before the commencement of the first proclamation under [section 2\(1\)](#) of this Law, and purporting to have been remuneration or allowances as contemplated in section (4) or 149(10) of the [Constitution](#) shall be deemed to have been determined under this Law.
- (2) Notwithstanding the provisions of [section 4\(a\)](#) of this Law, the remuneration and allowances referred to in that section shall be deemed to have become payable with effect from 27 April 1994 to those persons who, in pursuance of the first election under the [Constitution](#), were designated as members of the Provincial Legislature in terms of item 16 of Schedule 2 to the [Constitution](#).

#### 7. Short title and commencement

This Law shall be called the Payment of Members of the Western Cape Provincial Legislature Law, 1994, and shall be deemed to have come into operation on 27 April 1994.