

North West, South Africa

## North West Provincial Legislature Management Act, 2007

Act 3 of 2007

Legislation as at 29 April 2010

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FRBR URI: /akn/za-nw/act/2007/3/eng@2010-04-29

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# North West South Africa

## North West Provincial Legislature Management Act, 2007 Act 3 of 2007

Published in North West Provincial Gazette 6770 on 29 April 2010

**Assented to on 30 May 2008**

**Commenced on 1 April 2008**

*[This is the version of this document as it was from 29 April 2010 to 29 May 2011.]*

To provide for the repeal of the North West Provincial Legislature Service **Act 8 of 1997**; to provide for the establishment of a Service of the Legislature; to clearly define the roles, functions, and responsibilities of the Speaker of the Legislature, Members of the Legislature, and the Secretary to the Legislature; to establish a framework for the administration of the Legislature; to regulate the financial management of the Legislature in a manner consistent with its status in terms of the **Constitution**; to ensure that all revenue, expenditure, assets and liabilities of the Legislature are managed efficiently and effectively; to define the responsibilities of officials in the Legislature, and in particular, persons entrusted with financial management responsibilities in the Legislature; and to provide for matters connected therewith.

Recognizing—

that the North West Provincial Legislature must be governed by the democratic values and principles in the **Constitution**

Therefore, in order to—

- promote and maintain a high standard of professional ethics in the general and financial management of the North West Provincial Legislature
- promote the efficient, economic and effective use of resources allocated to the North West Provincial Legislature;
- ensure transparency, accountability and sound management of the revenue, expenditure, assets and liabilities of the North West Provincial Legislature;
- ensure effective management of the Legislature in order to enable it to fulfill its Constitutional mandate;

BE IT ENACTED by the North West Provincial Legislature as follows:

## Chapter 1 Interpretation and objects

### 1. Definitions

(1) In this Act, unless the context otherwise indicates-

"Accounting Officer" means the Secretary to the Legislature, and includes, where appropriate, a person acting as the Accounting Officer;

"Accounting Standards Board" means the board established in terms of section 87 of the Public Finance Management Act;

"annual report" means the annual report referred to in [section 60](#);

"approved budget" means the Legislature's vote on the provincial annual budget as approved by the Legislature or revised in an adjustments budget by the Legislature;

"[Constitution](#)" means the [Constitution of the Republic of South Africa, 1996](#) ([Act No. 108 of 1996](#));

"employee" means an employee as defined in terms of section 213 of the Labour Relations Act ([Act No. 66 of 1995](#));

"Executing Authority" means the Speaker of the Legislature;

"financial year" means a year ending 31 March;

"fixed establishment" means the posts which have been created on the Legislature's organogram for the normal and regular requirements of the Legislature Service;

"fruitless and wasteful expenditure" means expenditure that was made in vain and would have been avoided had reasonable care been exercised;

"irregular expenditure" means expenditure, other than unauthorised expenditure, incurred in contravention of or that is not in accordance with a requirement of this Act or any other applicable legislation that regulates the financial management of Provincial Legislatures;

"Legislature" means the North West Provincial Legislature, constituted in terms of section 105 of the [Constitution](#);

"main division" means one of the main segments into which the Legislature's vote is divided and which specifies the total amount which is appropriated for the items under that segment;

"Member" means any elected Member of the North West Provincial Legislature;

"month" means one of the 12 months of a calendar year;

"official" means an employee of the Legislature or any other person to whom any function is delegated in terms of this Act;

"overspending" —

- (a) in relation to the vote of the Legislature, means causing expenditure under the vote to exceed the amount appropriated for the vote; or
- (b) in relation to a main division within the vote of the Legislature, means causing expenditure under the main division to exceed the amount appropriated for that main division;

"prescribe" means prescribe by regulation in accordance with [section 70](#);

"Public Finance Management Act" means the Public Finance Management Act, 1999 ([Act No. 1 of 1999](#));

"quarter" means any of the following periods in a financial year:

- (a) 1 April to 30 June;
- (b) 1 July to 30 September;
- (c) 1 October to 31 December; or
- (d) 1 January to 31 March;

"Secretary" means the Secretary to the North West Provincial Legislature;

"Service" means the service of the Legislature established in terms of [section 5](#);

"Speaker" means the Speaker of the North West Provincial Legislature, elected in terms of section 111 and Schedule 3 of the [Constitution](#) and the Standing Rules of the Legislature; and "Deputy Speaker" shall have a corresponding meaning; and

"Standing Rules" means the rules made by the Legislature in terms of section 116 of the [Constitution](#);

"standards of generally recognised accounting practice" means an accounting practice complying in material respects with standards issued by the National Minister of Finance on the advice of the Accounting Standards Board;

"unauthorised expenditure" means—

- (a) overspending of the Legislature's vote or a main division within that vote;
- (b) any expenditure from the Legislature's vote or a main division within the vote for a purpose unrelated to the vote or main division, subject to [section 24](#);
- (c) any expenditure of money for a purpose for which funds have not been appropriated or approved; or
- (d) any expenditure of donor funds for a purpose other than that specified in the agreement with the donor;

"vote" means the Legislature's vote on the provincial annual budget referred to in section 28 (1) of the Public Finance Management Act;

- (2) In this Act, a word or expression derived from a word or expression defined in subsection (1) has a corresponding meaning unless the context indicates that another meaning is intended.

## 2. Object of this Act

- (1) The objects of this Act are—
  - (a) to ensure transparency, accountability and sound management of the revenue, expenditure, assets and liabilities of the Legislature;
  - (b) to establish norms and standards for managing the financial affairs of the Legislature;
  - (c) to establish a Service of the Legislature which can enable the Legislature to effectively carry out its functions;
  - (d) to clearly define the roles, functions, and responsibilities of the Speaker of the Legislature, Members of the Legislature, the Secretary to the Legislature, and officials of the Legislature; and
  - (e) to establish a framework for the effective administration of the Legislature.

## Chapter 2

### Matters relating to the repeal of the North West Provincial Legislature Service [Act 8 of 1997](#)

#### 3. Deeming provision

Anything purported to have been done for and on behalf of the Legislature, and any person or persons purported to have been appointed to the staff of the Legislature prior to the coming into operation of this Act, shall be deemed to have been done and/or appointed in terms of the provisions of this Act.

#### 4. Disestablishment of Bodies Established in terms of [Act 8 of 1997](#)

The Management Board, the Internal Supplies Committee, and the Management Committee, which were established in terms of the North West Provincial Legislature Service [Act 8 of 1997](#), are hereby disestablished.

## Chapter 3

### The Legislature Service

#### 5. Establishment of the Legislature Service

There is hereby established the Legislature Service, whose principal duties shall be to provide administrative services to the Speaker and other Members of the Legislature.

## Chapter 4

### The roles, functions, and responsibilities of the Speaker, Members of the Legislature, the Secretary to the Legislature, and officials of the Legislature

#### 6. Speaker of the Legislature

- (1) The Speaker, elected in terms of section 111 and Schedule 3 of the [Constitution](#) and the Standing Rules of the Legislature, is the Executing Authority of the Legislature.
- (2) The Speaker has overall responsibility for the Legislature, and is accountable to the Legislature for the sound management of the Legislature. The Speaker shall report to the Legislature as required in terms of this Act or any other applicable national or provincial legislation.
- (3) The Speaker is responsible for the overall strategic direction of the Legislature, and for policies which are adopted by the Legislature which are applicable to the Service and the administration of the Legislature.
- (4) The control of the expenditure and the appropriation of moneys for the Service vests in the Speaker, who is responsible for exercising the Treasury Function for the Legislature.
- (5) The Speaker shall be responsible for ensuring that the Legislature operates in accordance with the [Constitution](#), all applicable national and provincial legislation, and the Legislature's policies.
- (6) For as long as the Speaker is, for any reason, unable to perform the duties of the office, the Deputy Speaker shall perform the duties and exercise the powers of the Speaker.

#### 7. Secretary to the Legislature

- (1) The Secretary is the Accounting Officer for the Legislature, who is responsible for -
  - (a) the collection, receipt, custody and payment of moneys for the services of the Legislature,



- (b) for the receipt, custody and control of property acquired for the administration of the Legislature and,
  - (c) for keeping of proper accounts in respect of such moneys and property.
- (2) The Secretary is accountable to the Executing Authority for the sound management of the Legislature.
- (3) The Secretary is responsible for-
  - (a) providing assistance to the Legislature in carrying out its functions;
  - (b) enforcing the Standing Rules of the Legislature and orders made by the Speaker;
  - (c) providing administrative services to the Speaker and other Members of the Provincial Legislature; and
  - (d) the overall management of the Legislature, and in particular, the financial management of the institution and the management of the Service.
- (4) The Secretary is subject to the [Constitution](#), the provisions of any applicable national or provincial legislation which regulates the financial management of the Provincial Legislatures, the Standing Rules of the Legislature, the policies of the Legislature, and the performance management agreement which the Secretary must sign in terms of the Performance Management Development System in the Legislature.
- (5) Provided that the Secretary is unable to exercise his or her powers for any other reason, the Speaker shall appoint any person in the service of the Legislature to act as the Secretary to the Legislature.

## 8. General financial management functions

The Secretary must ensure that—

- (a) the Legislature's resources are used effectively, efficiently, economically and transparently;
- (b) full and proper records of the financial affairs of the Legislature are kept;
- (c) the Legislature maintains effective, efficient and transparent systems of financial management, risk management, internal control and internal audit;
- (d) the Legislature has appropriate systems to manage the performance of its officials;
- (e) there are suitable training and awareness programmes related to financial management for officers of the Legislature;

## 9. Members of the Legislature

The functions and activities of Members of the Legislature shall be conducted in accordance with the [Constitution](#), all applicable national and provincial legislation, the Standing Rules of the Legislature, and rules and policies adopted by the Rules Committee of the Legislature.

## 10. Responsibilities of officials

- (1) Every official in the Legislature, and particularly those assigned financial management responsibilities must—
  - (a) comply with the provisions of this Act and all other national and provincial legislation, to the extent applicable to that official;
  - (b) comply with the terms of any delegations in terms of [section 16](#); and

- (c) take all reasonable steps within that official's area of responsibility to ensure—
  - (i) that the Legislature's system of financial management and internal control is implemented diligently;
  - (ii) that the Legislature's financial and other resources are used effectively, efficiently, economically and transparently;
  - (iii) that any unauthorized expenditure, irregular expenditure, fruitless and wasteful expenditure and other losses are prevented, and, when such expenditure or losses occur, are reported to the Secretary;
  - (iv) that all revenue due to the Legislature is collected; and
  - (v) that the Legislature's assets and liabilities are managed effectively, and that assets are safeguarded and maintained to the extent necessary.

## 11. Fiduciary responsibilities

- (1) The Secretary and all officials in the Legislature must —
  - (a) act with fidelity, honesty, integrity and in the best interests of the Legislature in managing its financial affairs;
  - (b) disclose all material facts which are available to that person or reasonably discoverable, and which in any way might influence any decision or action in terms of this Act; and
  - (c) seek to prevent any prejudice to the financial interests and good reputation of the Legislature.
- (2) For the purposes of subsection (1) (b), any disclosure must be made—
  - (a) in the case of the Secretary, to the Speaker; and
  - (b) in the case of any other person, to the Secretary.
- (3) No official of the Legislature—
  - (a) may act in a way that is inconsistent with the Act; or
  - (b) may use their position or any confidential information obtained in the exercise of their responsibilities for personal gain or to benefit improperly themselves or any other person.

## Chapter 5

### Staff, their terms and conditions of employment, and organisation

## 12. Staff of the Legislature

- (1) The Secretary shall appoint staff required for the proper functioning of the Legislature, in accordance with the organogram of the Legislature as approved by the Speaker in terms of the [Constitution](#) and all applicable national legislation and the policies of the Legislature.
- (2) The appointment of:
  - (a) three Executive Managers of the Legislature shall be made by the Secretary, in consultation with the Speaker.
  - (b) staff in the Speaker's Office shall be made by the Secretary, upon the instruction of the Speaker.
  - (c) all other staff members shall be made by the Secretary.

- (3) The promotion, transfer or dismissal of any employee in the Speaker's Office shall be made by the Secretary, after consultation with the Speaker.
- (4) The promotion, transfer or dismissal of any other employee of the Legislature shall be made by the Secretary.
- (5) Any promotion, transfer or dismissal of any employee of the Legislature shall be in accordance with the [Constitution](#), all applicable national legislation and the policies of the Legislature.

### 13. Conditions of service of staff

- (1) The Secretary shall, after consultation with the Speaker, make, and may from time to time vary, policies providing for the conditions of service for employees of the Legislature and regarding the appointment, promotion, demotion, transfer, or dismissal of employees.
- (2) All policies relating to the conditions of service for employees of the Legislature and regarding the appointment, promotion, demotion, transfer or dismissal of employees shall be in accordance with the [Constitution](#) and all applicable national and provincial legislation.

### 14. Organisation of the Legislature Service

The Service shall be organized in accordance with this Act and the organogram of the Legislature, as approved by the Speaker from time to time, which shall set out the posts on the fixed establishment of the Legislature.

### 15. Management of the Legislature Service

- (1) The Secretary may establish structures within the Service to assist with the consideration of issues relating to the management of the Legislature, the development of policies regarding the management of the institution, and the effective running of the institution.
- (2) All policies developed relating to the Legislature Service and the management of the Legislature shall be subject to the final approval of the Speaker, and shall be in accordance with the [Constitution](#) and all applicable national and provincial legislation.

### 16. Delegation of powers

- (1) The Secretary may delegate any powers or duties conferred on the Secretary subject to any limitations which may be contained in applicable national legislation to an official of the Legislature in accordance with a system of delegation.
- (2) The system of delegation must be developed with the concurrence of the Speaker and must—
  - (a) maximize administrative and operational efficiency; and
  - (b) provide adequate checks and balances in the financial management of the Legislature.
- (3) The Secretary must regularly review delegations made in terms of subsection (1) and, if necessary, amend or withdraw any of those delegations.
- (4) A delegation in terms of subsection (1)—
  - (a) must be in writing;
  - (b) is subject to any limitations and conditions the Secretary may impose;
  - (c) may be to an individual or to the holder of a specific post in the Service;
  - (d) may authorize that official to sub-delegate, in writing, the delegated power or duty to another official, or to the holder of a specific post in the Service; and

- (e) does not divest the Secretary of responsibility for the exercise of the delegated power or the performance of the delegated duty.
- (5) The Secretary may confirm, vary or revoke any decision taken by an official in terms of a delegation under subsection (2), subject to any rights that may have become vested as a consequence of the decision.

## **Chapter 6**

### **Planning and budgeting**

#### **17. Preparation of strategic plan, annual performance plan and budget**

The Speaker must—

- (a) oversee the preparation of the Legislature's strategic plan, annual performance plan and budget in accordance with this Chapter;
- (b) approve the strategic plan, annual performance plan and budget for submission to the Legislature.

#### **18. Strategic plan**

- (1) Within six months after a general election, or by another date determined by the Legislature, the Secretary must prepare and present a strategic plan for the Legislature's administration to the Speaker.
- (2) The strategic plan for the Legislature's administration must—
  - (a) cover the following five years or other period determined by the Legislature,
  - (b) specify the priorities of the Legislature's administration for the period of the plan;
  - (c) include objectives and outcomes for each programme of the Legislature;
  - (d) include multi-year projections of revenue and expenditure; and
  - (e) include performance measures and indicators for assessing the administration's performance in implementing the strategic plan.

#### **19. Annual performance plan**

- (1) At least ten months prior to the start of the financial year, the Secretary must prepare a draft annual performance plan for the Legislature and present it to the Speaker.
- (2) The annual performance plan must—
  - (a) cover the following financial year and the two financial years thereafter or other period determined by the Legislature;
  - (b) indicate any changes to the Legislature's priorities as set out in the strategic plan.
  - (c) update the projections of revenue and expenditure presented in the strategic plan;
  - (d) specify performance targets related to each of the performance measures and indicators for assessing the Legislature's performance in achieving its objectives and outcomes; and
  - (e) provide details of the Legislature's donor funded projects, including
    - (i) the donors and the amounts being given;
    - (ii) the purposes of the projects; and

- (iii) performance measures and indicators for assessing the Legislature's performance in achieving the purposes of the projects.

## 20. Annual Budget

- (1) At least ten months prior to the start of the financial year, the Accounting Officer must prepare a draft budget for the Legislature and present it to the Speaker.
- (2) The Legislature's budget must —
  - (a) cover the following financial year and the two financial years thereafter or other period determined by the Legislature;
  - (b) specify the Legislature's expected revenues, distinguishing between—
    - (i) funds to be appropriated through the annual provincial budget;
    - (ii) funds that are a direct charge against the Provincial Revenue Fund; and
    - (iii) funds derived from the Legislature's own revenue sources, excluding donor funds;
  - (c) specify the Legislature's proposed expenditure requirements per main division within the budget, distinguishing between the sources of funds identified in paragraph (b);
  - (d) specify the purpose of each main division within the budget and provide explanations and other information substantiating the amounts proposed in terms of paragraphs (b) and (c);
  - (e) specify—
    - (i) allocations of support for political parties represented in the Legislature;
    - (ii) constituency funds for political parties; and
    - (iii) transfers to other entities; 1
  - (f) contain a schedule of the planned expenditure under the Legislature's donor funded projects; and
  - (g) be in accordance with the format prescribed under section 27(3) of the Public Finance Management Act.

## 21. Annual appropriations and approvals

- (1) For each financial year, the Legislature must—
  - (a) appropriate the funds identified in terms of [section 20\(2\)\(b\)\(i\)](#) in the provincial annual budget referred to in section 27 (2) of the Public Finance Management Act;
  - (b) approve the use of the funds identified in terms of [section 20\(2\)\(b\)\(iii\)](#) before the start of the financial year.
- (2) Any revision of an appropriation in terms of subsection (1) must be made by a provincial adjustments budget referred to in section 31 of the Public Finance Management Act.

## 22. Expenditure before provincial annual budget is passed

- (1) If the provincial annual budget is not passed before the start of the financial year, funds may be withdrawn from the Provincial Revenue Fund for the requirements of the Legislature during that financial year as direct charges against the Fund until the budget is passed.
- (2) Funds withdrawn from the Provincial Revenue Fund in terms of subsection (1) -
  - (a) may be used only for services for which funds were appropriated in the previous annual budget or adjustments budget; and

- (b) may not—
  - (i) during the first four months of that financial year, exceed 45 per cent of the total amount appropriated in the previous annual budget;
  - (ii) during each of the following months, exceed ten per cent of the total amount appropriated in the previous annual budget; and
  - (iii) in aggregate, exceed the total amount appropriated in the previous annual budget.
- (3) The funds provided for in subsection (1) are not additional to funds appropriated for the relevant financial year, and any funds withdrawn in terms of that subsection must be regarded as forming part of the funds appropriated in the budget for that financial year.

## **23. Unauthorized expenditure**

- (1) Unauthorized expenditure incurred by the Legislature does not become a charge against the Provincial Revenue Fund, unless—
  - (a) the expenditure is an overspending of a vote and the Legislature appropriates an additional amount for that vote which covers the overspending; or
  - (b) the expenditure is unauthorized for another reason and the Legislature authorizes the expenditure as a direct charge against the Provincial Revenue Fund.
- (2) The Legislature must advise the Provincial Treasury of any unauthorized expenditure that has been authorized in terms of subsection (1).
- (3) If the Legislature authorizes unauthorized expenditure contemplated in sub-section (1) but does not appropriate an additional amount covering the amount of the unauthorized expenditure, the unauthorized expenditure becomes a charge against the funds of the Legislature.

## **24. Virement between main divisions within vote**

- (1) The Secretary may use a saving in the total amount appropriated under a main division within the Legislature's vote towards defraying excess expenditure under another main division within the vote, unless the Speaker directs otherwise.
- (2) The amount of a saving under a main division of the Legislature's vote that may be used in terms of subsection (1), may not exceed eight per cent of the amount appropriated under that main division.
- (3) This section does not authorize the use of a saving of an amount—
  - (a) specifically and exclusively appropriated for a purpose mentioned under a main division within the vote;
  - (b) appropriated for transfer to another institution;
  - (c) appropriated for capital expenditure in order to defray current expenditure; or
  - (d) that is a direct charge against the Provincial Revenue Fund in order to supplement the Legislature's appropriated funds.
- (4) The Speaker may make regulations or issue instructions concerning the application of this section.

## **25. Roll-over of unspent funds**

- (1) Funds appropriated for, but not spent in, a particular financial year may be rolled over to a subsequent year subject to—
  - (a) the approval of the Speaker; and

- (b) reappropriation in the adjustments budget in terms of section 30 of the Public Finance Management Act.
- (2) Any roll over must comply with the following conditions:
  - (a) savings in respect of funds that are a direct charge against the Provincial Revenue Fund may not be rolled over.
  - (b) unspent funds on payments for capital assets may be rolled over only to finalise projects or asset acquisitions still in progress.
  - (c) savings on transfers and subsidies may not be rolled over for purposes other than originally appropriated.
  - (d) savings on funds appropriated for personnel expenditure may not be rolled over.
  - (e) a maximum of five per cent of the Legislature's funds appropriated for goods and services may be rolled over.
- (3) The Speaker must submit information on the roll-over of unspent funds to the Provincial Treasury on or before the last working day of April for inclusion in the appropriate provincial adjustments budget.
- (4) The Legislature's own revenues that are approved for in respect of a particular financial year, but not spent in that year, may not be rolled over but must be approved in the following financial year

## **26. Surrender of voted surplus funds**

- (1) Funds that are a direct charge against the Provincial Revenue Fund and that are unspent at the end of a financial year must be returned to the Provincial Revenue Fund.
- (2) Appropriated funds that are unspent at the end of a financial year and are not rolled over to a subsequent financial year in accordance with [section 24](#) must be returned to the Provincial Revenue Fund.

## **Chapter 7** **Cash management and investment**

### **27. Cash management and investment policy**

- (1) The Speaker must prescribe an appropriate policy—
  - (a) to ensure efficient and effective banking and cash management; and
  - (b) for investing money not immediately required.
- (2) The Secretary is responsible for establishing systems and procedures for the effective implementation of the policy prescribed in terms of subsection (1).

### **28. Opening of bank accounts**

- (1) The Secretary, with the approval of the Speaker, and in accordance with the policy referred to in [section 27](#), must open and maintain—
  - (a) a bank account into which all money received by the Legislature must promptly be paid; and
  - (b) such other bank accounts as are necessary for the effective and efficient management of the Legislature's funds.

- (2) The Legislature may not open a bank account—
  - (a) abroad;
  - (b) with an institution not registered as a bank in terms of the Banks Act, 1990 ([Act No. 94 of 1990](#)); or
  - (c) otherwise than in the name of the Legislature.
- (3) A bank account opened in terms of this section does not form part of the Provincial Revenue Fund.

## 29. Control of bank accounts

The Secretary—

- (a) must administer all bank accounts of the Legislature;
- (b) is accountable to the Speaker for the Legislature's bank accounts; and
- (c) must enforce compliance with [section 30](#).

## 30. Withdrawals from bank accounts

- (1) Only the Secretary, or an official to whom that power has been delegated in terms of [section 16](#), may withdraw money, or authorise the withdrawal of money, from any of the Legislature's bank accounts.
- (2) A delegation in terms of subsection (1) must be in accordance with the policy made in terms of [section 27](#).
- (3) Money may be withdrawn from one of the Legislature's bank accounts only for—
  - (a) defraying expenditure in accordance with the Legislature's approved budget or authorized for the Legislature as a direct charge against the Provincial Revenue Fund;
  - (b) defraying expenditure incurred in relation to a donor funded project;
  - (c) refunding money incorrectly paid into a bank account;
  - (d) to make other refunds approved by the Speaker; or
  - (e) cash management or investment purposes in accordance with the policy made in terms of [section 27](#).

## 31. Restrictions on borrowing, guarantees and other transactions

- (1) The Legislature may not—
  - (a) borrow money;
  - (b) issue a guarantee, indemnity or security, or
  - (c) enter into any other similar transaction that binds or may bind it to any future financial commitment.
- (2) The Legislature is not bound by a loan transaction, guarantee, indemnity, security or other transaction entered into or concluded in breach of subsection (1).

## 32. Requisitioning of funds

The Speaker must determine a process for requisitioning funds that provides for sound cashflow management.



## **Chapter 8**

### **Financial arrangements**

#### **33. Asset and liability management**

- (1) The Secretary is responsible for managing—
  - (a) The Legislature's assets, including safeguarding and maintaining those assets; and
  - (b) The Legislature's liabilities.
- (2) For the purposes of subsection (1), the Secretary must ensure that—
  - (a) The Legislature maintains a management, accounting and information system that accounts for its assets and liabilities;
  - (b) The Legislature's assets and liabilities are valued in accordance with generally recognised accounting practice; and
  - (c) The Legislature maintains a system of internal control of assets and liabilities, including an asset and liabilities register, as may be prescribed.

#### **34. Revenue management**

- (1) The Secretary is responsible for managing the revenue of the Legislature.
- (2) For the purposes of subsection (1), the Secretary must ensure that—
  - (a) the Legislature has effective revenue collection systems;
  - (b) all money received is deposited promptly in accordance with this Act into the bank account contemplated by [section 28\(1\)\(a\)](#);
  - (c) the Legislature maintains a management, accounting and information system which—
    - (i) recognizes revenue when it is earned; and
    - (ii) accounts for receipts of revenue;
  - (d) the Legislature maintains a system of internal control in respect of revenue; and
  - (e) all revenue received by the Legislature is reconciled at least on a weekly basis.

#### **35. Management of debtors**

- (1) The Secretary must take effective and appropriate steps to collect all monies due to the Legislature including—
  - (a) maintaining proper accounts and records of all debtors, including amounts received in part payment; and
  - (b) if appropriate, instituting legal proceedings.
- (2) The Secretary may settle or write off a debt only in accordance with a prescribed policy.
- (3) Interest must be charged on any debt owed to the Legislature in accordance with a prescribed policy.

#### **36. Expenditure management**

- (1) The Secretary is responsible for managing the expenditure of the Legislature.

- (2) For the purpose of subsection (1), the Secretary must ensure that—
- (a) the Legislature maintains an effective system of expenditure control, which includes procedures for the approval and authorization of the withdrawal and payment of funds;
  - (b) The Legislature maintains a management, accounting and information system which—
    - (i) recognizes expenditure when it is incurred;
    - (ii) accounts for creditors of the Legislature; and
    - (iii) accounts for payments made by the Legislature;
  - (c) the Legislature maintains a system of internal control in respect of creditors and payments;
  - (d) the Legislature makes payment—
    - (i) directly to the person to whom it is due unless agreed otherwise or for good reason; and
    - (ii) either electronically or by way of non-transferable cheques, but cash payments and payments by way of cash cheques may be made for exceptional reasons, and only up to a prescribed limit;
  - (e) all amounts owed by the Legislature are paid within 30 days of receiving the relevant invoice or statement, unless agreed otherwise; and
  - (f) all financial accounts of the Legislature are closed at the end of each month and reconciled with its records.

### **37. Support for political parties**

- (1) Allocations for support for political parties represented in the Legislature may be used only in accordance with a policy adopted by the Legislature.
- (2) Thirty days prior to the beginning of each financial year, each political party must submit to the Secretary an expenditure plan approved by the caucus of the party, that conforms with the policy contemplated by sub-section (1).

### **38. Constituency funds**

- (1) Constituency funds transferred to political parties represented in the Legislature may be used only in accordance with a policy adopted by the Legislature.
- (2) Before transferring any funds to a party, the Secretary must—
  - (a) obtain a written assurance from the party it has financial management systems that will enable it to account separately for the use of constituency funds; or
  - (b) if such an assurance is not or cannot be given, the Secretary must render the transfer of the funds subject to conditions requiring the political party to establish and implement the required financial management systems.
- (3) Two months after the end of the financial year, each political party must submit to the Speaker and the Auditor-General financial statements in the prescribed format reflecting the use of the constituency funds.
- (4) The Auditor-General must—
  - (a) audit the financial statements;
  - (b) submit an audit report on those statements to the Speaker within two months of receiving them; and

- (c) recover the audit costs from the Legislature.
- (5) Within five days of receiving an audit report, the Speaker must table it and the relevant financial statements in the Legislature, unless the Legislature is then in recess, in which case the Speaker must table the report in the first sitting of the Legislature thereafter.
- (6) Should a party not submit the financial statements to the Secretary within two months after the end of a financial year, the party will forfeit one tenth of its constituency funds for each month or part thereof that the financial statements are late.

### **39. Transfers**

Before transferring any funds to any entity, whether within or outside government, the Secretary must obtain—

- (a) a written assurance from the entity that it implements effective, efficient and transparent financial management and internal control systems; or
- (b) render the transfer subject to conditions and remedial measures requiring the entity to establish and implement effective, efficient and transparent financial management and internal control systems.

### **40. Budget implementation**

The Legislature is responsible for implementing the Legislature's budget and must ensure that—

- (a) spending is in accordance with the approved budget; and
- (b) revenue and expenditure are properly monitored.

### **41. Instructions from the Speaker with financial implications**

- (1) Any directive by the Speaker to the Secretary that has financial implications must be in writing.
- (2) If implementation of a directive is likely to result in unauthorized expenditure, the Secretary will be responsible for any resulting unauthorized expenditure, unless the Secretary has informed the Speaker in writing of the likelihood of that unauthorized expenditure.
- (3) If the Speaker decides to proceed with the implementation of such a directive, the decision and the reasons for it, must be in writing, and the Secretary must promptly file a copy of this document with the Auditor-General.

### **42. Impending shortfalls and overspending**

The Secretary must—

- (a) report in writing to the Speaker—
  - (i) any impending shortfalls in budgeted revenue and overspending of a main division within the Legislature's vote; and
  - (ii) any steps taken to prevent or rectify such shortfalls or overspending; and
- (b) comply with any remedial measures imposed by the Speaker to prevent or rectify such shortfalls or overspending.

## **Chapter 9**

### **Supply chain management**

#### **43. Application of this Chapter**

This Chapter applies to—

- (a) the procurement by the Legislature of goods and services; and
- (b) the disposal and letting of the Legislature's assets, including the disposal of goods no longer required.

#### **44. Supply chain management policy**

The Speaker must prescribe a supply chain management policy which—

- (a) is fair, equitable, transparent, competitive and cost effective;
- (b) promotes high ethical standards and prohibits fraud, corruption, favoritism and unfair and irregular practices;
- (c) requires disclosure of and deals appropriately with conflicts of interests;
- (d) establishes appropriate supply chain management processes and procedures, including—
  - (i) demand management;
  - (ii) acquisition management;
  - (iii) logistics management;
  - (iv) disposal management;
  - (v) risk management; and
  - (vi) regular assessment of supply chain performance;
- (e) complies with other applicable legislation;
- (f) is consistent with the supply chain management policy issued in terms of the Public Finance Management Act; and
- (g) covers at least the matters specified in Schedule 1 to this Act.

#### **45. Implementation of system**

The Secretary must—

- (a) implement the supply chain management policy;
- (b) establish capacity in the Legislature to implement the policy;
- (c) take all reasonable steps to ensure that proper mechanisms are in place to minimize dishonesty, favoritism and unfair and irregular practices;
- (d) ensure that contracts concluded for the supply of services and goods are properly enforced;
- (e) monitor the performance of contractors; and
- (f) regularly report to the Speaker on—
  - (i) the management of contracts and the performance of contractors; and
  - (ii) the implementation of the policy.

#### **46. Supply Chain Management Committee**

In consultation with the Speaker, the Secretary may-

- (a) constitute a Supply Chain Management Committee for the procurement of the services and supplies for the Legislature;
- (b) determine the size, structure, composition and duration of the Supply Chain Management Committee;
- (c) determine the procedures to be followed by the Supply Chain Management Committee in procuring the required services and supplies; and
- (d) determine the terms, conditions and other specification of the procurement contracts;

Provided that the system used by the Supply Chain Management Committee shall be fair, equitable, transparent, competitive and cost-effective, and in accordance with all applicable requirements set out in national or provincial legislation, and the supply chain management policy for the Legislature.

#### **47. Unsolicited offers**

- (1) The Speaker may prescribe procedures for considering offers to supply goods or services that are unsolicited or are made otherwise than in accordance with the Legislature's prescribed procurement processes.
- (2) The Legislature—
  - (a) is not obliged to consider any offer contemplated in subsection (1);
  - (b) may consider an offer contemplated in sub-section (1) only in accordance with the prescribed procedure.

#### **48. Tenders not recommended**

- (1) The Secretary must notify the Auditor-General and the Speaker in writing if a contract is concluded in respect of a tender, quotation, or other bid other than the one recommended in terms of the supply chain management policy.
- (2) Sub-section (1) does not apply if a contract was concluded in order to rectify an irregularity.

#### **49. Members of the Legislature barred from serving on tender committees**

No Member of the Legislature may—

- (a) be a member of a committee evaluating or approving tenders, quotations, contracts or other bids for the Legislature.
- (b) attend any meeting of such committee as an observer; or
- (c) participate in any other way in evaluating or approving tenders, quotations, contracts or other bids for the Legislature.

#### **50. Interference**

No person may—

- (a) interfere with the supply chain management system of the Legislature;
- (b) impede the Secretary in fulfilling the responsibilities of the Secretary in terms of this Chapter; or
- (c) amend or tamper with any tender, quotation, contract or bid after its submission.

**51. Prohibition on contracts**

No contract to provide goods or services to the Legislature may be awarded to a Member of Parliament, to a Member of a Provincial Legislature, to a Municipal Councilor, to a person in the employ of the State or to any entity in which such a person is a Director or has a controlling or other substantial interest.

## **Chapter 10**

### **Audit committee and internal audit unit**

**52. Establishment of audit committee**

- (1) The Legislature must have an audit committee appointed by the Speaker.
- (2) The committee must—
  - (a) be constituted in a manner that ensures its independence; and
  - (b) consist of at least six persons with appropriate experience.
- (3) More than half of the members of the committee must be individuals who—
  - (a) are not employed by the Legislature or the state and are not Members of Parliament, a Provincial Legislature or a municipal council; and
  - (b) have no personal or financial interest in any matter related to the financial management of the Legislature.
- (4) The Speaker must appoint one of the members contemplated by subsection (3) as the chairperson of the committee.
- (5) The terms of appointment and remuneration of members of the audit committee contemplated in subsection (3) must be consistent with the requirements for audit committees prescribed under the Public Finance Management Act.
- (6) A member of the audit committee who has a personal or financial interest in any matter before the committee must disclose that interest and withdraw from the proceedings of the committee when that matter is considered.

**53. Functions of audit committee**

- (1) The audit committee must—
  - (a) establish an audit charter to—
    - (i) guide its audit approach and that of the internal audit unit;
    - (ii) set out its operating procedures; and
    - (iii) determine the rules that govern its relationship with the internal audit unit and the Secretary;
  - (b) carry out such investigations into the Legislature's financial and risk management as it considers necessary or are requested by the Secretary;
  - (c) in the annual report of the Legislature, comment on—
    - (i) the effectiveness of internal control;
    - (ii) the quality of financial management and reports compiled by the Secretary in terms of this Act and other applicable national and provincial legislation; and
    - (iii) the quality of the annual financial statements;

- (d) report to and advise the Secretary on matters relating to the financial and risk management of the Legislature; and
  - (e) communicate any concerns it deems necessary to the Speaker and the Auditor-General.
- (2) In performing its functions, the audit committee must—
  - (a) have access to the financial records and other relevant information of the Legislature;
  - (b) must meet as often as required to perform its functions, but at least four times a year; and
  - (c) must liaise with—
    - (i) the internal audit unit of the Legislature; and
    - (ii) the person designated by the Auditor-General to audit the financial statements of the Legislature;

#### **54. Allegations against the Secretary**

If the audit committee becomes aware of information implicating the Secretary in fraud, corruption or gross negligence, it must report this promptly to the Speaker.

#### **55. Internal audit unit**

- (1) The Legislature must have an internal audit unit established by the Secretary, which must conduct internal audits in accordance with the relevant standards prescribed for public entities in terms of the Public Finance Management Act.
- (2) The unit must prepare for the approval of the audit committee—
  - (a) operating procedures to guide its relationship with the administration of the Legislature;
  - (b) a three-year risk-based audit plan; and
  - (c) an internal audit program for each financial year setting out the proposed scope of each audit.
- (3) The unit must report quarterly to the audit committee on its performance against the annual audit plan.
- (4) The unit must—
  - (a) be independent of the activities that are audited; and
  - (b) have access to the financial records and other relevant information of the Legislature.

## **Chapter 11 Reporting and auditing**

### **Part 1 – In-year reporting**

#### **56. Monthly financial statements**

- (1) Within fifteen days after the end of each month, the Secretary must submit a financial statement to the Speaker, in a format determined by the Speaker, reflecting the state of the Legislature's finances for that month and for the financial year to date and specifying—
  - (a) actual revenue by revenue source;
  - (b) actual expenditure by main division;

- (c) actual capital expenditure by main division; and
- (d) when necessary, an explanation of—
  - (i) any material variances from the Legislature's projected revenue by source, and from the Legislature's expenditure projections by main division; and
  - (ii) any remedial or corrective steps taken or to be taken to ensure that projected revenue and expenditure remain within the Legislature's approved budget.
- (2) The statement must include a projection of revenue and expenditure for the remainder of the financial year, and any revisions from initial projections.
- (3) The amounts reflected in the statement must in each case be compared with the corresponding amounts set out in the projected cash-flows and in the Legislature's budget.

## **57. Quarterly performance reports**

Within 30 days of the end of each quarter, the Secretary must report to the Speaker on the Legislature's performance in implementing the annual performance plan in that quarter.

## **58. Mid-year budget and performance assessment**

- (1) Before 31 October of each year, the Secretary must submit to the Speaker a report that assesses the performance of the Legislature's administration during the first half of the financial year, taking into account—
  - (a) the monthly statements referred to in sections [37](#) and [38](#) for the first half of the financial year;
  - (b) the past year's annual report, and progress on resolving problems identified in the report; and
  - (c) performance in implementing the annual performance plan.
- (2) In the report Secretary must—
  - (a) recommend whether an adjustments budget may be necessary; and
  - (b) revise projections for revenue and expenditure to the extent that this may be necessary.

## **59. Submission of reports to the Legislature**

The Speaker must table the monthly, quarterly and mid-year reports in the Legislature within five working days of receiving the reports, unless the Legislature is currently in recess, in which case the reports shall be tabled at the first sitting of the Legislature after the Legislature is back in session.

# **Part 2 – Annual report, financial statements and auditing**

## **60. Preparation of annual reports**

- (1) For each financial year, the Secretary must prepare an annual report.
- (2) The purpose of an annual report is to—
  - (a) provide a record of the activities of the Legislature's administration during the financial year to which the report relates;
  - (b) provide a report on performance of the Legislature's administration; and



- (c) promote accountability for decisions made during the year by the Legislature's administration.
- (3) The annual report must be based on the annual performance plan and must contain—
  - (a) the annual financial statements of the Legislature for the relevant financial year as submitted to the Auditor-General;
  - (b) any explanations that may be necessary to clarify the financial statements;
  - (c) the Auditor-General's audit report on those financial statements;
  - (d) an assessment by the Secretary of the performance of the Legislature during that financial year against the objectives and outcomes identified in Legislature's annual performance plan;
  - (e) particulars of any corrective action taken or to be taken in response to issues raised in the audit report referred to in paragraph (b);
  - (f) the audit committee's report; and
  - (g) any other prescribed information.

## **61. Preparation of financial statements**

- (1) For each financial year, the Secretary must prepare annual financial statements in accordance with generally recognized accounting practice and in the format prescribed in terms of the Public Finance Management Act.
- (2) The notes to the annual financial statements must—
  - (a) include particulars of the remuneration of officials of the Legislature, whether financial or in kind;
  - (b) disclose in respect of each bank account held by the Legislature during the relevant financial year—
    - (i) the name of the bank where the account is or was held, and the type of account; and
    - (ii) year opening and year end balances in each of these bank accounts; and
  - (c) provide a summary of all investments of the Legislature as at the end of the financial year; and
  - (d) provide particulars of—
    - (i) any material losses and any material unauthorized, irregular or fruitless and wasteful expenditures that occurred during the financial year and whether these are recoverable;
    - (ii) any criminal or disciplinary steps instituted as a result of such losses or unauthorized, irregular or fruitless and wasteful expenditures; and
    - (iii) any material losses written off.

## **62. Submission of annual financial statements**

- (1) Within two months after the end of the financial year, the Secretary must submit the annual financial statements—
  - (a) to the Auditor-General for auditing; and
  - (b) to the Provincial Treasury for inclusion in the consolidated financial statements.

### **63. Auditing of annual financial statements**

- (1) The Auditor-General must—
  - (a) audit the financial statements submitted in terms of [section 62](#); and
  - (b) submit an audit report on those statements to the Speaker within two months of receiving the statements.
- (2) If the Auditor-General is unable to complete an audit within two months of receiving the financial statements, the Auditor-General must promptly submit a report outlining the reasons for the delay to the Speaker. The Speaker must promptly table the report in the Legislature.
- (3) Once the Auditor-General has submitted an audit report to the Speaker, no person other than the Auditor-General may alter the report or the annual financial statements to which the report relates.

### **64. Submission of annual report**

The Secretary must submit the Legislature's annual report to the Speaker within five months of the end of the financial year concerned.

### **65. Tabling of annual report**

- (1) The Speaker must table the annual report in the Legislature within five working days of receiving it, unless the Legislature is in recess, in which case the report shall be tabled at the first sitting of the Legislature after the Legislature is back in session.
- (2) The annual report, including the audited financial statements and audit report, must be made public.

### **66. Issues raised in audit reports**

The Secretary must—

- (a) promptly address any issues raised by the Auditor-General in an audit report; and
- (b) advise the Speaker of the steps taken to address the issues.

### **67. Consequences of non-compliance with certain provisions**

- (1) If the Secretary does not submit the annual financial statements to the Auditor-General in accordance with [section 62](#)—
  - (a) the Secretary must promptly submit a written explanation setting out the reasons for the failure to—
    - (i) the Auditor-General; and
    - (ii) the Speaker; and
  - (b) the Speaker—
    - (i) must report to the Legislature concerning the failure;
    - (ii) must take appropriate steps to ensure that the financial statements are submitted for auditing; and
    - (iii) may order that disciplinary steps be taken against the Secretary or other person responsible for the failure; and
  - (c) the Auditor-General may issue a special report on such failure to the Legislature which must be made public.

- (2) If the Speaker does not table the annual report in the Legislature in accordance with [section 65](#)—
- (a) the Speaker—
    - (i) must table a report on the failure in the Legislature;
    - (ii) must take appropriate steps to ensure that the annual report is tabled in the Legislature; and
    - (iii) may order that disciplinary steps be taken against the Secretary or other person responsible for the failure; and
  - (b) the Auditor-General—
    - (i) must submit the audited financial statements and audit report to the Legislature for tabling; and
    - (ii) may issue a special report on the delay.

### **Part 3 – General reporting responsibilities**

#### **68. Reporting of irregularities**

The Secretary must report particulars of any unauthorized, irregular or fruitless and wasteful expenditure to the Speaker immediately on discovery.

#### **69. Other information**

The Secretary must comply with any request by the Speaker or the Auditor-General for information, returns, documents, explanations and motivations.

## **Chapter 12 Regulations and instructions**

#### **70. Regulations and instructions**

- (1) The Speaker may make regulations or issue instructions not inconsistent with this Act concerning—
- (a) any matter in respect of which this Act authorizes regulations or instructions;
  - (b) the handling of, and control over, the assets of the Legislature;
  - (c) the improvement and maintenance of the assets of the Legislature;
  - (d) the alienation, letting or other disposal of the assets of the Legislature;
  - (e) an appropriate supply chain management system for the Legislature which complies with Chapter 9;
  - (f) the financial management of the provision of support services to Members;
  - (g) the rendering of free services by the Legislature's administration;
  - (h) the determination of any scales of fees, other charges or rates relating to services provided by the Legislature's administration;
  - (i) the writing off of, or settling of claims in respect of, losses of money or other assets of the Legislature or amounts owed to the Legislature;
  - (j) liability for losses and damages, and procedures for recovery, including the recovery of fruitless and wasteful, unauthorized and irregular expenditure;

- (k) the cancellation or variation of contracts to the detriment of the Legislature;
  - (l) the settlement of claims by or against the Legislature;
  - (m) the waiver of claims by the Legislature;
  - (n) the remission of money due to the Legislature;
  - (o) gifts or donations to officials of the Legislature;
  - (p) vouchers or other proofs of receipts or payments, which are defective or have been lost or damaged;
  - (q) varying the time period within which any act must be performed in terms of this Act if it is necessary to achieve conformity with the budgeting or accounting cycles applicable to the public sector; and
  - (r) any other matter concerning the financial or general management of the Legislature that may facilitate the application of this Act.
- (2) Regulations in terms of subsection (1) may prescribe that the prior approval of the Speaker must be obtained for particular actions.
- (3) Regulations issued by the Speaker in terms of sub-section (1) may come into effect only after they have been approved by the Legislature.
- (4) The Secretary must publish all regulations issued by the Speaker after their approval by the Legislature.

## **Chapter 13**

### **Financial misconduct**

#### **Part 1 – Disciplinary proceedings**

##### **71. Financial misconduct by the Secretary**

- (1) The Secretary commits an act of financial misconduct if the Secretary deliberately or negligently—
- (a) contravenes a provision of this Act or other applicable national or provincial legislation that regulates the financial management of provincial legislatures;
  - (b) fails to comply with a duty imposed by a provision of this Act or other applicable national or provincial legislation on the Secretary as accounting officer;
  - (c) makes, or permits or instructs another official of the Legislature to make, an unauthorized, irregular or fruitless and wasteful expenditure; or
  - (d) provides incorrect or misleading information in any document which must be submitted to the Speaker or the Auditor- General in terms of this Act.
- (2) The Speaker must—
- (a) investigate promptly any allegation of financial misconduct against the Secretary, unless it is obviously unfounded; and
  - (b) if the investigation warrants such a step, institute disciplinary proceedings promptly and in accordance with any applicable systems and procedures.

## 72. Financial misconduct by officials

- (1) An official of the Legislature to whom a power or duty was delegated in terms of [section 16](#), commits an act of financial misconduct if that official deliberately or negligently—
  - (a) fails to carry out the delegated power or duty;
  - (b) contravenes or fails to comply with a condition of the delegated power or duty;
  - (c) makes, or permits or instructs another official of the Legislature to make, an unauthorized, irregular or fruitless and wasteful expenditure; or
  - (d) provides incorrect or misleading information in any document submitted to the Secretary.
- (2) The Secretary must—
  - (a) investigate any allegation of financial misconduct against an official unless it is obviously unfounded; and
  - (b) if the investigation warrants such a step, institute disciplinary proceedings within 30 days in accordance with any applicable systems and procedures.

## Part 2 – Criminal proceedings

## 73. Offences

- (1) It is an offence for the Secretary to—
  - (a) deliberately or in a grossly negligent way—
    - (i) contravene or fail to comply with a provision of [section 8](#), [33\(2\)\(a\)](#) or (c), [34\(2\)\(a\)](#) or (c) or [36\(2\)\(a\)](#), (b), (c), (d) or (f);
    - (ii) fail to take all reasonable steps to prevent unauthorized, irregular or fruitless and wasteful expenditure; or
  - (b) contravene [section 11](#) (3) (b);
  - (c) fail to take all reasonable steps to prevent corrupt practices —
    - (i) in the management of Legislature's assets or receipt of money; or
    - (ii) in the implementation of the Legislature's supply chain management system;
  - (d) deliberately mislead or withhold information from the Speaker or Auditor-General on any bank accounts of the Legislature or on money received or spent by the Legislature; or
  - (e) deliberately provide false or misleading information in any document which in terms of a requirement of this Act must be submitted to the Speaker or Auditor-General.
- (2) It is an offence for any official—
  - (a) to whom a power or duty is delegated in terms of [section 16](#), deliberately or in a grossly negligent way to contravene or fail to comply with the delegation or a condition of the delegation; or
  - (b) to contravene [section 11\(3\)\(b\)](#).
- (3) It is an offence for any person to contravene [section 50](#) or [63](#) (3).

#### **74. Penalties**

A person convicted of an offence in terms of [section 73](#) is liable to imprisonment for a period not exceeding five years or to an appropriate fine determined in terms of applicable legislation or both.

#### **75. Liability of functionaries exercising powers and functions in terms of this Act**

- (1) The Speaker, the Secretary or any other official exercising a power or performing a function in terms of this Act, is liable in respect of any loss or damage resulting from the exercise of that power or the performance of that function in good faith.
- (2) Without limiting liability in terms of the common law or other legislation, the Legislature may recover from the Secretary or other official, any loss or damage suffered by it because of the deliberate or negligent unlawful actions of the Secretary or other official when performing a function in terms of this Act.

#### **76. Repeal of Laws**

The laws mentioned in the first and second columns of Schedule 2 are hereby repealed to the extent indicated in the third column of Schedule 2.

#### **77. Transitional provision**

Anything purported to have been done for and on behalf of the Legislature, and any person or persons appointed to the staff of the Legislature in terms of this Act, prior to the commencement of this Act, shall be deemed to have been done or appointed in terms of the provisions of this Act.

#### **78. Short Title and Commencement**

This Act is called the North West Provincial Legislature Management Act, 3 of 2007 and shall come into operation on the 1st of April 2008.

### **Schedule 1**

#### **Matters that must be covered in the Legislature's supply chain management policy**

The Legislature's supply chain management policy must cover the following matters—

- (a) the range of supply chain management processes that the Legislature may use, including tenders, quotations, auctions and other types of competitive bidding;
- (b) when the Legislature may or must use a particular type of process;
- (c) procedures and mechanisms for each type of process;
- (d) procedures and mechanisms for more flexible processes where the value of a contract is below a prescribed amount;
- (e) open and transparent pre-qualification processes for tenders or other bids;
- (f) competitive bidding processes in which only pre-qualified persons may participate;
- (g) bid documentation, and the advertising of and invitations for contracts;
- (h) procedures and mechanisms for-
  - (i) the opening, registering and recording of bids in the presence of interested persons;
  - (ii) the evaluation of bids to ensure best value for money;

- (iii) negotiating the final terms of contracts; and
- (iv) the approval of bids;
- (i) screening processes and security clearances for prospective contractors on tenders or other bids above a prescribed value;
- (j) compulsory disclosure of any conflicts of interests prospective contractors may have in specific tenders;
- (k) the circumstances in which prospective contractors may be excluded from being considered for any contract on account of a conflict of interest;
- (l) the consequences of failing to disclose conflicts of interest in accordance with the Policy;
- (m) participation in the supply chain management system of persons who are not officials of the Legislature or employed by the state;
- (n) the barring of persons from participating in tendering or other bidding processes, including persons-
  - (i) convicted for fraud, corruption or any other crime involving dishonesty in the previous five years;
  - (ii) who willfully breached a contract with an organ of state during the previous five years; or
  - (iii) whose tax matters are not cleared by South African Revenue Service;
- (o) measures for—
  - (i) combating dishonesty, favoritism and unfair and irregular practices in supply chain management; and
  - (ii) promoting ethics of officials of the Legislature and others involved in supply chain management;
- (p) the invalidation of recommendations or decisions that were made, taken or in any way influenced by—
  - (i) Members of the Legislature in contravention of this Act or any applicable code of conduct for Members of the Legislature;
  - (ii) officials of the Legislature in contravention of this Act or any applicable code of conduct for officials of the Legislature;
- (q) the procurement of goods and services by the Legislature through contracts procured by other organs of state;
  - (i) contract management and dispute settling procedures;
  - (ii) the delegation of the Legislature's supply chain management powers and duties to officials of the Legislature; and
  - (iii) the circumstances in which a contract or agreement procured through the supply chain management policy of the Legislature may be amended by the parties.

## Schedule 2

### Legislation repealed

No and Year of Act	Short Title	Extent of Repeal
<a href="#"><u>Act No. 8 of 1997</u></a>	North West Provincial Legislature Service Act, 1997	The whole

<a href="#">Act No. 4 of 1997</a>	North West Provincial Exchequer Act, 1994	Section 15A
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