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Vol. 1

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FEBRUARIE

**No. 10**

**GENERAL NOTICE · ALGEMENE KENNISGEWING**

**NOTICE 471 OF 1995**

**POWERS AND PRIVILEGES OF THE PROVINCIAL LEGISLATURE BILL, 1995**

In terms of rule 130 (1) of the Standing Rules of the Provincial Legislature, the Payment of Members of the Provincial Legislature Bill, 1994, as well as a memorandum in terms of rule 132, is hereby published for general information.

Any person or organisation wishing to comment on the said Bill may lodge his, her or its written comment with me before 20 February 1995—

(a) *by posting it to the following address:*

**The Secretary**  
**Gauteng Legislature**  
**Private Bag X52**  
**JOHANNESBURG, 2000; or**

(b) *by handing it in at:*

**Reception Gate: City Hall**  
**Gauteng Legislature**  
**JOHANNESBURG**  
**(Ask for the Secretary of the Legislature)**

**S. NKOSI.**

Secretary: Gauteng Legislature.

## BILL

To define and declare the powers, privileges and immunities of the Provincial Legislature, and to provide for matters incidental thereto.

BE IT ENACTED by the Provincial Legislature of Gauteng as follows:

### Definitions

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

“**committee**” means any committee of members established in terms of the standing orders;

“**journals**” means any recording of the proceedings of the Provincial Legislature or any committee of whatever nature including minutes, transcripts and tape recordings;

“**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;

“**Secretary**” means the provisional secretary or 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 under section 137 (1) of the Constitution;

“**the Constitution**” means the Constitution of the Republic of South Africa, 1993 (Act No. 200 of 1993).

## CHAPTER 1

2. Without derogating from the provisions of section 135 of the Constitution, the provisions of subsection (2) of that section shall not apply to any person, other than a member, giving evidence before the Provincial Legislature or any committee.

### Liability in respect of publications of Provincial Legislature

3. No person shall be liable to any civil or criminal proceedings, arrest imprisonment or be liable for 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 proceedings of the Provincial Legislature or any committee by order or under the authority of the Provincial Legislature or any such committee or the Speaker.

### Protection in respect of extracts and abstracts

4. If in any legal proceedings instituted for the publication of any extract from or abstract of any report, paper, minutes or minutes of proceedings of the Provincial Legislature or any committee, the court is satisfied that such extract or abstract was published *bona fide* and without malice, judgement shall be given for the defendant or the accused, as the case may be.

### Offences relating to unauthorised printing

5. Any person who—

- (a) prints or causes to be printed any copy of any law of the Provincial Legislature or any copy of any report, paper, minutes or minutes of proceedings of the Provincial Legislature or any committee which purports to have been

printed by the Government Printer or the printer of the Provincial Legislature, or by order or under authority of the Provincial Legislature, any such committee or the Speaker, while it has not been so printed; or

- (b) tenders in evidence any such copy which purports to have been so printed, knowing that it is not so printed,

shall be guilty of an offence and on conviction be liable to imprisonment for a period not exceeding three years.

## CHAPTER 2

### THE PROVINCIAL LEGISLATURE

#### **Arrest of persons creating disturbance**

6. (1) Any person creating or joining in any disturbance in the Provincial Legislature while the Provincial Legislature is sitting may be arrested without warrant on the verbal order of the Speaker and may be detained by such officer as the Speaker may designate for a period not exceeding 48 hours within which period he or she shall be brought before—

- (a) the Provincial Legislature, if he or she is a member; or
- (b) a court of law, if he or she is any other person.

(2) Every police officer and every person shall when called upon by the officer to do so, assist such officer in the arrest and detention of any person arrested by virtue of a verbal order referred to in subsection (1).

(3) Any person who, without sufficient cause, fails to assist an officer as contemplated in subsection (2), shall be guilty of an offence and on conviction be liable to a fine or to imprisonment for a period not exceeding six months or to both such fine and such imprisonment.

#### **Powers and privileges of Provincial Legislature in respect of contempt**

7. 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 judgement 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 in this Chapter.

#### **Contempt of Provincial Legislature**

8. Any member shall be guilty of contempt of the Provincial Legislature if he or she—

- (a) wilfully fails or refuses to obey any ruling order or resolution of the Provincial Legislature;
- (b) commits an offence under this Act; or
- (c) is guilty of an act or omission which in terms of the standing orders constitutes contempt of the Provincial Legislature.

#### **Disciplinary action against members or persons**

9. (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 under this Act or any other law—

- (a) be cautioned or reprimanded;
- (b) be imposed a fine not exceeding R5 000, which fine may be recovered by deducting specified instalments from his or her remuneration; or
- (c) be suspended for a period not exceeding two years.

(2) Any fine payable under subsection (1) may, if authorised thereto by the Provincial Legislature, be recovered by the Member of the Executive Council responsible for finance by way of civil action in a competent court.

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

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

**10.** Any person who—

- (a) while the Provincial Legislature is sitting, creates or joins in any disturbances therein or in the vicinity thereof, whereby the proceedings of the Provincial Legislature are or are likely to be interrupted; or
- (b) commits any act which is calculated to hold the Provincial Legislature or its proceedings in contempt,

shall be guilty of an offence and on conviction by a competent court of law be liable to a fine or to imprisonment for a period not exceeding two years or to both such fine and such imprisonment.

## **CHAPTER 3**

### **MEMBERS AND OFFICERS**

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

**11.** (1) Notwithstanding anything to the contrary contained in any law but subject to the provisions of section 6 (1), 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 is sitting.

(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 six months or to both such fine and such imprisonment.

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

**12.** Whenever in any criminal proceedings any member has been sentenced to a period of imprisonment of more than 12 months 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.

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

**13.** (1) No member or officer and no reporter employed to take minutes of evidence given before the Provincial Legislature or any committee, shall 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 at the Bar of the Provincial Legislature or before any committee, without first having obtained the special leave of the Provincial Legislature.

(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**

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

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

**15.** (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.

(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.

(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 which a member may have in any matter in common with the public generally, or with any class or section of the public.

**Offences relating to members and officers**

**16.** Any person who—

- (a) threatens, obstructs or insults any member proceeding to or leaving any sitting of the Provincial Legislature or on account of his or her conduct therein, or endeavours 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
- (b) hinders or obstructs any officer in the execution of his or her duty or from proceeding to or from leaving the Provincial Legislature in the course of or in connection with his or her official duties,

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.

**CHAPTER 4****WITNESSES AND DOCUMENTS****Order to attend before Provincial Legislature or committee**

**17.** 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 any 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.

**Summons of witnesses**

**18.** (1) An order to attend or to produce any document before the Provincial Legislature or any committee shall be notified to the person required to attend or to produce the paper, book, record, or document—

- (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 addresses by the Speaker to the House concerned;

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

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

(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 an adult person at the first-mentioned person's usual or last known place of residence.

(3) A person summoned in terms of subsection (2) may be payed such an amount for his or her expenses as may be approve by the Speaker in accordance with the standing orders.

#### **Examination of witnesses**

**19.** Whenever the Provincial Legislature or committee requires that any fact, matter or thing relating to the subject of the enquiry before the Provincial Legislature or any such committee be verified or otherwise ascertained by the oral examination by any witness, the Speaker, the Chairperson of any committee or any person specially designated by the Speaker for that purpose may—

- (a) call upon and administer an oath to, or accept an affirmation from, any person present at the enquiry irrespective of whether he or she was or could have been summoned in terms of section 18 or not;
- (b) examine or require any person who was called upon under paragraph (a) 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.

#### **Privilege of witnesses**

**20.** 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 19, the law relating to privilege, as applicable to a witness summoned to give evidence or to produce any paper, book, record or document before a court of law, shall apply.

#### **Offences relating to conduct of witnesses**

**21.** Any person who—

- (a) has been duly summoned in terms of section 18 and who fails, without sufficient cause—
  - (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;
- (b) has been called upon under section 19 (a) and who refuses to be sworn or to make an affirmation as a witness; or

- (c) fails, without sufficient cause—
  - (i) to answer fully and satisfactorily any question lawfully put to him or her under section 19 (b); or
  - (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 under section 19 (b),

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.

#### **Witnesses not liable to legal proceedings**

**22.** (1) Except in the case of perjury or any offence under section 23 (b) or (c), not 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—

- (a) said by him or her in the course of giving his or her evidence before the Provincial Legislature or such committee; or
- (b) done by him or her before that time and revealed by him or her evidence.

(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.

#### **Miscellaneous offences**

**23.** Any person who—

- (a) threatens, obstructs or in any way unduly influences any witnesses required to give evidence or to produce any paper, book, record or document before the Provincial Legislature or any committee;
- (b) with the intent to deceive the Provincial Legislature or any committee, produces to the Provincial Legislature or any such committee any false, untrue, fabricated or falsified paper, book, record or document; or
- (c) wilfully furnishes the Provincial Legislature or any committee with information, or make a statement before it, which is false or misleading,

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

## **CHAPTER 9**

### **GENERAL**

#### **Receiving of compensation by certain persons prohibited**

**24.** (1) No attorney, law agent or parliamentary agent who in the practice of his profession is a partner 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 of 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.

(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 repay the amount of the value of the fee, compensation, gift or reward accepted or received by him or her.

#### **Admissibility of journals as evidence**

**25.** 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.

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

**26.** (1) Subject to the standing orders, the Provincial Legislature may authorise the Speaker or any committee to perform any which may be performed by the Provincial Legislature under this Act.

(2) For the purpose 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 vested in terms of this Act.

#### **Application of Act in case of committee meeting beyond seat or during recess or adjournment**

**27.** 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 performs its functions beyond the seat of the Provincial Legislature or while the Provincial Legislature is in recess or adjournment, 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 under authority of Provincial Legislature**

**28.** No person shall be liable in damage 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 those powers.

#### **Short title**

**29.** This Act shall be called the **Powers and Privileges of the Provincial Legislature Act, 1995**.

### **MEMORANDUM IN TERMS OF RULE 132 ON THE POWERS AND PRIVILEGES OF THE PROVINCIAL LEGISLATURE BILL, 1995**

#### **(i) *Reasons for the Bill***

The reason for the Bill is to prescribe the powers, privileges and immunities of the Provincial Legislature of Gauteng, as contemplated by section 135 (1) of the Constitution of the Republic of South Africa, 1993 (Act No. 200 of 1993).

#### **(ii) *Social impact of the Bill***

The social impact of the Bill may be that it may foster respect for the Provincial Legislature.



(iii) **Environmental impact**

None.

(iv) **Financial implications**

It is not clear what the financial implications of the Bill would be.

(v) **Comments**

The Bill has not been published for comments, but is mainly based on the Powers and Privileges of Parliament Act, 1963 (Act No. 91 of 1963), and the proposals of the South African Law Commission.

(vi) **Clause-by-clause explanation**

In clause 1 certain words are defined. Thereafter the Bill is divided into five Chapters, the first of which deals with freedom of speech and debate in the Provincial Legislature and a committee thereof. In this regard the provisions of section 135 (2) and (3) of the Constitution are not repeated in the Bill in view of opinion No. 194/94 of the Chief State Law Adviser. Clause 2 only provides that the said section 135 (2) shall not apply to other persons than members of the Provincial Legislature. In terms of clause 3 nobody shall be liable for publishing anything on the authority of the Provincial Legislature, any committee or the Speaker. The publication of extracts and abstracts from certain documents are protected by clause 4, if they were published *bona fide* and without malice. In clause 5 certain offences are created relating to unauthorised printing.

Chapter 2 deals with the Provincial Legislature, and provides in clause 6 for the arrest of persons creating a disturbance in the legislature. Clause 7 empowers the Provincial Legislature to deal with contempt of the legislature, set out in clause 8, as prescribed in clause 9. In clause 10 certain offences relating to disturbance and contempt of the Provincial Legislature are created.

Chapter 3 deals with members and officers of the Provincial Legislature, and provides in clause 11 that it shall be an offence to arrest a member within the precincts of the legislature or to serve a summons or subpoena on him or her while the legislature is sitting. In terms of clause 12 a criminal court should inform the Speaker in writing of certain sentences imposed on a member. Clause 13 provides that no member, officer or reporter shall give evidence elsewhere regarding certain proceedings before the legislature or a committee, unless special leave has been obtained from the legislature or, during a recess or adjournment, from the Speaker. In terms of clause 14 no member shall without consent attend before Parliament or any other Provincial Legislature, or a committee thereof. Clause 15 declares it an offence for a member to vote upon, or take part in the discussion of, any matter in which he or she has a direct pecuniary interest, except in certain cases. In clause 16 certain offences are created relating to the obstruction of members and officers.

Chapter 4 deals with witnesses and documents. In terms of section 17 the Provincial Legislature or a committee authorised thereto may order any person to attend before the legislature or the committee and to produce any document. Clause 18 prescribes how such order shall be notified to the witness, the contents of a summons and how it shall be served, as well as the amount that may be paid to witnesses. Clause 19 provides for the examination of witnesses and clause 20 for the privilege of witnesses. In clause 21 certain offences are created in relation to the conduct of witnesses. According to clause 22 no witness shall be liable to any legal proceedings by reason of anything said or revealed in his or her evidence, if he or she is in possession of a certificate

stating that he or she has answered fully and satisfactorily all questions put to him or her by the Provincial Legislature or a committee thereof. In clause 23 certain further offences in relation to witnesses are created.

Chapter 5 contains some general provisions. In clause 24 certain persons involved with a member are prohibited from receiving compensation in respect of the promotion of or opposition to anything submitted, or proposed to be submitted, to the Provincial Legislature. Clause 25 provides that a copy of journals printed by order of the legislature or the Speaker shall without proof be admissible as evidence at any enquiry in the Republic. Under clause 26 the Speaker or a committee may be authorised to perform any act of the Provincial Legislature in terms of the Bill. In terms of clause 27 the Bill also applies to a committee meeting beyond the seat of the legislature or while the legislature is in recess or adjourned. Clause 28 provides that no person shall be liable for anything done under the authority of the legislature and within its powers, or under any warrant issued by virtue of those powers.

Clause 29 contains the short title of the Bill.

(vii) ***Other information deemed necessary by the member in charge of the Bill***

No instructions have been received in this regard.

## Save a drop — and save a million

**W**ater conservation is very important to the community and industry to ensure their survival. So save water!



## Spaar 'n druppel — en vul die dam

**I**ndien almal van ons besparingsbewus optree, besnoei ons nie slegs uitgawes nie maar wen ook ten opsigte van ons kosbare water- en elektrisiteitsvoorraad

Use it

Don't abuse  it

*water is for everybody*



Werk mooi daarmee

Ons leef  daarvan

*water is kosbaar*



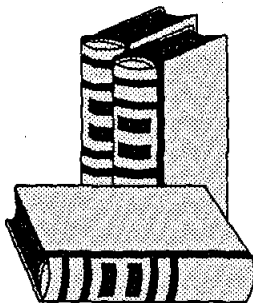
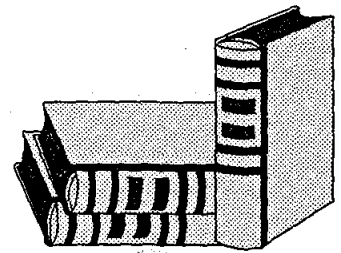
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Department of Environment Affairs



Departement van Omgewingsake

*Where is the largest amount of meteorological information in the whole of South Africa available?*



*Waar is die meeste weerkundige inligting in die hele Suid-Afrika beskikbaar?*

Department of Environmental Affairs and Tourism  
Departement van Omgewingsake en Toerisme



# RECYCLE HERGEBRUIK



Department of Environment Affairs  
Departement van Omgewingsake



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