

**THE PROVINCE OF  
GAUTENG**



**DIE PROVINSIE VAN  
GAUTENG**

# Provincial Gazette Provinsiale Koerant

**EXTRAORDINARY • BUITENGEWOON**

Selling price • Verkoopprijs: **R2.50**  
Other countries • Buitelands: **R3.25**

Vol. 25

**PRETORIA**  
1 MARCH 2019  
1 MAART 2019

**No. 63**

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ISSN 1682-4525



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**PROVINCIAL NOTICES • PROVINSIALE KENNISGEWINGS**

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**PROVINCIAL NOTICE 216 OF 2019****GAUTENG**  
LEGISLATURE**THE GAUTENG PROVINCIAL LEGISLATURE INTENDS TO INTRODUCE THE FINANCIAL MANAGEMENT OF THE GAUTENG PROVINCIAL LEGISLATURE REPEAL BILL, 2019**

The above-mentioned Bill is hereby published in English in the Gauteng Provincial Extraordinary Gazette No.....dated 27 February 2019 for public comments and general information.

The seeks to repeal the Financial Management of the Gauteng Provincial Legislature Act 7 of 2009 in line with the Financial Management of Parliament and Provincial Legislatures Act 10 of 2009.

People, who wish to comment on the Bill, may send their written comments to:

Office of the Secretary

Senior Committee Coordinator (Mr. John Ntsane/ Ms Minah Mojapelo)

Gauteng Provincial Legislature

Private Bag X52

Johannesburg

2000

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(082 726 5296)

Comments must reach the above office on or before 20 March 2019.

Copies of the *Gazette* may be obtained from Government Printers, Publications Section, Vermeulen and Bosman Streets, Pretoria at R2.50 per copy

GAUTENG PROVINCIAL LEGISLATURE

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# **FINANCIAL MANAGEMENT OF THE GAUTENG PROVINCIAL LEGISLATURE REPEAL BILL, 2019**

(As proposed to by the Portfolio Committee on Finance)  
(the English text is the official text of the Bill)

(Portfolio Committee on Finance)

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**FINANCIAL MANAGEMENT OF THE GAUTENG PROVINCIAL  
LEGISLATURE REPEAL BILL, 2019****BILL**

**To repeal the Financial Management of the Gauteng Provincial Legislature Act 7 of 2009 in line with the Financial Management of Parliament and Provincial Legislatures Act 10 of 2009.**

BE IT ENACTED by Gauteng Legislature as follows:-

**Repeal of Act 7 of 2009**

1. The Financial Management of the Gauteng Provincial Legislature Act 7 of 2009 is hereby repealed.

**Short title**

2. This Act is called Financial Management of the Gauteng Provincial Legislature Repeal Act, 2019.

## **MEMORANDUM ON THE OBJECTIVES OF FINANCIAL MANAGEMENT OF THE GAUTENG PROVINCIAL LEGISLATURE REPEAL BILL, 2019**

### **1. BACKGROUND**

- 1.1 On 22 March 2012 the Constitutional Court, in *Premier: Limpopo Province v Speaker of the Limpopo Provincial Legislature and Others* 2012 (4) SA 58 (CC), found that the Constitution of the Republic of South Africa, 1996 does not authorise provincial legislatures to pass their own financial management legislation. Consequently, the Court found the various provincial statutes purporting to deal with the financial management of various provincial legislatures unconstitutional and invalid.
- 1.2 The Constitutional Court in essence ruled that while Parliament has plenary powers, in other words unlimited powers to legislate on any matter in the Republic, on the other hand provincial legislatures have limited powers to legislate.

Section 104 of the Constitution provides:

“The legislative authority of a province is vested in its provincial legislature, and confers on the provincial legislature the power—

- (a) to pass a constitution for its province or to amend any constitution passed by it in terms of sections 142 and 143;
- (b) to pass legislation for its province with regard to—
  - (i) any matter within a functional area listed in Schedule 4;
  - (ii) any matter within a functional area listed in Schedule 5;
  - (iii) any matter outside those functional areas, and that is expressly assigned to the province by national legislation; and
  - (iv) any matter for which a provision of the Constitution envisages the enactment of provincial legislation.

- 1.3 The Financial Management of Parliament and Provincial Legislatures Bill, 2009 was amended to include the Regulation of the Financial Management of Provincial Legislatures. The Amendment Bill was referred to Provincial Legislatures for mandates as it included provisions affecting the financial interests of the provincial sphere of government as contemplated in section 76(4)(b) of the Constitution. The Provinces considered the Bill and amendments were proposed. Ultimately the Bill was passed by the two Houses of Parliament and assented by the President. The Financial Management of Parliament Amendment Act 34 of 2014 came into effect from 01 April 2015 and it is applicable to Provinces.

## **2. FINANCIAL IMPLICATIONS FOR THE PROVINCE**

No financial implications.

Printed by the Government Printer, Bosman Street, Private Bag X85, Pretoria, 0001,  
for the **Gauteng Provincial Administration**, Johannesburg.

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