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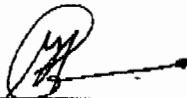
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PREMIER'S NOTICE

No. 4**25 April 2008****Mpumalanga Provincial Legislature Service and Administration Act, 2006
(Act No. 7 of 2006)**

It is hereby notified that I, **Nkwekwezi Yvonne Phosa**, in my capacity as the Speaker of the Mpumalanga Provincial Legislature publish this Act which was passed on 11 March 2008 and was assented to by the Premier of Mpumalanga Province, Hon. TSP Makwetla in terms of Section 121 of the Constitution of the Republic of South Africa, 1996, on 25 March 2008.

The Mpumalanga Provincial Legislature Service and Administration Act, 2006 (Act No. 7 of 2006), is hereby published for general information



Hon. YN Phosa
Speaker: Mpumalanga
Provincial Legislature

ACT

To provide for the management and administration of the Legislature; the appointment and conditions of service of employees of the Legislature; and for matters incidental thereto.

BE IT ENACTED by the Legislature of the Province of Mpumalanga, as follows:

CHAPTER I

DEFINITION AND APPLICATION OF THE ACT

1. DEFINITION

In this Act, unless the context indicates otherwise-

“**Accounting officer**” means the Secretary to the Legislature;

“**Board**” means the Service Board established in terms of section 8 of this Act;

“**Constitution**” means the Constitution of the Republic of South Africa, 1996 (Act No. 108 of 1996);

“**Chairperson of Committees**” means a member elected to such position in terms of the Standing Rules and Orders of the Legislature;

“**Deputy Speaker**” means the Deputy Speaker of the Legislature elected in terms of section 111 of the Constitution;

“**Division**” means the main component established for normal and regular requirements of the Legislature service and composes of sections and units;

“**Employee**” means any person employed by the Legislature either permanently or on a fixed contract, excluding an independent contractor;

“**Legislature**” means the Mpumalanga Provincial Legislature;

“**Management Committee**” means the Secretary, Executive Managers and Senior Managers sitting together and Committee has a corresponding meaning;

“**Prescribed**” means prescribed by regulation made under section 37;

“**Public Finance Management Act**” means Public Finance Management Act, 1999 (Act No. 1 of 1999);

“**Secretary**” means the Secretary to the Legislature appointed in terms of section 19 of this Act;

“**Section**” means two or more units within a division;

“**Senior Manager**” means a person responsible for the management of a section within a division;

“**Speaker**” means the Speaker of the Legislature elected in terms of section 111 of the Constitution;

“**Transfer**” means transfer of an employee from one division, section or unit to another division, section or unit within the Legislature; and

“**Unit**” means a component of a section.

2. Application of Act

- (1) This Act shall apply to or in respect of all employees of the Legislature.
- (2) This Act does not apply to employees of political parties.

CHAPTER II

FINANCES

3. Determination of expenditure

The Speaker shall, after a consultation process that may be prescribed, prepare and table estimates of expenditure for services required by the Legislature to fulfill duties entrusted to it by the Constitution.

4. Financial Control

The Speaker-

- (a) shall have controlling and supervisory functions over the finances of the Legislature as prescribed by section 3(2)(b) of the Public Finance Management Act;
- (b) may issue financial instructions to control and regulate the financial practices of the Legislature; and
- (c) may by regulation prescribe any procedure on administration of the Legislature.

5. Financial Reports

- (1) The Speaker must table in the Legislature full and regular reports on the finances of the Legislature.
- (2) Within 6 months after the end of each financial year, the Speaker must table in the Legislature detailed annual financial statements and annual reports for the previous financial year.
- (3) In the execution of his or her duties the Speaker must comply with this Act, any applicable legislation and observe the Principles of Good Corporate Governance.

6. Powers and duties of the Speaker

- (1) Subject to the provisions of this Act, the Speaker shall have those powers and duties regarding-
 - (a) the internal organization of the Legislature including the organizational structure and the transfer of functions within the Legislature;
 - (b) the post establishment of the Legislature, including the creation, grading and abolishing of posts, and the provision for the employment of persons additional to the fixed establishment where the class of work is of a temporary nature;

which are entrusted to the Speaker by or under this Act, and such powers and duties shall be exercised or performed in accordance with the provisions of this Act.

(2) The Speaker may delegate the powers conferred on him or her by this Act to the Secretary.

(3) The Speaker shall record a delegation in writing and may incorporate it in the employment contract of the Secretary.

7. Accounting officer

(1) The Secretary is the accounting officer of the Legislature

(2) The accounting officer shall be accountable to the Speaker.

(3) In the execution of his or her duties the accounting officer must comply with this Act, any applicable legislation and observe the Principles of Good Corporate Governance.

CHAPTER III

ADMINISTRATION

8. Board

(1) There is hereby established a Service Board consisting of-

(a) the Speaker;

(b) the Deputy Speaker;

(c) Chairperson of Committees;

(d) the Chief Whip;

(e) the Secretary; and

(f) three members appointed by resolution of the Legislature: Provided that one member is appointed from the political party enjoying a majority of representation in the Legislature and the other two members appointed each from the minority parties represented in the Legislature.

(2) The Speaker shall be the Chairperson of the Board, and whenever the Speaker is absent or is for any other reason unable to carry out the functions of the Chairperson, the Deputy Speaker shall act as Chairperson.

9. Vacancy

Whenever a vacancy occurs on the Board, it shall be filled, if the Legislature is-

- (a) in session, within five working days; and
- (b) not in session, within five working days after the commencement of the next ensuing session.

10. Procedure of the Board

(1) Subject to the provisions of this Act and the direction of the Speaker, the Board may regulate its proceedings and perform its functions in such a manner as it may deem fit.

(2) Meetings of the Board shall be held at such times and such places as the Chairperson may from time to time determine.

(3) The Chairperson may at anytime call a special meeting of the Board.

(4) At any meeting of the Board, the presence of at least one third of the members shall constitute a quorum.

(5) Subject to subsection (4), any action or decision taken by the Board shall be valid irrespective of whether a member was present or not.

(6) In order to achieve the objectives of this Act and in the spirit of providing effective services to the Legislature, the Board shall operate in a manner that strives to reach consensus.

(7) In the absence of consensus, the Speaker may perform all the functions conferred on the Board.

11. Functions of the Board

The Board shall serve as an advisory body to the Speaker on any matter concerning the Administration of the Legislature, and in particular on policy matters, overall performance of the Legislature and matters of good governance.

12. Duties of members of the Board to disclose interest in certain contracts

(1) A member of the Board who is interested in a proposed contract which the Legislature considers entering into or becomes interested in a contract after it has been entered into by the Legislature, shall disclose to the Legislature full particulars relating to the nature and extent of his interest in accordance with the provisions of subsection (2) or (4), as the case may be.

(2) A member referred to in subsection (1) who is interested in such a proposed contract shall-

- (a) if the proposed contract is or is to be considered at a meeting of the Board, disclose his or her interest prior to such meeting by way of a written notice to the Board or otherwise at such meeting, or, if for any reason it is not possible for him or her to disclose his or her interest prior to such meeting, he or she shall do so at the first meeting of the Board held thereafter at which it is possible for him or her to do so, irrespective of whether the contract has been entered into or not; or
- (b) if the proposed contract is not to be considered at a meeting referred to in paragraph (a), disclose his or her interest by way of a written notice to the Board within seven days as from the day on which he or she became aware of the proposed contract: Provided that a written notice given by a member to the Board thereof to the effect that he or she has an interest in a particular undertaking and is to be regarded as interested in every contract which may be entered into with such undertaking during a period specified in the notice, shall for the purpose of this subsection be deemed to be sufficient disclosure of interest with respect to all contracts entered into by the Legislature with such undertaking during the specified period: Provided further that-
 - (i) full particulars relating to the nature and extent of such a member's interest in such undertaking are set out in the notice; and
 - (ii) the extent of such member's interest is at the time when a contract is entered into by the Legislature with the undertaking, not greater than is set out in the notice.

(3) A member referred to in subsection (1) shall recuse himself or herself from the meeting of the Board during the discussion of the contract in which he or she has an interest and shall not take part in any vote in connection with any such discussion or contract

(4) A member who becomes interested in a contract after it has been entered into by the Legislature shall disclose his or her interest by way of a written notice to the Board within seven days as from the day on which he or she became interested.

(5) A disclosure of interest referred to in subsections (1), (2) and (4) shall as soon as possible be recorded in the minutes of the appropriate meeting of the Board.

13. Establishment of Secretariat

(1) There is hereby established a Secretariat which shall consist of –

- (a) the Secretary;
- (b) Executive Managers; and
- (c) such other additional employee(s) as the Secretariat may from time to time determine.

(2) The Secretariat shall be responsible for the effective and proper management and administration of the Legislature and shall provide the necessary support and assistance to the Secretary in the performance of his or her duties.

(3) The Secretariat shall exercise any other powers which the Speaker and/or the Secretary may from time to time delegate to it.

(4) The Secretary shall present to the Speaker a report of the work of the Secretariat at such periodic intervals and in such form as the Speaker may determine.

14. Chairperson and Acting Chairperson of the Secretariat

(1) The Secretary is the Chairperson of the Secretariat.

(2) Whenever the Secretary is not available or for any reason is unable to perform the functions of the chairperson, an Executive Manager designated by the Secretary or the Speaker shall act as Chairperson of the Secretariat.

15. Divisions

- (1) For the purposes of administration there shall be Divisions.
- (2) The Executive Manager is the head of a Division and shall be appointed on a five year performance contract.
- (3) The Executive Manager is responsible for the effective management and administration of his or her Division including the effective utilisation and training of staff, maintenance of discipline, the promotion of sound labour relations and the proper use and care of the property of the Legislature.
- (4) The Executive Manager is accountable to the Secretary and shall perform any functions delegated to him or her by the Secretary from time to time.
- (5) The Executive Manager must comply with this Act, any applicable legislation and observe the Principles of Good Corporate Governance.

16. Establishment of Management Committee

- (1) There is hereby established a Management Committee which shall consist of-
 - (a) the Secretary;
 - (b) the Executive Managers
 - (c) Senior Managers; and
 - (d) such other additional member or members as the Committee may from time to time determine.
- (2) The Management Committee shall assist the Secretariat in the management of the administration of the Legislature and shall exercise any other powers which the Secretary may from time to time delegate to it.
- (3) A Senior Manager shall be responsible for the effective management and administration of his or her Section including the effective utilisation and training of staff, maintenance of discipline, the promotion of sound labour relations and the proper use and care of the property of the legislature.

17. Chairperson and Acting Chairperson of the Management Committee

The Secretary or an Executive or Senior Manager designated by the Secretary shall be the Chairperson of the Management Committee.

CHAPTER IV

RECRUITMENT, APPOINTMENT AND TRANSFER

18. Qualifications for appointment as Secretary

- (1) A person may be appointed to a position of a Secretary if he or she-
- (a) is a South African citizen or has permanent residence in the Republic of South Africa;
 - (b) is in possession of the relevant qualification and the necessary experience;
 - (c) is not an unrehabilitated insolvent;
 - (d) has not been convicted of fraud;
 - (e) after this section took effect, has not been convicted of an offence and sentenced to more than twelve months imprisonment without the option of a fine, either in the Republic, or outside the Republic if the conduct constituting the offence would have been an offence in the Republic, excluding a political offence, but no one may be regarded as having been sentenced until an appeal against the conviction or sentence has been determined, or until the time for appeal has expired.
 - (f) A disqualification under paragraph (e) ends five years after the sentence has been completed.

19. Appointment as Secretary

- (1) Subject to the provisions of section 18, a person shall be appointed as Secretary in terms of a contract between the Speaker and such a person for a period not exceeding five years.

- (2) The term of office of a Secretary may be extended at the expiry thereof for a period not exceeding two years.
- (3) Upon expiry of the term of the office of a Secretary, he or she shall be eligible for re-appointment.
- (4) A contract contemplated in subsection (1) may include any term and condition agreed upon between the Speaker and the person concerned as to-
- (a) any particular duties of the Secretary;
 - (b) the criteria for evaluating the performance of the Secretary;
 - (c) the grounds upon, and the procedures according to which the services of the Secretary may be terminated before the expiry of his or her term of office or extended term of office, as the case may be;
 - (d) the holding of a pre-dismissal arbitration as contemplated in section 188A(4)(b) of the Labour Relations Act, 1995; and
 - (e) any other matter which may be prescribed.
- (5) Subject the provisions of section 6, the Secretary shall-
- (a) provide assistance to the Legislature in conducting its proceedings and business;
 - (b) provide administrative services to the Speaker and other members of the Legislature;
 - (c) be responsible for the efficient management and administration of the Legislature, including the effective utilisation and development of the employees, the maintenance of discipline, the promotion of sound labour relations and the proper use and care of Legislature's property, and he or she shall perform the functions that may be prescribed.
- (6) Whenever the office of the Secretary is vacant or the Secretary is absent or incapacitated or for any reason is unable to carry out the functions of the office of the Secretary, the powers and functions of the Secretary shall be exercised and performed by a person appointed for that purpose by the Speaker as Acting Secretary.

20. Recruitment and Appointment

- (1) The recruitment and appointment of employees shall be made by the Secretary in consultation with the Speaker.
- (2) In making appointments and filling of post, due regard shall be had to equality and the other democratic values enshrined in the Constitution.
- (3) In recruitment and appointment of candidates relevant legislation and human resources practices shall be considered.

21. Period of Probation

- (1) The appointment of a person, excluding employees on contract, shall be made on probation.
- (2) The period of probation of an employee shall be at least three months.
- (3) If an employee who is on probation is transferred to another post, a lesser period of service on probation may be prescribed in the new post which, together with the period of probation served in the former post, shall total at least three months.
- (4) The period of probation of an employee shall be extended by the number of leave days taken by him or her during the period of probation or any extension thereof.
- (5) The Secretary may, on recommendation of the relevant Executive Manager and subject to the provisions of the Labour Relations Act, 1995, extend the period of probation for a period not exceeding three months or dismiss the employee: Provided that he or she may not extend the period of probation more than once in respect of an employee.

22. Transfer within the Legislature

- (1) Subject to the provisions of this Act, an employee may be transferred from the position occupied by him or her to any other position in the same or any other division or section on the same terms and conditions which applied in his or her previous position.
- (2) The transfer of an employee from one position to another shall be made on the authority of the Secretary on the recommendation of the Executive Manager and after consultation with the employee concerned.

CHAPTER V

TERMINATION OF SERVICE

23. Retirement and retention of services

- (1) (a) Subject to the provisions of this section, an employee, shall have the right to retire from the services of the Legislature, and shall be so retired, on the date when he or she attains the age of 60 years: Provided that the age of early retirement shall be 55 years.
- (b) If such an employee attains the said age after the first day of a month, he or she shall be deemed to have attained it on the first day of the following month.
- (2) An employee who wishes to retire at the age earlier than the age referred to in subsection 1(a) shall give written notice to the Secretary of his or her wish to be so retired, and he or she shall-
 - (a) if that notification is given at least two calendar months prior to the date on which he or she attains the retirement age applicable to him or her in terms of subsection (1)(a), be so retired on the date on which he or she attains that age or, if he or she attains it after the first day of a month, on the first day of the following month; or
 - (b) if that notification is not given at least two calendar months prior to the date on which he or she attains the said age, be so retired on the first day of the fourth month after the month in which the notification is received.
- (3) (a) In the case of the Secretary, he or she shall give notification to the Speaker of his or her wish to be retired from the services of the Legislature at least three calendar months prior to the date on which he or she attains the said age.
- (b) If the Secretary has not so given notification at least three calendar months prior to the date on which he or she attains the said age, he or she shall be so retired on the first day of the seventh month following the month in which that notification is received
- (4) If an employee retires or is retired in terms of subsection (1)(a), he or she shall be deemed to have been discharged from the service of the Legislature.

- (5) (a) The Speaker may, at the request of an employee, allow him or her to retire from the service of the Legislature before reaching the age of 60 years if sufficient reasons exist and the retirement will be to the advantage of the Legislature.
- (b) If it is in the interest of the Legislature to retain an employee, in his or her post beyond the age at which he or she is required to be retired in terms of subsection (1), he or she may, with his or her consent and with the approval of the Speaker, be so retained from time to time for further periods which shall not exceed in the aggregate two years.

24. Discharge of employees

- (1) The power to discharge an employee from the service of the Legislature, excluding the Secretary, shall be vested in the Secretary and the said power shall be exercised in compliance with the applicable provisions of the Labour Relations Act, 1995.
- (2) The Speaker is the appeal authority.
- (3) An employee may be discharged from the services of the Legislature on account of-
- (a) incapacity;
 - (b) operational requirements of the employer; or
 - (c) misconduct.
- (4) (a) (i) An employee, who absents himself or herself from his or her official duties without permission for a period exceeding one calendar month, shall be deemed to have been discharged from the services of the Legislature on account of misconduct with effect from the date immediately succeeding his or her last day of attendance at his or her place of work.
- (ii) If such an employee assumes other employment, he or she shall be deemed to have been discharged irrespective of whether the period referred to above has expired or not.

- (b) If an employee who is deemed to have been so discharged, reports for duty at any time after the expiry of the period referred to in paragraph (a), the Executive Manager concerned must, on good cause shown and notwithstanding anything to the contrary contained in any law, inquire into the reasons that led to the absence of the employee, and in such a case the period of his or her absence from official duty may be deemed to be absence on vacation leave without pay or leave on such other conditions as the Executive Manager concerned may determine.

25. Discharge of the Secretary

- (1) The power to discharge the Secretary from the services of the Legislature shall be vested in the Speaker and the said power shall be exercised in compliance with the applicable provisions of the Labour Relations Act, 1995.
- (2) The Secretary may be discharged from office-
- (a) on account of improper conduct;
 - (b) for unfitness for the functions of his or her office;
 - (c) on the grounds of permanent infirmity of mind or body which renders him or her incapable of discharging the functions of the office of the Secretary.
- (3) For the purposes of subsection 2(a) non-compliance by the Secretary with any provisions of this Act shall, among others, constitute improper conduct.
- (4) Notwithstanding the provisions of section 25(2) and (3) the Secretary may be discharged on any ground referred to in section 24(3).

CHAPTER VI

OBLIGATIONS, RIGHTS AND PRIVILEGES OF EMPLOYEES

26. Rights and obligations

Every employee shall fulfill the obligations imposed upon him or her by this Act or any other law, and shall have the right to fair labour practices as contemplated in section 23 of the Constitution and the Labour Relations Act, 1995.

27. Saving regarding rights and obligations

No provision of this Act shall be construed as abrogating or derogating from any existing, accruing or contingent right, liability or obligation of any person flowing from any other law.

28. Extraneous employment

(1) Unless otherwise provided for in his or her terms and conditions of employment-

- (a) every employee shall place the whole of his or her working hours at the disposal of the Legislature;
- (b) no employee shall perform or engage himself or herself to perform remunerative work outside his or her employment in the Legislature without the written permission of the Speaker, if such work is likely to interfere with the employee's official duties or give rise to a conflict of interest; and
- (c) no employee may claim any additional remuneration in respect of any additional official duty or work which he or she performs voluntarily or is required by a competent authority to perform during normal working hours.

(2) All employees shall at the beginning of every financial year declare their financial interest by submitting a completed Disclosure Form to the Speaker.

(3) An employee who is interested in a proposed contract which the Legislature considers entering into or becomes interested in a contract after it has been entered into by the Legislature shall disclose in writing to the Speaker or Secretary full particulars relating to the nature and extent of his or her interest.

(4) An employee referred to in subsection (3) who is interested in such a proposed contract shall-

- (a) if the proposed contract is or is to be considered at a meeting of any committee of which he or she is a member, disclose his or her interest prior to such meeting by means of a written notice to the Speaker or Secretary, or, if for any reason it is not possible for him or her to disclose his or her interest prior to such meeting, he or she shall do so at the first meeting of the said committee held thereafter at which it is possible for him or her to do so, irrespective of whether the contract has been entered into or not; or

- (b) if the proposed contract is not considered at a meeting referred to in paragraph (a), disclose his or her interest by way of written notice to the Speaker or Secretary within seven days from the day on which he or she became aware of the proposed contract:

Provided that a written notice given by an employee to the Speaker thereof to the effect that a written notice given by an employee to the effect that he or she is interested in a particular undertaking and is to be regarded as interested in every contract which may be entered into with such undertaking, shall for the purpose of this subsection be deemed to be sufficient disclosure of interest with respect to all contracts entered into by the Legislature with such undertaking, provided further that-

- (i) full particulars relating to the nature and extent of such an employee's interest in such undertaking are set out in the notice; and
- (ii) the extent of such employee's interest is, at the time the contract is entered into with the undertaking, not greater than is set out in the notice.

(5) An employee referred to in subsection (2) shall recuse himself or herself from any committee of which he or she is a member during the discussion of the contract in which he or she has an interest and shall not take part in any vote in connection with any such discussion or contract.

(6) The provisions of sub-sections (2) and (3) shall, with the necessary changes required by the context, apply to the Secretary.

29. Unauthorized remuneration

- (1) (a) If any remuneration, allowance, other reward or benefit is received by an employee in connection with the performance of his or her work in the services of the Legislature otherwise than in accordance with the provisions of this Act or a determination of the Speaker, or is received contrary to the provisions of section 33, that employee shall, subject to paragraph (c) of this subsection, pay into the Legislature account an amount equal to the amount of any such remuneration, allowance, reward or benefit or, where it does not consist of money, the value thereof as determined by the Speaker at the time of the receipt thereof, and if he or she does not do so, it shall be recovered from him or her by the Secretary by way of legal

proceedings or in such other manner as the Secretary may determine, and be paid into the Legislature account.

- (b) The employee concerned may appeal against the determination by the Secretary to the Speaker, who may make such decision as may be reasonable.
- (c) The Speaker may approve of the employee concerned retaining the whole or a portion of the said remuneration, allowance or reward.

(2) The provisions of this section shall, with the necessary changes, also apply to the Secretary.

30. Assignment of other functions to employees

The Secretary or an Executive Manager may direct any employee under his or her control temporarily to perform duties other than those ordinarily assigned to such employee or appropriate to the grade, designation or classification of his or her position, and he or she shall comply with such a direction provided that the instruction is lawful and reasonable.

31. Cession of emoluments

No employee shall cede to another person the right to the whole or any part of salary or allowance payable to him or her.

32. Reduction of salaries

The salary or scale of salary of an employee shall not be reduced without his or her consent unless that is a result of a disciplinary action taken against the employee.

33. Remuneration of employees

- (1) Employees shall be paid salaries, benefits and allowances in accordance with the scales determined by the Speaker.
- (2) The determination referred to in subsection (1) shall be made in terms of the Pay Policy of the Legislature

34. Wrongly granted remuneration

(1) If an incorrect salary, benefit, allowance or scale of salary, on appointment, transfer or promotion, or an incorrect advancement of salary, benefit or allowance within the limits of the scale of salary applicable to his or her grading, was awarded or granted to an employee, or was awarded or granted at the correct notch or scale but at a time when or in circumstances under which it should not have been awarded or granted to him or her, the Secretary shall correct his or her salary, benefit, allowance or scale of salary with effect from the date on which the incorrect salary, benefit, allowance or scale of salary or salary advancement commenced, notwithstanding the fact that the employee concerned was unaware that an error had been made in the case where the correction amounts to a reduction of his or her scale of salary or salary, benefit or allowance.

(2) If an employee contemplated in subsection (1) has in respect of his or her salary, including any portion of any allowance or other remuneration or any other benefit calculated on his or her basic salary or scale of salary or awarded to him or her by reason of his or her basic salary-

- (a) been underpaid, an amount equal to the amount of the underpayment shall be paid to him or her, and that other benefit which he or she did not receive, shall be awarded to him or her as from a current date; or
- (b) been overpaid or received any such other benefit not due to him or her-
 - (i) an amount equal to the amount of the overpayment shall be recovered from him or her by way of the deduction from his or her salary on such installments as the Secretary may determine if he or she is in the service of the Legislature, or, if he or she is not so in service, by way of deduction from any moneys owing to him or her by the Legislature, or by way of legal proceedings, or partly in the former and partly in the latter manner; and
 - (ii) that other benefit shall be discontinued or withdrawn as from a current date if he or she is in the service of the Legislature.

(3) The amount of an overpayment to be recovered in terms of subsection (2)(b) may be remitted in whole or in part by the Speaker or Secretary.

35. Limitation of actions

(1) No legal proceedings shall be instituted against the Legislature or any body or person in respect of any alleged act in terms of this Act, or any alleged omission to do anything which in terms of this Act should have been done, unless the legal proceedings are instituted before the expiry of a period of 12 calendar months after the date upon which the claimant had knowledge, or after the date on which the claimant might reasonably have been expected to have knowledge, of the alleged act or omission, whichever is the earlier date.

(2) No such legal proceedings shall be commenced before the expiry of at least one calendar month after a written notification, in which particulars as to the alleged act or omission are given, of intention to bring those proceedings has been served on the defendant.

(3) Subsections (1) and (2) shall not be construed as precluding a court of law from dispensing with the requirements or prohibitions of those sections where the interests of justice so require.

36. Limitation of liability

Whenever any person is conveyed in or makes use of any vehicle, which is the property of the Legislature, the Legislature or a person in the service of the Legislature shall not be liable to such person or his or her spouse, parent, child or other dependent for any loss or damage resulting from any bodily injury, loss of life or loss of or damage to property caused by or arising out of or in any way connected with the conveyance in or the use of such vehicle, unless such person is so conveyed or makes use thereof in, or in the interest of, the performance of the functions of the Legislature: Provided that the provisions of this section shall not affect the liability of a person in the service of the Legislature who willfully causes the said loss or damage.

37. Regulations and policies

- (1) The Speaker may, after consultation with the Board, make regulations and develop policies regarding-
- (a) any matter which is required or permitted to be prescribed under this Act;
 - (b) generally, any matter which is reasonably necessary or expedient to be prescribed in order to achieve the objects of this Act; and
 - (c) further conditions of service of the employees of the Legislature.

38. Repeal of laws and savings

(1) Subject to the provisions of subsection (2), the Mpumalanga Service Act, of 1998 is hereby repealed.

(2) Anything done under any law repealed by subsection (1) and which could have been done under a provision of this Act shall be deemed to have been done under that provision.

39. Short title

This Act shall be called the Mpumalanga Provincial Legislature Service and Administration Act, 2006.

EXPLANATORY MEMORANDUM TO THE MPUMALANGA PROVINCIAL LEGISLATURE SERVICE AND ADMINISTRATION BILL, 2006

- | | | |
|-----------|---|---|
| CLAUSE 1 | : | deals with definitions; |
| CLAUSE 2 | : | deals with application of Act; |
| CLAUSE 3 | : | deals with determination of expenditure, |
| CLAUSE 4 | : | deals with the financial controls and enables the Speaker to prescribe financial instructions and procedures for the Legislature; |
| CLAUSE 5 | : | deals with the Speaker's duties to report to the Legislature; |
| CLAUSE 6 | : | deals with functions and powers of Speaker; |
| CLAUSE 7 | : | deals with the duties of the Accounting Officer; |
| CLAUSE 8 | : | deals with the establishment the Service Board; |
| CLAUSE 9 | : | deals with the vacancies on the Service board; |
| CLAUSE 10 | : | deals with the Procedure of the Board; |
| CLAUSE 11 | : | deals with Functions of the Board; |
| CLAUSE 12 | : | deals with the duty of members of the Board to disclose interest in certain contracts; |

No. 7, 2006

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- CLAUSE 13 : deals with the establishment of Secretariat;
- CLAUSE 14 : deals with Chairperson and Acting Chairperson of the Secretariat;
- CLAUSE 15 : deals with Divisions;
- CLAUSE 16 : deals with the establishment of Management Committee;
- CLAUSE 17 : deals with the Chairperson and Acting Chairperson of the Management Committee;
- CLAUSE 18 : deals with the qualifications for appointment as Secretary;
- CLAUSE 19 : deals with the appointment as Secretary;
- CLAUSE 20 : deals with recruitment and appointment;
- CLAUSE 21 : deals with period of Probation;
- CLAUSE 22 : deals with the transfer within the Legislature;
- CLAUSE 23 : deals with the retirement and retention of services;
- CLAUSE 24 : deals with the discharge of employees;
- CLAUSE 25 : deals with discharge of the Secretary;
- CLAUSE 26 : deals with rights and obligations;
- CLAUSE 27 : deals with saving regarding rights and obligations;
- CLAUSE 28 : deals with extraneous employment;
- CLAUSE 29 : deals with unauthorized remuneration;
- CLAUSE 30 : deals with the assignment of other functions to employees;
- CLAUSE 31 : deals with cession of emoluments;
- CLAUSE 32 : deals with reduction of salaries;

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- CLAUSE 33 : deals with remuneration of employees;
- CLAUSE 34 : deals with wrongly granted remuneration;
- CLAUSE 35 : deals with limitation of actions;
- CLAUSE 36 : deals with limitation of liability;
- CLAUSE 37 : deals with regulations and policies
- CLAUSE 38 : deals with repeal of laws and savings
- CLAUSE 39 : deals with the short title
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