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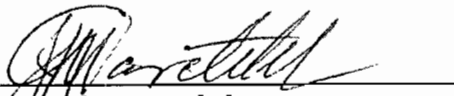
GENERAL NOTICE

NOTICE 128 OF 2011

Notice of publication of the following Acts is hereby given in terms of Section 123 of the Constitution:

- 1. North West Petitions Act, No. 2 of 2010**
- 2. North West Political Party Fund Act, No.3 of 2010**
- 3. North West Provincial Legislature Management Amendment Act, No. 5 of 2010.**

Consistent with the provisions of the afore-referred section in the Constitution, it is thus incumbent upon the North West Provincial Legislature to cause publication of the above Acts for general information.



Ms. M. Gaoretelelwe
Acting Secretary: Nwpl

**NORTH WEST PETITIONS ACT
ACT NO. 2 OF 2010**

[ASSENTED TO DR Mochise]

[DATE 15-04-2011]

(The English text is the original text of this act)

NORTH WEST PETITIONS ACT 2, 2010

To give effect to section 17 (BILL OF RIGHTS) of the Constitution; to provide for receiving petitions at the North West Provincial Legislature; to provide for the realization of the right to petition as entrenched in the Standing Rules of the North West Provincial Legislature; and to provide for matters incidental thereto,

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

Arrangement of sections

1. Definitions
2. Application
3. Objects
4. Interpretation
5. Right to Petition
6. General principles
7. Petition
8. Rights of a Petitioner
9. Submission of Petition
10. Functions of the Committee
11. Powers of Committee
12. Procedure for consideration of Petition
13. Right to appeal
14. Responsibilities of the Committee
15. Delegation

16. Sitting of the Committee
17. Accountability of the Committee to the Legislature
18. Witnesses and material of evidence
19. Offences and penalties
20. Regulations
21. Short title and commencement

DEFINITIONS

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

- (a) “**Administrative support service**” means employees of the Legislature assigned by the Secretary for purposes of the effective implementation and execution of this Act;
- (b) “**Appeal**” means an Appeal by the Petitioner contemplated in section 13 of this Act;
- (c) “**Chairperson**” means the Chairperson of the Committee responsible for petitions;
- (d) “**Committee**” means a Committee of the Legislature established in terms of section 10 of this Act;
- (e) “**Constitution**” means the Constitution of the Republic of South Africa, 1996;
- (f) “**Executive Council**” means the Executive Council of the North West Province contemplated in section 132 of the Constitution;
- (g) “**Legislature**” means the Provincial Legislature of the North West contemplated in section 104 of the Constitution;
- (h) “**Petitioner**” means a person who submits a Petition in terms of this Act and includes natural or juristic person;
- (i) “**Petition**” means complaint, request, representation or submission addressed by the Petitioner to the Committee in terms of this Act;
- (j) “**Prescribed**” means prescribed by regulations made under this Act;
- (k) “**The Secretary**” means the Secretary to the North West Provincial Legislature;
- (l) “**Speaker**” means the Speaker of the Legislature elected in terms of section 111 of the Constitution;
- (m) “**Standing Rules**” means the Rules and Orders made for the conduct of the business of the Legislature in terms of section 116 of the Constitution;
- (n) “**This Act**” includes regulations made by the Speaker under this Act.

APPLICATION

2. (1) This Act binds the North West Province and all citizens
- (2) If any conflict relating to a matter dealt with in this Act arises between this Act the provisions of any other law, other than the Constitution or an Act of Parliament expressly repealing this Act, the provisions of this Act shall prevail.

OBJECTS

3. (1) The objects of this Act are –
- a) to enact legislation required by section 17 of the Constitution and the Standing Rules of the Legislature;
 - b). to give effect to the letter and spirit of the Constitution and the Standing Rules of the Legislature;
 - c). to promote public participation in the province;
 - d). to conduct the business of the Legislature in an open and transparent manner;
 - f). to develop an implementation of effective accountability to the Legislature's constituency;
 - g). to accelerate the culture of participatory democracy;
 - h). to establish voluntary and mandatory mechanisms and procedure to give effect to the Right of Petition in a manner which enables persons to obtain a fair hearing as simple and affordable as possible.

INTERPRETATION

4. (1). Any person applying this Act must interpret its provisions so as to give effect to –
- a) section 17 of the Constitution, which includes the promotion of Petition through legislative and other measures designed to protect or advance persons disadvantaged by past and present unfair discrimination;
 - b) the relevant Standing Rules of the North West Provincial Legislature.
- (2). Any person interpreting this Act must take into account –
- a) any relevant law or code of practice in terms of a law
 - b) the context of public participation and the purpose of this Act.

RIGHT TO PETION

5. Any person may submit a Petition in terms of this Act.

GENERAL PRINCIPLES

6. (1) A petitioner may submit a Petition in any of the official language as contemplated section 6 of the Constitution.
- (2). The Committee must –
- a) respect, protect and promote the rights of a petitioner provided for in this Act;

- b) take appropriate steps to promote and facilitate participation by the citizens of the Province in the processes of government in the Province, particularly persons disadvantaged by unfair discrimination of whatever nature, and
- c) enhance democracy by exercising maximum accountability and transparency in consideration of Petitions.

(3). The Speaker must promote and facilitate a fair and equitable process of considering Petitions submitted to the Legislature in terms of this Act.

PETITION

7. (1) A Petition may be –

- a) a single Petition which is an individual submission from a single petitioner, concerning a particular complaint or request;
- b) an association Petition, which is an individual submission from an association or a single petitioner mandated by an association to submit that petition, concerning a particular complaint or request;
- c) collective Petition, which is made up of individual or group submissions from a number of petitioners concerning the same or substantially similar complaints or requests;
- d) a mass or group petition, which is made up of individual or group submissions from a number of petitioners concerning the same or substantially similar complaints or requests.

(2). A Petition may be submitted by a person acting –

- a) in his or her own interest;
- b) in the interest of another person who is not in a position, for whatever

reason to submit a petition in his/her or its own;

- c) as a member of or in the interest of a group or class of persons; or
- d) in the public interest.

(3). A Petition may, subject to section 6, address any matter –

- a) within the legislative authority of the North West Province contemplated in the Constitution;
- b) within the Executive Authority of the North West Province contemplated in the Constitution;
- c) assigned to a Member of the Executive in terms of the Constitution; or
- d) relating to the provincial supervision of local government contemplated in section 139 of the Constitution.

(4). The Committee must refuse to consider Petition if –

- a) it falls outside the scope of matters contemplated in section 3
- b) concerning a matter pending in a Court of Law, other tribunal or forum or a commission of enquiry contemplated in the Constitution;

- c) in connection with the conviction and sentencing of a person by the court of law to a period of imprisonment;
- d) brought by person who does not have necessary capacity to petition;
- e) written in a disparaging or insulting language against an institution of government;
- f) based on media speculations;

(5). The Committee may refuse to consider a Petition which –

- a) is libel
- b) does not state the correct name and contact details of the Petitioner and, where applicable, the name of association or group on whose behalf the Petition has been submitted;
- c) has not been signed by the Petitioner, except in the case of a Petitioner who is unable to write and –
 - (i) who has made a mark on the Petition as a symbol of his or her authority to submit the Petition, and
 - (ii) that mark was made in the presence of two witnesses who are able to write and who by signing the Petition, certified the mark as that of the Petitioner;
- d) address a matter that has been previously considered by the Committee, unless the petition embodies new information which, if considered may materially impact on the decision of the Committee;
- e) contains defamatory statements or improper language;
- f) does not supply the Legislature with full details of the complaint;
- g) the Petitioner has not exhausted all available local remedies.

RIGHTS OF A PETITIONER

8. A petitioner has the right to –

- a) submit a petition in accordance with the Act;
- b) withdraw a petition;
- c) submit a petition in any of the official languages of the province;
- d) be assisted by the administrative support services in submitting a petition;
- e). at any time before the Committee concludes its consideration of the petition –
 - (i) submit new information to the Committee in respect of the subject matter of the petition;
 - (ii) submit a written rebuttal against any statement, opinion or recommendation expressed by any person or body in respect of that petition, if invited to do so by the Committee;
 - (iii) inform the Committee if any person or body has, subsequent to the submission of the petition, addressed the matter in respect of which the petition was submitted;
 - (iv) obtain, upon request to the Committee, any information or hear any evidence or oral submission in respect of the subject matter of the petition which information or evidence must be included in the petition file;
- f) be notified, within four weeks of the submission of the petition of –
 - (i) the number assigned to the petition file which shall also be the petition number;

- (ii) the manner in which a petition is being dealt with, and
- (iv) the reason why the petition is being dealt with in that manner;
- g) have his or her petition considered by the Committee, unless the petition is subject to a disqualification as contemplated in this Act;
- h) be given written reasons if the Committee refuses to consider a petition;
- i) attend Committee meeting where his or her petition is considered, unless the Chairperson determines otherwise and has in writing prior to that meeting, Informed him or her of that determination and the reasons thereof;
- j) be advised in writing of the outcome of the consideration by the Committee of the petition;
- k) be advised by the Committee, where appropriate, of other remedies available to him or her; and
- l) have access at any reasonable time, to the petition file.

SUBMISSION OF PETITION

- 9 (1) A petition must be submitted strictly in accordance with this Act.
- (2) The administrative support service must render all reasonable assistance, excluding financial assistance, to any person who is unable to submit a petition meeting all the requirements imposed by this Act, to enable that person to properly submit a petition.
- (3) After careful consideration of the petition as contemplated in section 7 and the petition does not fall within the limitations stipulated in section 7(4) and (5), the administrative service must take all necessary steps to prepare the petition for consideration by the Committee.

ESTABLISHMENT AND FUNCTIONS OF PETITIONS COMMITTEE

10. (1) The Speaker shall, after consultation with the political parties represented in the Legislature, appoint a Petitions Committee, the composition of which shall be consistent with multi-party democracy.
- (2) The Committee must -
- a) receive every petition submitted in terms of this Act;
 - b) subject to section 7(3), (4) and (5), consider every petition properly submitted in terms of this Act;
 - c) record the oral submission or evidence of a petition given in terms of section 11 (a);
 - d) if a petition has been referred to a member of the Executive Council or a Municipal Council in terms of section 11 (e),
 - (i) direct the person or body to whom the petition was referred to consider that petition, make a decision or recommendation in respect of that petition or otherwise dispose of the request or complaint raised in that petition, and
 - (ii) require the person or body to whom that petition was referred to furnish the Committee within four weeks of that referral in writing with a detailed report on the steps taken by that person or body, to address the complaint, request, recommendation or instruction by

the Committee as the case may be, and the reasons for those particular steps;

- e) if it refuses to consider a petition in terms of section 7(3), (4) and (5), or because it has not been submitted in accordance with this Act, in writing inform the Petitioner of that fact as well as reasons for its decision;
- f) on a quarterly basis, report to the Legislature on petitions submitted to it during that period and all of its activities in respect thereof, including –
 - (i) the responsiveness, efficiency and timeousness that petitions were dealt with, and
 - (ii) the efficiency of the petitions process and procedure;
- g) instruct the administrative support service to inform a petitioner timeously –
 - (i) about progress in respect of the consideration of a petition from time to time;
 - (ii) of any decision taken by the Committee in respect of a petition, and reasons thereof;
 - (iii) if the Petitioner has been invited by the Committee to make an oral submission or call a witness;
 - (iv) of the date, time and venue when the petition is to be considered and that the Petitioner may attend that sitting of the Committee;
 - (v) of any referral to any person or body contemplated in this Act;
 - (vi) of other remedies available to the Petitioner; and
 - (vii) of the fact that the petitioner has access to the petition file at all reasonable times as contemplated in the Promotion of Access to Information Act no. 2 of 2000.

POWERS OF THE COMMITTEE

11. The Committee may –

- a) invite a Petitioner to –
 - (i) supplement his or her petition with additional oral or written submissions
 - (ii) call a witness to present oral or written evidence to the Committee
- b) make a recommendation to an appropriate person or body with a view of settling the request or complaint contained in the petition to the satisfaction of the Petitioner;
- c) make a recommendation to an appropriate person or body in respect of the general approach to be followed in future in settling a request or complaint;
- d) if requested to do so by a Petitioner, resolve a dispute or complaint, reserve an act, rectify an omission, regarding matters other than those prescribed by legislation means of negotiation;
- e) refer the petition and recommendation, if any, to a Member of Executive Council or Municipal Council for consideration and decision in respect of the complaint or request contained in the petition;
- f) make a recommendation to the Speaker to refer the petition to –
 - (i) the Legislature;

- (ii) another Committee of the Legislature;
- (iii) a member of the Executive Council;
- (iv) a Municipal Council in the Province;
- (v) and entity supporting constitutional democracy established in terms of Chapter 9 of the Constitution;
- (vi) the National Prosecuting Authority;
- g) conclude its consideration of a petition if it resolves that no steps, or no further steps, as the case may be, may be taken to settle the matter to the satisfaction of the Petitioner;
- h) if a petition has been referred to a Member of Executive Council or Municipal Council in terms of subsection (2) (e), and that person or body has failed to comply with subsection (1)(d), or that person's or body's conduct or response is unsatisfactory-
 - (i) make a complaint to the Public Protector in terms of Public Protector Act No. 23 of 1994 or the Premier;
 - (ii) take any other appropriate steps that the Committee may deem just and equitable;
- i) if the complaint or request in the petition has, since its submission, been settled to the satisfaction of the Petitioner, close the petition file;
- j) delegate any of its functions or power in terms of section 15.

PROCEDURE FOR CONSIDERATION OF A PETITION

12. The procedure for the consideration of a petition is as prescribed in the regulations and in accordance with the Standing Rules.

RIGHT OF APPEAL

13. (1). A Petitioner may appeal to the Speaker against –
- a) a refusal by the Committee to consider a petition;
 - b) where applicable, a determination by the Chairperson to consider behind closed doors a petition submitted by that Petitioner, or
 - b) any recommendation, referral to another person or body or other decision of the Committee after consideration of the petition submitted by him or her.
- (2). An appeal must be submitted and processed as prescribed;
- (3). The Speaker must consider the appeal as prescribed and may thereafter –
- a) dismiss the appeal;
 - b) table the appeal document and refer it to the Committee for re-consideration; or
 - c) refer the appeal and petition file with a recommendation to –
 - (i) the Legislature;
 - (ii) a standing committee of the Legislature;
 - (iii) the Premier or a Member of Executive Council;
 - (iv) the Municipal Council of a local government;
 - (v) an institution supporting constitutional democracy contemplated in Chapter 9 of the Constitution; or
 - (vi) the National Prosecuting Authority;

- d) make any other determination which he or she is competent in law to make in respect of the petition.
- (4). The Speaker must within a reasonable time after the consideration of an appeal, in writing, report to the Legislature on that appeal.

RESPONSIBILITIES OF COMMITTEE

14. The Committee must, from time to time, take reasonable steps to –
- a) inform the citizens of the Province of their rights in terms of this Act;
 - b) inform the citizens of the Province of the physical address, fax number or postal address where a petition may be submitted;
 - c) ensure that persons or categories of persons previously disadvantaged by unfair discrimination enjoy full participation in the process of governance;
 - d) exercise maximum accountability and transparency in the consideration of petitions where appropriate, or if requested to do so by a petitioner, resolve a dispute by means of mediation or negotiation.

DELEGATION

15. (1) The Committee may delegate any of its duties, functions or powers in respect of a particular petition to a Member of the Committee.
- (2) A Member contemplated in subsection (1) shall be appointed by the Chairperson;
- (3) The Chairperson must provide the Members with a written and signed authorization to consider a particular petition.
- (4) The Chairperson may at any time before the Member has commenced his or her Consideration of a petition, withdraw his or her consideration of that petition to the Committee.
- (5) The Member must after he or she has concluded his or her consideration of that Petition, refer it to the Committee.
- (6) A Member appointed in terms of this section, has all powers that are necessary to Enable him or her to fulfill his/her functions.
- (7) Notwithstanding the provisions above, the Committee may exercise any power or Perform any duty delegated in terms of this section.

SITTING OF COMMITTEE

16. (1). The Committee may for purpose of hearing evidence and considering a petition, sit at a date, time and place anywhere in the Province determined by the Chairperson.
- (2). The Chairperson must give public notice of sitting in accordance with the Standing Rules of the Legislature.
- (3). The Chairperson must instruct the administrative support service to timeously –
- a) ensure that subpoenas have been properly issued and served as prescribed;
 - b) inform the Petitioner in writing on any matter that the Petitioner is entitled to be informed of in terms of this Act, any other law or Standing Rules of the Legislature;

- c) if necessary, ensure that the contents of the petition file are translated into a working language of the Committee;
 - d) perform any additional duty, which enable the Committee to properly consider a petition and exercise its other functions in terms of this Act.
- (4). Evidence presented before the Committee must be heard in public, unless it is –
- a) in the interest of justice, or
 - b) in the interest of the safety of the Petitioner or a witness; that evidence must be heard behind closed doors.
- (5). The administrative support service must provide the Chairperson with a list of submitted petitions, which have not been finalized by the Committee for tabling at each meeting of the Committee.

ACCOUNTABILITY OF COMMITTEE TO THE LEGISLATURE

- 17.(1). The Committee must report to the Legislature as contemplated in section 12(1)(f).
- (2). A debate on an issue raised in a report of the Committee to the Legislature must take place if more three members of the Legislature so demand.
 - (3). The Legislature may refer any matter contained in a report submitted to the Legislature by the Committee back to the Committee for reconsideration.
 - (4). A member of the Legislature has access to a petition file at any reasonable time.
 - (5). The Legislature may whilst the Committee is considering a petition, only conduct an interpellation in respect of that petition, relating to the process of considering petition, and not in respect of the merits thereof.

WITNESSES AND MATERIAL OF EVIDENCE

- 18.(1) For the purpose of ascertaining a matter relating to the subject of its investigation, the Committee may either –
- a) summon a person to attend a sitting of the Committee as a witness in order to give evidence if the Committee requires it, or
 - b) subpoena a person to attend a sitting of the Committee as a witness in order to give evidence, or produce any book, document, object or other material of evidence, before the Committee at the place and time specified in the subpoena.
- (2). A subpoena contemplated in subsection (1)(b) must –
- a) be signed and issued by the Chairperson;
 - b) state the matter in respect of which it is issued;
 - c) stipulate the date, time and place where the person or a representative of the body must appear before the Committee;
 - c) draw the attention of the person to whom the subpoena is addressed to the provisions of subsection (4);
 - d) be timeously served on the person to whom the subpoena is addressed by –
 - (i) registered mail; or

- (ii) personal delivery.
- (3) A person appearing before the Committee to give oral evidence must, before giving evidence, take oath or make affirmation administered by the Chairperson or any other person authorized by him or her to do so, to only speak the truth.
- (4) Any witness, other than an employee of the Province or a Municipal Council, appearing before the Committee to give oral evidence or to produce any document, object or other material of evidence under subpoena issued in terms of subsection (1), is entitled to the witness fee payable to a witness giving evidence, as contained in the Standing Rules.
- (5) A person appearing before the Committee to give oral evidence may be assisted by a representative or his or her choice.

OFFENCES AND PENALTIES

- 19.(1). A person properly subpoenaed in terms of section 18(1)(b), who without just cause –
- a) fails to appear before the Committee at the date and place stipulated in the subpoena;
 - b) fails to remain in attendance at the sitting of the Committee until the Chairperson excuses him or her from further attendance;
 - c) refuses or fails to take an oath or make an affirmation contemplated in section 18(3) when called upon by the Chairperson to do so;
 - d) refuses or fail to produce any book, document, object or other material of evidence in his or her possession or under his or her control, which he or she has been instructed to produce; is guilty of an offence.
- (2). A person properly subpoenaed in terms of section 18(1)(b), who after having taken an oath or made an affirmation-
- a) fails to answer fully or dutifully any question lawfully put to him or her, or
 - b) otherwise knowingly gives false evidence before the Committee, is guilty of an offence.
- (3). A person –
- a) who threatens, obstructs or unduly influence a person properly subpoenaed in terms of section 18(1)(b) to-
 - (i) refuse or fail to give oral evidence before the Committee;
 - (ii) knowingly give false evidence before the Committee, or
 - (iii) refuse or fail to produce any book, document, object or other material of evidence in his or her possession or under his or her control, which he or she has been instructed to produce;
 - b) properly subpoenaed in terms of section 18(1)(b), produces any book, document, object or other material of evidence before the Committee, which he or she knows is false, fabricated, falsified or unlawfully or falsely altered;
 - c) who destroys, conceal, falsifies, fabricates, or unlawfully or falsely alters any book, document, object or other material or evidence which he or she knows or may be reasonably expected to know it may be relevant to a petition being considered or to be considered by the Committee;
 - d) who knowingly furnishes the Committee with information or makes a

- statement before it, which is false or misleading;
- e) who obstructs or unduly influences the Committee, any Member of the Committee or any member of the administrative support service from doing or not doing anything authorized in terms of this Act; is guilty of an offence.
- (4) Any person found guilty of an offence under this section shall be liable to a fine or imprisonment not exceeding twelve months or to both such fine and imprisonment.

REGULATIONS

20.(1) The Speaker must make regulations in respect of –

- a) the process and procedures for the submission of a petition;
- b) the registration of a petition and opening of a petition file by the administrative support service;
- c) the preliminary investigation of a petition by the administrative support service;
- d) the process and procedures for the submission of an appeal by a Petitioner;
- e) the process and procedures for handling of a petition when the Legislature is not in session; and
- f) the procedure to deal with conflicts of interests
- (2). The Speaker may make regulations in respect of –
- a) the rights of a petitioner contemplated in this Act;
- b) any duty or function not in subsection (1), which the Committee is required to perform;
- c) any duty or function not provided for in subsection (1), which the administrative support service is required to perform;
- d) any time frames to be adhered to during any process or for any procedure contemplated in this Act;
- e) the archiving or disposal of a petition file that has been closed;
- f) the procedures and process for the issuing and serving of subpoenas for purposes of this Act;
- g) any measures to be taken by the Legislature, the Committee or the Secretary to promote and facilitate participation by the citizens of the Province in the processes of government in the Province, or
- h) in general, any matter not provided for in this section, that may be necessary to prescribe in order to achieve or promote the objects of this Act.

SHORT TITLE AND COMMENCEMENT

21. This Act shall be called North West Petitions Act, 2010 and shall come into operation upon publication in the *Government Gazette*.

NORTH WEST PROVINCE POLITICAL PARTY FUND ACT

ACT NO. 3 OF 2010

[ASSENTED TO DR Moshiri]

[DATE 15-04-2011]

(The English text is the original text of this act)

ACT

To provide funding for political parties participating in the North West Provincial Legislature; to establish the North West Political Party Fund; to provide for accountability regarding that Fund; to provide for regulation of disclosure by political parties; and to provide for matters connected therewith.

PREAMBLE

WHEREAS the Constitution establishes the basic principle of multi-party democracy;
AND WHEREAS the Constitution promotes this principle in all spheres of government;
AND WHEREAS section 236 of the Constitution promotes this principle and, in particular, requires national legislation to provide for the funding of political parties participating in national and Provincial Legislatures on an equitable and proportional basis, to enhance multi-party democracy;
AND WHEREAS national legislation has been enacted providing for funding of political parties participating in national and Provincial Legislatures, and establishing a fund for the purpose of funding political parties that participate in national and Provincial Legislatures;
AND WHEREAS supplementary funding of political parties participating in the North West Provincial Legislature on an equitable and proportional basis further enhances multi-party democracy;
AND WHEREAS the money so allocated is to be utilised by political parties for purposes arising from their functioning as political parties in a modern democracy;

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

Arrangement of sections

1. Definitions
2. Object
3. Establishment of the North West Political Party Fund
4. Deposit and investment of money of Fund
5. Management and control of the Fund
6. Allocations from the Fund
7. Accountability of political parties for money allocated from the Fund
8. Recovery of money irregularly spent by political parties
9. Speaker to report to the North West Provincial Legislature on Fund
10. Surplus money at the end of financial year
11. Regulations
12. Short title and commencement

Definitions

1. In this Act, except if not consistent with the context-

"financial year" means a period of twelve months from 1 April in every year to 31 March the following year, both days included;

"Fund" means the North West Province political Party Fund established by section 3(1);

"Secretary" means the Secretary to the North West Provincial Legislature appointed in terms of North West Provincial Legislature Management Act, 3 of 2007;

"Legislature" means the provincial Legislature of the North West Province;

"prescribe" means prescribed by regulation made under this Act; and

"this Act" Includes the regulations made under this Act herein.

2. Object

The object of this Act is to-

- (a) provide to public funding for political parties represented in the Legislature;
- (b) minimise dependency of political parties on private funding; and
- (c) encourage political parties to disclose their sources of private funding.

3. Establishment of the North West Province Political Party Fund

- (1) The Fund is hereby established to manage public funding for political parties represented in the Legislature.
- (2) The fund must be credited with-
 - (a) money appropriated to the Fund by the Legislature;
 - (b) contributions and donations to the Fund originating from sources within or outside the Republic;
 - (c) interest earned on money deposited in terms of section 4 (1) and on money invested in terms of section 4 (2); and
 - (d) money recovered or accruing to the Fund from any other source.

4. Deposit and investment of money of Fund

- (1) Except as provided in subsection (2), money standing to the credit of the Fund must be deposited by the Secretary in a separate bank account held with a registered bank in the Republic in terms of Banks Act, 1990 (Act No. 94 of 1990).
- (2) Monies held in the Fund not required immediately for allocations to political parties in terms of section 6, may be invested accordingly.

5. Management and control of Fund

- (1) The Secretary is responsible for the management and administration of the Fund and is the accounting officer of the Fund.
- (2) For each financial year the Secretary must keep records in accordance with generally accepted accounting practice and procedures of-
 - (a) money received by or accruing to the Fund;
 - (b) allocations and payments made there-from;
 - (c) expenditure arising from the allocation of money from the Fund; and
 - (d) a record of the capital and liabilities of the Fund during that year.

- (3) The first financial year of the Fund must run from the day on which this Act comes into operation until 31 March of the following year, and, for each subsequent financial year it will run from 01 April of each year to 31 March of the following year.

6. Allocations from Fund

- (1) Every political party represented in the Legislature is entitled to an allocation from the Fund.
- (2) Subject to subsection 7, money allocated to a party must be used for purposes compatible with its functioning in a modern democracy.
- (3) The functioning of a political party as contemplated in subsection 2 includes, but is not limited to-
 - (a) the development of the political will of the people;
 - (b) bringing the influence of a political party to bear on the shaping of public opinion;
 - (c) agitating and furthering political education;
 - (d) promoting active participation by individual citizens in politics;
 - (e) exercising an influence on political trends; and
 - (f) ensuring continuous vital links between the people and organs of state, in particular the Legislature.
- (4) Allocations from the Fund to political parties must be determined and made at the prescribed intervals, with prescribed installments, and in the prescribed manner.
- (5) The Secretary must make allocations from the Fund to the political parties in accordance with a prescribed formula based-
 - (a) on the principle of proportionality, taking into account each political party's representation in the Legislature; and
 - (b) on the principle of equity, taking into account amongst others, a fixed threshold for a minimum allocation and a weighted scale of representation for an allocation to each of the political parties represented in the Legislature.
- (6) The information and particulars necessary to apply the prescribed formula to a party must be ascertained from the relevant facts and circumstances as when the allocation is to be made.
- (7) Money allocated to a political party from the Fund may not be used-
 - (a) directly or indirectly paying for remuneration, fee, reward or other benefit to a person representing the party in the Provincial Legislature or holds an office under state;
 - (b) with a view to finance or contribute to a matter, cause, event, occasion, whether directly or indirectly, in contravention of the code of ethics binding on the members of Provincial Legislature, as the case maybe;
 - (c) directly or indirectly for the purpose of establishing or financing a business, acquiring or maintaining a right or any financial interest whatsoever in a business;
 - (d) to acquire a right or interest in the immovable property, except where the right or interest in the immovable property is to be used by the political party solely for its ordinary political purposes; or
 - (e) for any other purpose that is inconsistent with the functioning of a political party in a modern democracy as may be prescribed.

- (8) (a) The allocation of money from the Fund to a political party must come to an end when the party ceases to qualify in terms of subsection (1); and
- (b) within 21 days after the date on which a political party ceases to qualify, it must repay to the fund the unspent balance of all monies allocated to it.

7. Accountability of political parties for money allocated from Fund

- (1) A political party to which money is allocated from the Fund must-
- (a) keep a separate bank account into which the money must be deposited with a registered bank in the Republic; and
- (b) deposit therein all money received from the Political Parties' Fund; and
- (c) appoint –
- (i) the Leader of the Party in the Provincial Legislature, or a Representative of the Party in the Provincial Legislature if the Leader is not a Member of the Provincial Legislature;
- (ii) the Chief Whip or the most senior Whip of that Party in the Provincial Legislature, as its accounting officer with regard to the money allocated to the Party from the Political Parties' Fund.
- (2) The responsibility of the accounting officer of the political party is to account for the money allocated to that political party and includes amongst others, to-
- (a) ensure that the party complies with the requirements of this Act; and
- (b) ensure that allocated money is not paid out for a purpose not authorized by this Act.
- (3) The accounting officer of the political party must keep separate books and records of account in the prescribed manner with regard to money allocated from the Fund and all transactions thereon.
- (4) Within two months after the end of a financial year the accounting officer must prepare a statement-
- (a) showing all amounts received by the political party from the Fund during that financial year and the usage thereof; and
- (b) describing the purposes for which the various amounts have been used.
- (5) The books and records of account contemplated in subsection 3 and the statement contemplated in subsection 4 must be audited by a public accountant and auditor registered and practicing as such in terms of the public Accountants and Auditors Act, 1991 (Act No. 80 of 1991).
- (6) An auditor who performs an audit contemplated in subsection 5 must in the auditor's report express an opinion as to whether the allocated money was spent for purposes authorized by this Act.
- (7) Within three months after the end of each financial year the accounting officer shall submit the audited financial statements and report of the auditor to the Secretary.
- (8) (a) Subject to paragraph (b), the Secretary -

- (i) must order that the allocation of money to political party from the Fund be suspended on reasonable grounds that the party failed to comply with a requirement of this Act; and
- (ii) must terminate the suspension if satisfied, in light of the party's subsequent conduct, that the suspension is no longer justified;
- (b) the suspension of a political party's allocations may be ordered in terms of paragraph (a) only if the Secretary has-
 - (i) by written notice informed the party of the intended suspension and the reasons thereof; and
 - (ii) called on the party to furnish reasons within the period specified in the notice why its allocations from the Fund should not be suspended.
- (c) the period referred to in paragraph (b) must not be shorter than 30 days as from the date of the notice.

8. Recovery of money irregularly spent by political parties

- (1) Where money allocated to a political party in terms of section 6 has not been spent in accordance with a requirement of this Act, the political party concerned is liable to repay to the Secretary the money irregularly spent.
- (2) The Secretary must recover the money irregularly spent and may do so by -
 - (a) setting off the amount irregularly spent against an allocation that may become payable to the political party; or
 - (b) instituting a civil claim in respect of the amount irregularly spent against the political party concerned.

9. Speaker to report to the North West Provincial Legislature on Fund

- (1) As soon as possible after the end of each financial year, the Speaker must-
 - (a) prepare a report regarding management and administration of the Fund during that financial year; and
 - (b) prepare financial statements in relation to the Fund showing-
 - (i) the amounts received by and that have accrued to the Fund during that financial year;
 - (ii) allocations made from the Fund to the respective political parties during that year;
 - (iii) the amounts spent during that financial year by each political party in connection with purposes described under this Act as prescribed from time to time;
 - (iv) the balance of the Fund and amounts owing to or by the Fund as at the end of that financial year; and

- (v) the Speaker must submit the annual report, financial statements and the Fund's books and records of account to the Auditor-general for audit purposes .
- (2) Within 30 days after receipt of the Auditor-General's report, the Speaker must submit the report to Provincial Legislature together with the audited financial statements of the Fund and the audited Speaker's report.

10. Surplus money at the end of financial year

- (1) Money not spent by a political party at the end of a financial year must be shown in the books and records of account of the party as a credit balance carried forward to the next financial year: Provided that-
- (a) money carried forward may be limited to an amount representing a prescribed percentage of the allocations made for that financial year; and
 - (b) money carried forward to the next financial year shall not be taken into account in determining an allocation to the party concerned during that financial year.
- (2) Money standing to the credit of the Fund at the end of a financial year must be carried forward to the next financial year as a credit balance.
- (3) If the North West Provincial Legislature is dissolved in terms of the Constitution, a political party that is represented in the legislature must close its books and records of account-
- (a) not later than 21 days before the date set for the election and within 14 days thereafter submit an audited statement in respect of those books and records of account to the Secretary of the North West Provincial Legislature; and
 - (b) not later than the day immediately before the date set for the election, such a political party must repay to the Secretary of the North West Provincial Legislature the unspent balances as at the date when its books and records of account are closed as contemplated in paragraph (a).
- (4) If North West Provincial Legislature is dissolved in any other circumstances, a political party represented therein must close its books and records of account-
- (a) not later than 21 days before the date set for the election;
 - (b) within 14 days thereafter submit an audited statement in respect of those books and records of account to the Secretary of the North West Provincial Legislature;
 - (c) the Secretary must calculate the representation of a political party mentioned in subsection 4^f as a percentage of the representation of that party contemplated in subsection 3; and
 - (d) not later than the day immediately before the date set for the election, such a political party must repay to the Fund the unspent balance of the determined percentage as at the date when the books and records of account are closed as contemplated in paragraph (a).

11. Regulations

- (1) The Speaker, acting on the recommendation of the Rules Committee of the Legislature may by Proclamation, make regulations consistent with this Act-
 - (a) to prescribe-
 - (i) the procedure according to which,
 - (ii) manner in which, and
 - (iii) intervals or installments at which payments from the Fund are to be determined and made;
 - (b) to prescribe the formula on which allocations are to be calculated;
 - (c) to determine a purpose which in terms of section 6(2) is not compatible with the functioning of a political party in a modern democracy;
 - (d) to prescribe the information and particulars that political parties must furnish to the Secretary with a view to ensure proper and effective application and management of and compliance with this Act;
 - (e) to prescribe a framework for disclosure by a political party represented in the Legislature for funding received elsewhere by the party concerned; and
 - (f) on any other matter incidental thereto.

12. Short title and commencement

- (1) This Act is called the North West Province Political Party Fund Act 3 of 2010 and comes into operation upon promulgation in the government *gazette*.

**NORTH WEST PROVINCIAL LEGISLATURE MANAGEMENT
AMENDMENT ACT 5 OF 2010**

[ASSENTED TO DE Wet]

[DATE 30-03-2011]

(English text is the original text of this act)

NORTH WEST PROVINCIAL LEGISLATURE MANAGEMENT AMENDMENT BILL, 2010

To amend the North West Provincial Legislature Management Act 3 of 2007, so as to fully comply with the norms and standards for financial management of provincial legislatures as prescribed in the Financial Management of Parliament Act of 2009 (the Act)

GENERAL EXPLANATORY NOTE:

[] Words in bold type square indicate omissions from existing enactments
_____ Words underlined with a solid line indicate insertions into existing enactments.

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

1. With exception of the definitions sections and headings under sections 6 and 7, wherever in the Act reference is made to **[the Speaker]**, the latter shall be substituted by "**Executive Authority**", and the same shall apply to the reference to **[Secretary]**, which shall be substituted by "**Accounting Officer**".

2. The following subsection shall be added to section 6:

6 (7). The Executive Authority appoints the Accounting Officer after consultation with the Rules Committee

3. The following subsection shall be added to section 8:

8 (1) The **[Secretary]** Accounting Officer must ensure that -

(f)-unauthorized, irregular and fruitless expenditure and other losses are prevented, and appropriate steps are taken where such expenditure has occurred;

(g)-disciplinary action is instituted against any employee of the Legislature who has allegedly committed an act of financial misconduct, and

(h)-when appropriate, criminal proceedings are instituted against any person who has allegedly committed an offence in terms of section 74.

4.The following new section shall be added, and shall be section 8A:

8A(1).The Executive Authority and the Accounting Officer must conclude a written performance agreement for the Accounting Officer annually.

(2). The performance agreement referred to in subsection (1) must –

(a)-be concluded within one month after the Accounting Officer is employed and thereafter within one month after the start of each financial year;

(b)-specify performance standards linked to the objectives and targets of the Legislature’s strategic plan and performance plan for the financial year;

(c)-provide for an annual assessment of the Accounting Officer’s performance by the Executive Authority; and

(d)-specify the consequences of substandard performance.

(3).The provisions of this Act conferring responsibilities on the Accounting Officer forms part of the performance agreement of the Accounting Officer.

(4).The annual assessment of the Accounting Officer’s performance must take cognizance of the audit report on the annual financial statements of the Legislature.

5.The following amendments shall be effected to section 12:

(2) The appointment of:

(c) all other staff members shall be made by the [Secretary] Accounting Officer after consultation with the [Speaker] Executive Authority.

(4) The promotion, transfer or dismissal of any other employee of the Legislature shall be made by the [Secretary]Accounting Officer after consultation with the [Speaker] Executive Authority.

6.The following subsection shall be added to section 17:

17.(1). The [Speaker] Executive Authority must –

(c). table the strategic plan and annual performance plan in the Legislature.

7. The following amendments shall be effected to section 19:

19.(1).The **[the Secretary]** Accounting Officer must, within six months prior to the start of the financial year, prepare a draft annual performance plan for the Legislature and present it to the **[Speaker]** Executive Authority.

8. The following sections shall be deleted from the Act:

[25(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) re-appropriation in the adjustment 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 finalize 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 adjustment 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.(1). Funds that are a direct charge against the Provincial Revenue Fund and that are unspent at the end of the financial year must be returned to the Provincial Revenue Fund.

(2). Appropriated funds that are unspent at the end of the 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.]

9. The above sections and their headings shall be substituted by the following heading and section, and the current section 27 shall be 26 and all other subsequent sections shall follow such numerical arrangement:

Treatment of unspent funds

25. (1) The Legislature is not required to return to the Provincial Revenue Fund money appropriated or approved for a particular financial year but not spent in that year.
- (2) Funds appropriated for, but not spent in a particular financial year must be regarded as funds derived from the Legislature's own revenue sources, and the approval of its use in subsequent financial years must be in accordance with section 21(1)(b).
- (3) Funds derived from the Legislature's own revenue sources that are approved for a particular financial year, but not spent in that year, must be approved for use in subsequent financial years in accordance with section 21(1)(b).
- (4) Despite the provisions of subsection (1), funds retained by the Legislature must be re-appropriated within the next two financial years.

Short title and commencement

10. This Act shall be called North West Provincial Legislature Management Amendment Act, 2010, and shall come into operation upon publication in the government *gazette*.

The following Schedule shall be added to the Act as Schedule 1 and the current Schedule 1 shall be Schedule 2.

SCHEDULE 1

Code of Ethics for the Executive Authority

- (1) The object of the Code is to enhance the confidence of the public and that of the Members of the Provincial Legislature in the integrity of the management of the Provincial Legislature. It applies to the Executive Authority of the Provincial Legislature and supplements the Legislature's Code of Ethics. It recognizes that in holding high public office for the Executive Committee has an obligation to Perform official functions and duties in a way that will bear the closest public Scrutiny, an obligation that is not discharged by simply acting within the law.
- (2) The Executive Authority must conform to the principles of good governance set out in this Schedule.
- (3) The Executive Authority must -
 - (a) fulfill all the obligations placed upon it by the Constitution, the law and the rules, regulations and policies of the Legislature;
 - (b) perform his or her duties and exercise powers with honesty and diligence, and in accordance with the highest ethical standards;
 - (c) act in all respects in a manner that is consistent with the integrity of this or her office; and
 - (d) arrange his or her private affairs in a manner that will prevent real, potential or apparent conflicts of interests from arising and, if such conflict arises, resolve the conflict in favour of the interests of the Legislature and the public.
- (4) The Executive Authority may not -
 - (a) use her or his position to enrich herself or himself or improperly benefit any other person;
 - (b) expose herself or himself to any situation involving the risk of a conflict between official responsibilities and private interests;
 - (c) receive remuneration for any work or service other than for the performance of her of his functions as Executive Authority; or
 - (d) use any allowance provided by the Legislature for a purpose other than that for which it was provided.
- (5) Any complaints concerning adherence to this Code must be determined by the Ethics Committee under the Standing Rules of the Legislature to oversee the Code of Ethics for members of the Legislature.

The following Schedule shall be added to the existing Schedules as Schedule 3:

SCHEDULE 3

Transitional Arrangements

- (1) Until such time as any regulations that must be made in terms of the Principal Act and its amendments come into force, any policies, regulations or rules concerning the subject matter of such regulations remain in force.
 - (2) If, when this Act comes into effect there is no performance agreement for the Accounting Officer as required in terms of section 9, an agreement must be concluded within one month.
 - (3) Section 25 comes into effect at the start of the financial year after this Act comes into effect, or by decision of the Executive Authority.
 - (4) The North West Provincial Legislature shall remain on modified cash accounting system insofar as it relates to the following sections of the Principal Act: sections 19, 20, 21, 23, 24, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66 and 67 until the Executive Authority decides otherwise.
 - (5) Regulations required by this Act must be made within a reasonable time of the Act coming into effect.
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