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### PROVINCIAL NOTICE

The following Bill is hereby published for general information:

Western Cape Parliamentary Service and Finance Management Bill [B 9—2009]

P.N. 458/2009 14 December 2009

Any person or organization wishing to comment on the said Bill is requested to lodge such comment in writing before or on 22 January 2010:

- (a) by posting it to:  
The Secretary  
Western Cape Provincial Parliament  
(Attention: Mr PG Williams)  
P.O. Box 648  
Cape Town  
8000
- (b) by e-mail to:  
petwillia@wcpp.gov.za
- (c) by fax to:  
PG Williams  
(021) 487-1618

P. G. Williams  
Secretary to Parliament

## INHOUD

### PROVINSIALE KENNISGEWING

Die volgende Wetsontwerp word hierby vir algemene inligting gepubliseer:

Wes-Kaapse Wetsontwerp op Parlementêre Diens en Finansiële Bestuur [W 9—2009]

P.N. 458/2009 14 Desember 2009

Enige persoon of organisasie wat kommentaar oor die genoemde Wetsontwerp wens te lewer, word versoek om sodanige kommentaar skriftelik te lewer voor of op 22 Januarie 2010:

- (a) deur dit te pos aan:  
Die Sekretaris:  
Wes-Kaapse Provinsiale Parlement  
(Aandag: Mnr PG Williams)  
Posbus 648  
Kaaipstad  
8000
- (b) deur dit te e-pos aan:  
petwillia@wcpp.gov.za
- (c) deur dit te faks aan:  
PG Williams  
(021) 487-1618

P. G. Williams  
Sekretaris van die Parlement

## IZIQULATHO

### ISAZISO SEPHONDO

Lo Mthetho uSayilwayo ulandelayo upapashwe apha ukunika ulwazi ngokubanzi:

UMthetho oSayiLwayo weNkonzo yePalamente noLawulo lwezeMali weNtshona Koloni [B 9—2009]

P.N. 458/2009 14 Disemba 2009

Nabani na okanye nawuphi na umbutho onqwenela ukuphawula ngalo Mthetho uSayilwayo kuthethwa ngawo uyacelwa ukuba afake izimvo zakhe phambi okanye ngomhla wama- 22 Januwari 2010:

- (a) ngokuwuposela ku:  
Nobhala:  
IPalamente yePhondo leNtshona Koloni  
(Iya ku: Mnu PG Williams)  
P.O. Box 648  
EKapa  
8000
- (b) nge-imeyile ku:  
petwillia@wcpp.gov.za
- (c) ngefeksi ku:  
PG Williams  
(021) 487-1618

P. G. Williams  
UNobhala wePalamente



# BILL

**To provide for the establishment of a Parliamentary Service and a Governance Board for the Western Cape Provincial Parliament; to regulate the financial management of the Western Cape Provincial Parliament; and to provide for matters connected therewith.**

## PREAMBLE

**RECOGNISING** that the Provincial Parliament is governed by the democratic values and principles enshrined within both the Constitution of the Republic of South Africa, 1996, and the Constitution of the Western Cape, 1998;

**AND** in order to—

- ensure effective governance of the Provincial Parliament;
- promote and maintain a high standard of professional ethics in the financial management of the Provincial Parliament;
- promote the efficient, economic and effective use of resources allocated to the Provincial Parliament; and
- ensure the transparent, accountable and sound management of the revenue, expenditure, assets and liabilities of the Provincial Parliament,

**B**E IT THEREFORE ENACTED by the Provincial Parliament of the Western Cape, as follows:—

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

“**Accounting Officer**” means the Secretary;

“**annual report**” means the annual report referred to in section 23(1);

- “**approved budget**” means the total amount of funds that the Provincial Parliament has—
- (a) appropriated from the Provincial Revenue Fund for the Provincial Parliament in a vote in terms of a provincial appropriation Act; and
  - (b) approved from the Provincial Parliament’s own funds in terms of section 31(2)(c);
- “**Committee**” means the committee of the Provincial Parliament established in terms of section 9;
- “**financial year**” means the period commencing on the first day of April in a year up to the thirty first day of March in the following year, both days inclusive;
- “**fruitless and wasteful expenditure**” means expenditure that was made in vain and would have been avoided had reasonable care been exercised;
- “**Governance Board**” or “**Board**” means the Western Cape Provincial Parliament Governance Board established by section 3;
- “**irregular expenditure**” means expenditure, other than unauthorised expenditure, incurred in contravention of, or that is not in accordance with, a requirement of this Act or any other applicable legislation;
- “**main division**” means one of the main segments into which the Provincial Parliament’s approved budget is divided and which specifies the total amount which is appropriated and approved for the items under that segment;
- “**Member**” means a member of the Provincial Parliament;
- “**Minister**” means the Provincial Minister responsible for financial matters in the province;
- “**month**” means the period that extends from the first day in a month up to and including the day that precedes the day which corresponds numerically to the first mentioned day in the following month;
- “**National Treasury**” means the treasury established by section 5 of the PFMA;
- “**official**” means an employee of the Parliamentary Service;
- “**overspending**”—
- (a) in relation to the approved budget of the Provincial Parliament, means causing expenditure to exceed the amount appropriated and approved for the budget; or
  - (b) in relation to a main division, means causing expenditure to exceed the amount appropriated or approved for that main division, subject to section 35;
- “**Parliamentary Service**” means the Parliamentary Service referred to in section 2, including the Secretary;
- “**Parliamentary Treasury**” means the Treasury referred to in section 15;
- “**performance plan**” means the annual performance plan referred to in section 30;
- “**PFMA**” means the Public Finance Management Act, 1999 (Act 1 of 1999);
- “**political party**” means a political party represented in the Provincial Parliament;
- “**prescribe**” means prescribe by regulation;
- “**province**” means the Province of the Western Cape;
- “**provincial annual budget**” means the provincial annual budget referred to in section 27(2) of the PFMA;
- “**Provincial Parliament**” means the Western Cape Provincial Parliament;
- “**Provincial Treasury**” means the treasury established for the province by section 17 of the PFMA;
- “**quarter**” means any of the following periods in a financial year:
- (a) 1 April to 30 June;
  - (b) 1 July to 30 September;
  - (c) 1 October to 31 December; or
  - (d) 1 January to 31 March;
- “**regulations**” means treasury regulations made by the Parliamentary Treasury under section 40;
- “**Secretary**” means the Secretary to the Provincial Parliament appointed in terms of section 7(1) or the person acting as Secretary in terms of section 8;
- “**Speaker**” means the Speaker of the Provincial Parliament;
- “**standards of generally recognised accounting practice**” means an accounting practice complying with the standards issued by the national Minister responsible for financial matters on the advice of the Accounting Standards Board;
- “**strategic plan**” means the strategic plan referred to in section 30;
- “**this Act**”, except in section 40, includes the regulations and Schedule to the Act;

**“unauthorised expenditure”** means—

- (a) overspending of the approved budget or a main division;
- (b) any expenditure from the approved budget or a main division for a purpose unrelated to the approved budget or main division, subject to section 35; or
- (c) any expenditure of donor funds for a purpose not specified in the agreement with the donor.

## **CHAPTER 2**

### **GOVERNANCE ARRANGEMENTS**

#### **Establishment of Parliamentary Service** 10

2. There is hereby established a Parliamentary Service to provide services to the Members to enable them to perform their functions.

#### **Establishment of Governance Board**

3. (1) There is hereby established a Board to be known as the Western Cape Provincial Parliament Governance Board. 15

(2) The Board is the executive authority responsible for controlling the revenue, expenditure, assets and liabilities of the Provincial Parliament.

(3) In respect of the performance of the functions of the Board, the members of the Board are collectively accountable to the Provincial Parliament.

#### **Composition of Governance Board** 20

4. (1) The Governance Board consists of—

- (a) the Speaker;
- (b) the Chief Whip of the Majority Party;
- (c) a Member nominated by the Majority Party;
- (d) the Leader of the official Opposition; and
- (e) a Member of the largest minority party other than the official Opposition, appointed by resolution of the Provincial Parliament. 25

(2) The Speaker is the chairperson of the Board.

(3) The Secretary provides administrative support to the Board.

(4) The Speaker must between consecutive meetings of the Board perform all the functions of the Board. 30

(5) The Speaker must refer all decisions taken by virtue of subsection (4) to the Board for ratification.

#### **Procedure of Governance Board**

5. (1) The Board may regulate its proceedings and performs its functions in the manner it deems fit. 35

(2) The Board must meet at least once per quarter.

(3) At a meeting of the Board a quorum consists of at least three members.

(4) The Board must operate in a manner that strives to reach consensus, but if consensus cannot be reached, decisions are taken by majority vote. 40

#### **Functions of Governance Board**

6. The Board must—

- (a) determine the services to be provided by the Parliamentary Service and establish the necessary structures for the provision of those services;
- (b) determine the size and organisation of the Parliamentary Service; 45
- (c) monitor the provision and administration of services by the Parliamentary Service;
- (d) determine the remuneration and other conditions of service of officials;
- (e) represent the Provincial Parliament in any discussions with the Minister on any aspect of the Provincial Parliament’s budget or adjustments budget; 50
- (f) issue directives in accordance with section 41; and

- (g) perform the other functions assigned to it by this Act or by resolution of the Provincial Parliament.

### **Secretary to Provincial Parliament**

- 7.** (1) The Provincial Parliament must by resolution appoint a person as Secretary to the Provincial Parliament— 5
- (a) on the recommendation of the Governance Board; and
  - (b) on a fixed-term contract for a period of three years, which may be extended for further periods of not more than three years each.
- (2) The Governance Board and the Secretary must conclude a written performance agreement within a reasonable time after the Secretary is appointed and thereafter within two weeks after the start of each financial year. 10
- (3) The performance agreement must—
- (a) specify performance standards linked to the objectives and targets of the performance plan for the financial year concerned;
  - (b) specify the responsibilities of the Secretary as the Accounting Officer; 15
  - (c) provide for an annual assessment of the Secretary's performance by the Governance Board, having regard to, amongst others, the audit report on the annual financial statements of the Provincial Parliament; and
  - (d) specify the consequences of substandard performance.

### **Acting Secretary** 20

- 8.** If the post of Secretary is vacant, or if the Secretary is unable to perform the functions of the post, the Governance Board must designate an official in writing as acting Secretary.

### **Parliamentary Oversight Committee**

- 9.** The Provincial Parliament must establish a parliamentary committee to be known as the Parliamentary Oversight Committee to maintain oversight of the financial management of the Provincial Parliament. 25

### **Audit Committee**

- 10.** (1) The Governance Board must establish an audit committee. 30
- (2) The Board may decide to share an audit committee with one or more public sector institutions.
- (3) The audit committee must consist of at least three persons, of whom—
- (a) the majority may not be officials or Members; and
  - (b) the chairperson may not be an official or a Member.
- (4) The audit committee must meet at least twice a year. 35

## **CHAPTER 3**

### **FINANCIAL MANAGEMENT**

#### **Financial responsibilities of Governance Board**

- 11.** The Governance Board must— 40
- (a) perform its functions; and
  - (b) ensure that the Accounting Officer and other officials perform their functions, within the limits of the approved budget and the respective main divisions.

### **Executive directive with financial implications**

- 12.** (1) A directive by the Governance Board that has financial implications must—
- (a) be in writing, signed by the chairperson of the Board; and
  - (b) be addressed to the Accounting Officer.
- (2) If implementation of a directive is likely to result in unauthorised expenditure, the Accounting Officer—
- (a) may not proceed with the implementation of the directive; and
  - (b) must inform the Governance Board in writing of the likelihood that the directive may lead to unauthorised expenditure.
- (3) If the Accounting Officer proceeds to implement a directive contemplated in subsection (2) without receiving a further instruction from the Governance Board in terms of subsection (5), and it results in unauthorised expenditure, the Accounting Officer is responsible for that unauthorised expenditure.
- (4) An official may not implement a directive by the Governance Board that may have financial implications unless the Accounting Officer issues a written instruction to proceed with implementation.
- (5) The Governance Board may instruct the Accounting Officer to proceed with the implementation of a directive contemplated in subsection (2) only if it is to provide for—
- (a) expenditure of an exceptional nature which is currently not provided for in the approved budget and which cannot, without serious prejudice to the interests of the Provincial Parliament, be postponed to a future appropriation or approval of funds; or
  - (b) unforeseeable and unavoidable expenditure approved by the Provincial Parliament.
- (6) An instruction referred to in subsection (5) must be in writing and must specify the reasons for the instruction.
- (7) The Board must without delay table a copy of the instruction in the Provincial Parliament for prompt referral to the Committee.
- (8) The Accounting Officer must promptly file a copy of the instruction with the Auditor-General.

### **Tabling of annual report, strategic plan, performance plan and budget**

- 13.** (1) The Governance Board must table in the Provincial Parliament—
- (a) the annual report, including the audited financial statements and audit report on those statements, within one month after the Accounting Officer received the audit report;
  - (b) the strategic plan and the performance plan; and
  - (c) the budget and adjustments budget approved by the Board in terms of section 31(3).
- (2) If the Governance Board fails to table the annual report in accordance with subsection (1)(a) within six months after the end of the financial year to which it relates—
- (a) the Governance Board must table a report on the reasons for the failure in the Provincial Parliament; and
  - (b) the Auditor-General may issue a special report on the delay.

### **Support for Members and political parties**

- 14.** (1) The Governance Board must issue directives not inconsistent with this Act regarding the allocation and use of funds provided by the Provincial Parliament to political parties and Members.
- (2) Before issuing directives, the Board must consult with the political parties.
- (3) The directives must—
- (a) regulate the allocation of funds in an equitable manner;
  - (b) specify the purposes for which funds may be used;
  - (c) provide for the prompt payment of funds into a bank account;
  - (d) stipulate the responsibilities of Members and political parties to account for allocated funds;
  - (e) establish a procedure according to which Members and political parties account for the use of funds;

- (f) prescribe a format for financial statements for accounting for the use of funds;
  - (g) require political parties to submit audited financial statements in the prescribed format to the Accounting Officer;
  - (h) provide for the recovery of funds spent irregularly; and
  - (i) establish a dispute-resolution procedure. 5
- (4) The directives must authorise the Accounting Officer to withhold funds allocated to a political party or Member—
- (a) until the Accounting Officer receives—
    - (i) adequate information concerning the ability of the political party or Member to manage and account for the funds; 10
    - (ii) any outstanding audit reports on the use of parliamentary funds by the political party or Member; and
    - (iii) any other information reasonably necessary to confirm that the political party or Member is entitled to the funds; and
  - (b) in the case of a qualified audit report in respect of such funding, until adequate measures are put in place to rectify the qualification. 15

### **Parliamentary Treasury**

15. There is hereby established a Parliamentary Treasury, with the Speaker performing the treasury functions.

### **Functions of Parliamentary Treasury 20**

16. (1) The Parliamentary Treasury must—
- (a) oversee the preparation and implementation of the Provincial Parliament's budget and adjustments budget;
  - (b) promote and enforce transparency and effective management in respect of the revenue, expenditure, assets and liabilities of the Provincial Parliament; 25
  - (c) enforce this Act;
  - (d) promptly provide any information required by National or Provincial Treasury;
  - (e) establish a procedure for dealing with unauthorised, irregular and fruitless and wasteful expenditure; and 30
  - (f) make treasury regulations in accordance with section 40.
- (2) The Parliamentary Treasury may—
- (a) investigate any system of financial management and internal control applied by the Parliamentary Service; and
  - (b) do anything further that is necessary to fulfil its responsibilities effectively. 35

### **Cash management and investment**

17. (1) The Parliamentary Treasury must prescribe an appropriate policy covering the—
- (a) efficient and effective banking and cash management; and
  - (b) investment of monies not immediately required. 40
- (2) The Accounting Officer is responsible for establishing systems and procedures for the effective implementation of the policy prescribed in terms of subsection (1).

### **Requisitioning of funds**

18. The Governance Board must, after consultation with the Minister, determine a process for requisitioning appropriated funds that provides for sound cash-flow management. 45

### **Restrictions on borrowing, guarantees and other transactions**

19. (1) The Provincial Parliament may not—
- (a) borrow money;
  - (b) issue a guarantee or security; or 50
  - (c) enter into any other similar transaction that binds or may bind it to any future financial commitment.



(2) Neither the state nor the Provincial Parliament is bound by a loan, guarantee, security or other transaction entered into in breach of subsection (1).

(3) Subsection (1) does not prevent the Provincial Parliament or the Parliamentary Service from—

- (a) issuing or being bound by guarantees for loans in terms of a housing scheme administered by the Parliamentary Service for Members or officials; 5
- (b) entering into a lease agreement for the use of property or equipment; or
- (c) using credit cards, fleet management cards or other credit facilities repayable within 30 days from the date on which an account is rendered.

#### **Accounting Officer** 10

**20.** (1) The Secretary is the Accounting Officer.

(2) The Accounting Officer is accountable to the Governance Board for the financial management of the Provincial Parliament.

#### **General responsibilities of Accounting Officer**

**21.** The Accounting Officer— 15

- (a) must ensure that the Parliamentary Service has and maintains—
  - (i) effective, efficient and transparent systems of financial management, risk management and internal control;
  - (ii) a system of internal audit under the control and direction of an audit committee complying with and operating in accordance with the regulations; 20
  - (iii) an appropriate procurement and provisioning system which is fair, equitable, transparent, competitive and cost-effective; and
  - (iv) a system for properly evaluating all major capital projects before a final decision on those projects; 25
- (b) is responsible for the effective, efficient, economical and transparent use of the resources of the Provincial Parliament;
- (c) must take effective and appropriate steps to—
  - (i) collect all money due to the Provincial Parliament;
  - (ii) prevent unauthorised expenditure, irregular expenditure and fruitless and wasteful expenditure, and losses resulting from criminal conduct; and 30
  - (iii) manage available working capital efficiently and economically;
- (d) is responsible for the management, including the safeguarding and the maintenance, of the assets, and for the management of the liabilities, of the Provincial Parliament; 35
- (e) must comply with all tax, levy, duty, pension and audit commitments required by legislation;
- (f) must settle all contractual obligations and pay all money owing, including intergovernmental claims, within the prescribed or agreed period;
- (g) on discovery of any unauthorised expenditure, irregular expenditure or fruitless and wasteful expenditure, must immediately report, in writing, particulars of the expenditure to the Governance Board; 40
- (h) must take effective and appropriate disciplinary steps against any official who—
  - (i) contravenes or fails to comply with a provision of this Act; 45
  - (ii) commits an act which undermines the financial management and internal control system of the Provincial Parliament; or
  - (iii) makes or permits an unauthorised expenditure, irregular expenditure or fruitless and wasteful expenditure;
- (i) before transferring any funds to an entity within or outside government, must obtain a written assurance from the entity that it implements effective, efficient and transparent financial management and internal control systems, or, if such written assurance is not or cannot be given, render the transfer of the funds subject to conditions and remedial measures requiring the entity to establish and implement effective, efficient and transparent financial management and internal control systems; 50
- (j) must enforce compliance with any prescribed conditions if the Provincial Parliament gives financial assistance to any entity or person; 55

- (k) must take into account all relevant financial considerations, including issues of propriety, regularity and value for money, when policy proposals affecting the Accounting Officer's responsibilities are considered, and when necessary, bring those considerations to the attention of the Governance Board;
- (l) must comply, and ensure compliance by the Parliamentary Service, with this Act; and 5
- (m) may not commit the Provincial Parliament to any liability for which money has not been appropriated or approved by the Provincial Parliament.

#### **Accounting Officer's responsibilities relating to budgetary control**

- 22. (1) The Accounting Officer must ensure that— 10
  - (a) expenditure is in accordance with the approved budget; and
  - (b) effective and appropriate steps are taken to prevent unauthorised expenditure.
- (2) The Accounting Officer must, for the purposes of subsection (1)—
  - (a) take effective and appropriate steps to prevent any overspending;
  - (b) report to the Governance Board any impending— 15
    - (i) under collection of revenue due;
    - (ii) shortfalls in budgeted revenue; and
    - (iii) overspending; and
  - (c) comply with any remedial measures imposed by the Governance Board in terms of this Act to prevent overspending. 20

#### **Accounting Officer's reporting responsibilities**

- 23. (1) The Accounting Officer must —
  - (a) keep full and proper records of the financial affairs of the Provincial Parliament in accordance with prescribed norms and standards;
  - (b) prepare financial statements for each financial year in accordance with generally recognised accounting practice; 25
  - (c) submit the financial statements within two months after the end of a financial year to—
    - (i) the Auditor-General for auditing; and
    - (ii) the Provincial Treasury to enable that treasury to prepare consolidated financial statements in terms of section 19 of the PFMA; and 30
  - (d) submit within five months of the end of a financial year to the Governance Board—
    - (i) an annual report on the activities for that financial year;
    - (ii) the financial statements for that financial year, after those statements have been audited; and 35
    - (iii) the Auditor-General's report on those statements.
- (2) The Auditor-General must—
  - (a) audit the financial statements referred to in subsection (1); and
  - (b) submit an audit report on those statements to the Accounting Officer within two months of receipt of the statements. 40
- (3) The annual report and audited financial statements referred to in subsection (1) must—
  - (a) fairly present the state of affairs of the Provincial Parliament, its business, its financial results, its performance against predetermined objectives and its financial position as at the end of the financial year concerned; and 45
  - (b) include particulars of—
    - (i) any material losses through criminal conduct, and any unauthorised expenditure, irregular expenditure and fruitless and wasteful expenditure that occurred during the financial year; 50
    - (ii) any criminal or disciplinary steps taken as a result of such losses, unauthorised expenditure, irregular expenditure and fruitless and wasteful expenditure;
    - (iii) any material losses recovered or written off; and
    - (iv) any other prescribed matters. 55
- (4) The Accounting Officer must—
  - (a) each year before the beginning of a financial year provide the Governance Board in the prescribed format with a breakdown per month of the anticipated revenue and expenditure for that financial year;

- (b) each month submit information in the prescribed format on actual revenue and expenditure for the preceding month and the amounts anticipated for that month in terms of paragraph (a); and
  - (c) within 15 days of the end of each month submit to the Governance Board—
    - (i) the information for that month; 5
    - (ii) a projection of expected expenditure and revenue collection for the remainder of the current financial year; and
    - (iii) when necessary, an explanation of any material variances and a summary of the steps that are taken to ensure that the projected expenditure and revenue remain within budget. 10
- (5) If the Accounting Officer is unable to comply with any of the responsibilities determined for the Accounting Officer in this Act, the Accounting Officer must promptly report the inability, together with reasons, to the Governance Board.
- (6) The Accounting Officer must, within 30 days of the end of each quarter, report to the Governance Board on the Parliamentary Service's performance in implementing the performance plan in that quarter. 15

#### **Issues raised in audit reports**

- 24.** The Accounting Officer must—
- (a) promptly address all issues raised by the Auditor-General in an audit report; and 20
  - (b) advise the Governance Board of the steps taken to address the issues.

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

- 25.** If the Accounting Officer does not submit the annual financial statements to the Auditor-General in accordance with section 23(1)(c)—
- (a) the Accounting Officer must promptly submit a written explanation setting out the reasons for the failure to— 25
    - (i) the Auditor-General; and
    - (ii) the Governance Board;
  - (b) the Governance Board—
    - (i) must report to the Provincial Parliament concerning the reasons for the failure; 30
    - (ii) must take appropriate steps to ensure that the financial statements are submitted for auditing; and
    - (iii) may order that disciplinary steps be taken against the Accounting Officer or official responsible for the failure; and 35
  - (c) the Auditor-General may issue a special report on the failure to the Provincial Parliament, which report must be made public.

#### **Reporting of irregularities**

- 26.** The Accounting Officer must, immediately on discovery, report particulars of any unauthorised expenditure, irregular expenditure or fruitless and wasteful expenditure, or the likelihood of any such expenditure, to the Governance Board. 40

#### **Delegation of powers and duties by Accounting Officer**

- 27.** (1) The Accounting Officer may delegate any power or duty conferred or imposed on the Accounting Officer by or in terms of this Act to another official in accordance with a system of delegation. 45
- (2) The Accounting Officer must develop the system of delegation with the concurrence of the Governance Board, and it must—
- (a) maximise administrative and operational efficiency; and
  - (b) provide adequate checks and balances in the financial management of the Provincial Parliament. 50
- (3) The Accounting Officer must regularly review delegations made in terms of subsection (1) and, if necessary, amend or withdraw any of those delegations.
- (4) A delegation in terms of subsection (1)—
- (a) must be in writing;

- (b) is subject to any limitations and conditions the Accounting Officer may impose;
  - (c) may be to an individual or to the holder of a specific post in the Parliamentary Service;
  - (d) may authorise the official to subdelegate, in writing, the delegated authority or duty to another official, or to the holder of a specific post in the Parliamentary Service; and 5
  - (e) does not divest the Accounting Officer of responsibility for the exercise of the delegated power or the performance of the delegated duty.
- (5) The Accounting Officer may confirm, vary or revoke any decision taken by an official in terms of a delegation under subsection (1), subject to any rights that may have become vested as a consequence of the decision. 10

### **Responsibilities of officials**

- 28.** Every official who exercises financial management responsibilities must—
- (a) comply with this Act to the extent that it is applicable to that official; 15
  - (b) comply with the terms of any delegation in terms of section 30; and
  - (c) take all reasonable steps within that official's area of responsibility to ensure that—
    - (i) the Provincial Parliament's system of financial management and internal control is implemented diligently; 20
    - (ii) the Provincial Parliament's financial and other resources are used effectively, efficiently and transparently;
    - (iii) any unauthorised expenditure, irregular expenditure, fruitless and wasteful expenditure and other losses are prevented, and, when such expenditure or losses occur, are reported to the Accounting Officer; 25
    - (iv) all revenue due to the Provincial Parliament is collected; and
    - (v) the Provincial Parliament's assets and liabilities are managed effectively, and that assets are safeguarded and maintained appropriately.

### **Fiduciary responsibilities**

- 29.** (1) The Accounting Officer and other officials with responsibility under this Act must— 30
- (a) act with fidelity, honesty, integrity and in the best interests of the Provincial Parliament in managing its financial affairs;
  - (b) disclose all material facts which are available to that person or reasonably discoverable, and which in any way might influence any decision or action in terms of this Act; and 35
  - (c) seek to prevent any prejudice to the financial interests and good reputation of the Provincial Parliament.
- (2) For the purposes of subsection (1), any disclosure must be made— 40
- (a) in the case of the Accounting Officer, to the Governance Board; and
  - (b) in the case of any other person, to the Accounting Officer.
- (3) No persons having any responsibility under this Act—
- (a) may act in a way that is inconsistent with the Act; or
  - (b) may use their position or any confidential information obtained in the exercise of their responsibilities for personal gain or to benefit improperly themselves 45 or any other person.

### **Preparation of strategic plan and performance plan**

- 30.** (1) The Accounting Officer must, after an election of the Provincial Parliament, prepare a draft strategic plan for the Parliamentary Service and present it to the Governance Board. 50
- (2) The Accounting Officer must every year, before the start of the financial year, prepare a draft performance plan for the Parliamentary Service and present it to the Governance Board.

### Annual budget and adjustments budget

- 31.** (1) The Accounting Officer must every year, in the prescribed manner and within the prescribed timeframe, prepare a draft budget for the Provincial Parliament and an adjustments budget and present it to the Governance Board for consideration.
- (2) The budget must specify the Provincial Parliament's expected revenues, 5  
distinguishing between—
- (a) funds to be appropriated through the provincial annual budget;
  - (b) funds that are a direct charge against the Provincial Revenue Fund; and
  - (c) funds derived from the Provincial Parliament's own revenue sources.
- (3) The Board must, after consultation with the Minister— 10
- (a) determine a process and timeframes for submitting the Provincial Parliament's budget and adjustments budget to the Provincial Treasury; and
  - (b) approve that budget and adjustments budget.
- (4) The Board must submit the budget and adjustments budget to the Provincial Treasury for consolidation in the provincial annual budget or provincial adjustments 15  
budget, as the case may be.

### Annual appropriations and approvals

- 32.** (1) For each financial year, the Provincial Parliament must—
- (a) appropriate funds contemplated in section 31(2)(a) in the provincial annual budget; and 20
  - (b) approve the use of the funds contemplated in section 31(2)(c).
- (2) Any revision of an appropriation in terms of subsection (1)(a) must be made—
- (a) by a provincial adjustments budget referred to in section 31 of the PFMA; and
  - (b) in accordance with the procedure set out in section 31 of this Act.
- (3) Any revision of an approval in terms of subsection (1)(b) must be approved by the 25  
Provincial Parliament.

### Expenditure before annual budget is passed

- 33.** (1) If the Provincial Parliament does not pass the provincial annual budget before the start of the financial year to which it relates—
- (a) funds may be withdrawn from the Provincial Revenue Fund for the 30  
requirements of the Provincial Parliament during that financial year as a direct charge against that Fund until the budget is passed; and
  - (b) funds from the Provincial Parliament's own revenue sources may be used to meet the requirements of the Provincial Parliament.
- (2) Funds made available in terms of subsection (1) may not— 35
- (a) during the first four months of the financial year, exceed 45 per cent of the total amount in the previous approved budget;
  - (b) during each of the following months, exceed 10 per cent of the total amount in the previous approved budget; or
  - (c) in aggregate, exceed the total amount appropriated and approved in the 40  
previous approved budget.
- (3) The funds provided for in subsection (1) are not additional to funds appropriated or approved for the relevant financial year, and any funds withdrawn or used in terms of that subsection must be regarded as forming part of the funds appropriated and approved 45  
in the budget for that financial year.

### Unauthorised expenditure

- 34.** (1) This section applies to any unauthorised expenditure incurred by the Parliamentary Service, other than the unauthorised expenditure of donor funds.
- (2) Unauthorised expenditure incurred by the Parliamentary Service does not become a charge against the Provincial Revenue Fund, unless the expenditure is— 50
- (a) an overspending of the approved budget and the Provincial Parliament appropriates an additional amount to cover the overspending; or
  - (b) unauthorised for another reason and the Provincial Parliament authorises the expenditure as a direct charge against the Provincial Revenue Fund.
- (3) The Parliamentary Treasury must advise the Provincial Treasury of any 55  
unauthorised expenditure that is authorised in terms of subsection (2).

(4) If the Provincial Parliament authorises unauthorised expenditure in terms of subsection (2) but does not appropriate an additional amount to cover the amount of the unauthorised expenditure, the unauthorised expenditure becomes a charge against the Provincial Parliament's own funds.

(5) Any unauthorised expenditure that the Provincial Parliament does not approve must be recovered from the person responsible for the unauthorised expenditure. 5

#### **Virement between main divisions**

**35.** (1) The Accounting Officer may use a saving in the total amount appropriated or approved under a main division towards defraying excess expenditure under another main division, unless the Governance Board directs otherwise. 10

(2) The Accounting Officer must obtain the written permission of the Governance Board to defray excess expenditure contemplated in subsection (1) from the savings of an amount—

- (a) specifically and exclusively appropriated or approved for a purpose mentioned under a main division; 15
- (b) appropriated or approved for transfer to another institution; or
- (c) appropriated or approved for capital expenditure if it is to be used to defray current expenditure.

(3) The amount of a saving under a main division that may be used in terms of subsection (1), may not exceed eight per cent of the amount appropriated and approved under that main division. 20

(4) This section does not authorise the use of a saving of an amount that is a direct charge against the Provincial Revenue Fund in order to supplement the Provincial Parliament's appropriated funds.

#### **Treatment of unspent funds** 25

**36.** (1) The Parliamentary Service is not required to return to the Provincial Revenue Fund any money appropriated for a particular financial year and received from that Fund, but not spent in that year.

(2) Unspent funds referred to in subsection (1) must be regarded as funds derived from the Provincial Parliament's own revenue sources, and the approval of their use in subsequent financial years must be in accordance with section 31(2)(c). 30

(3) Funds derived from the Provincial Parliament'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 31(2)(c).

(4) If funds referred to in subsection (1) are not spent within the following two financial years, the appropriation concerned lapses and the unspent funds must be returned to the Provincial Revenue Fund. 35

#### **Financial misconduct**

**37.** (1) The Accounting Officer commits an act of financial misconduct if the Accounting Officer intentionally or negligently— 40

- (a) contravenes a provision of this Act;
- (b) fails to comply with a duty imposed by this Act on the Accounting Officer;
- (c) makes or permits, or instructs another official to make, an unauthorised expenditure, irregular expenditure or fruitless and wasteful expenditure; or
- (d) provides incorrect or misleading information in any document which must be submitted to the Governance Board, the Provincial Treasury or the Auditor-General in terms of this Act. 45

(2) The Governance Board must—

- (a) investigate promptly any allegation of financial misconduct against the Accounting Officer; and 50
- (b) if the investigation warrants such a step, institute disciplinary proceedings promptly and in accordance with applicable systems and procedures.

(3) An official to whom a power or duty has been delegated in terms of section 27, or who exercises financial management responsibilities in terms of section 28, commits an act of financial misconduct if that official intentionally or negligently— 55

- (a) fails to carry out the delegated power or duty;
  - (b) contravenes or fails to comply with a condition of the delegated power or duty;
  - (c) makes or permits, or instructs another official to make, an unauthorised expenditure, irregular expenditure or fruitless and wasteful expenditure; or 5
  - (d) provides incorrect or misleading information in any document submitted to the Accounting Officer.
- (4) The Accounting Officer must—
- (a) investigate any allegation of financial misconduct against an official; and
  - (b) if the investigation warrants such a step, institute disciplinary proceedings 10 within 30 days in accordance with applicable systems and procedures.

**Offences**

- 38.** (1) It is an offence for the Accounting Officer to—
- (a) intentionally or in a grossly negligent way contravene or fail to comply with a provision of section 21, 22 or 23; 15
  - (b) fail to take all reasonable steps to prevent corrupt practices in the—
    - (i) management of the Provincial Parliament’s assets or receipt of money; or
    - (ii) implementation of the Parliamentary Services’ supply chain management system;
  - (c) intentionally mislead or withhold information from the Governance Board or Auditor-General on any bank accounts of the Provincial Parliament or on money received or spent by the Parliamentary Service; or 20
  - (d) intentionally provide false or misleading information in any document which in terms of this Act must be submitted to the Governance Board or the Auditor-General. 25
- (2) It is an offence for an official who exercises financial management responsibilities in terms of section 28, intentionally or in a grossly negligent way to fail to fulfil those responsibilities.
- (3) It is an offence for any person to contravene section 29(3)(b).

**Penalties 30**

**39.** A person convicted of an offence in terms of section 38 is liable to a fine or to imprisonment for a period not exceeding five years or both the fine and the imprisonment.

**CHAPTER 4**

**REGULATIONS AND DIRECTIVES 35**

**Treasury regulations**

- 40.** (1) The Parliamentary Treasury may, after consultation with the Governance Board, make regulations regarding—
- (a) any matter in respect of which this Act requires or authorises regulations;
  - (b) the handling of, and control over, the assets of the Provincial Parliament; 40
  - (c) the alienation, letting or other disposal of the assets of the Provincial Parliament;
  - (d) an appropriate supply chain management system for the Provincial Parliament;
  - (e) internal control and internal audit; 45
  - (f) the rendering of free services by the Parliamentary Service;
  - (g) the writing off of or settling of claims in respect of—
    - (i) losses of money or other assets of the Provincial Parliament; or
    - (ii) amounts owed to the Provincial Parliament;
  - (h) liability for losses and damages, and procedures for recovery, including the recovery of unauthorised expenditure, irregular expenditure and fruitless and wasteful expenditure; 50
  - (i) the cancellation or variation of contracts that are to the detriment of the Provincial Parliament;
  - (j) the settlement of claims by or against the Provincial Parliament; 55

- (k) the waiver of claims by the Provincial Parliament;
- (l) the remission of money due to the Provincial Parliament;
- (m) virement between main divisions;
- (n) gifts or donations to officials;
- (o) the investigation of allegations of financial misconduct; and 5
- (p) any other matter concerning the financial management of the Provincial Parliament which is necessary for or may facilitate the administration and implementation of Chapter 3.

(2) The regulations may not be inconsistent with this Act or with any treasury norms and standards introduced by the national legislation contemplated in section 216(1) of the Constitution of the Republic of South Africa, 1996. 10

(3) The Parliamentary Treasury must publish a draft of any proposed regulations for public comment.

(4) A regulation does not take effect unless it has been approved by the Provincial Parliament. 15

(5) The Accounting Officer must publish all regulations approved by the Provincial Parliament in a parliamentary paper and in the *Provincial Gazette*.

### Directives

41. (1) The Board may issue directives consistent with this Act regarding—
- (a) any matter in respect of which this Act requires or envisages the issuing of 20 directives;
  - (b) conditions of service and other requirements of appointment or transfer in or to the Parliamentary Service;
  - (c) access control and security issues; and
  - (d) generally, any other matter relating to the functioning of the Parliamentary 25 Service.

(2) The Board must promptly submit a copy of a directive issued in terms of subsection (1) to the Committee.

## CHAPTER 5

### MISCELLANEOUS 30

#### Liability of functionaries

42. (1) The Governance Board, the Accounting Officer or any other official exercising a power or performing a function in terms of this Act, is not liable for any loss or damage resulting from the exercise of that power or the performance of that function in good faith. 35

(2) Without limiting liability in terms of the common law or other legislation, the Provincial Parliament may recover from the Accounting Officer or any other official, any loss or damage suffered by it because of the intentional or negligent unlawful actions of the Accounting Officer or that other official when performing a function in terms of this Act. 40

#### Repeal of legislation

43. The Western Cape Law on the Powers and Privileges of the Provincial Legislature, 1995, (Law 3 of 1995), and the Western Cape Law on the Powers and Privileges of the Provincial Legislature Amendment Act, 1998 (Act 3 of 1998) are hereby repealed. 45

#### Short title and commencement

44. (1) This Act is called the Western Cape Parliamentary Service and Finance Management Act, 2010.

(2) Subject to the transitional arrangements set out in the Schedule, sections 23, 25, and 31 to 36 come into effect at the start of the first financial year after the publication 50 of this Act in terms of section 33(1) of the Constitution of the Western Cape, 1998.



## SCHEDULE

### Transitional Arrangements

(1) The administration of the Provincial Parliament as it existed immediately before the date of commencement of section 2 continues to function as the Parliamentary Service, and every person serving on the staff of the Provincial Parliament immediately before that date is regarded as having been appointed in accordance with this Act and the directives. 5

(2) Until the date referred to in section 44(2), the Parliamentary Service must continue to comply with any applicable requirement of the PFMA and regulations made under the PFMA. 10

(3) Until such time as any regulation that must be made in terms of this Act comes into force, any policies, regulations, instructions or rules concerning the subject-matter of the regulation remain in force.

(4) If, when section 7 comes into effect, there is no performance agreement for the Accounting Officer as required by that section, an agreement must be concluded within a month. 15

(5) After section 27 has come into effect, no powers may be delegated until the system of delegation anticipated in that section has been adopted, except that, subject to the other provisions of this Act— (a) officials exercising powers delegated to them by the Accounting Officer before section 27 came into effect may continue to do so; and (b) if a power was delegated to the holder of an office in the Provincial Parliament or the Parliamentary Service before section 27 came into effect, the holder of that office and any future holder of the office may continue to exercise that power. 20

**MEMORANDUM ON THE OBJECTS OF THE WESTERN CAPE  
PARLIAMENTARY SERVICE AND FINANCE MANAGEMENT BILL,  
2009**

**Background**

1. The Constitution of the Western Cape, 1997 (the Provincial Constitution), empowers the Provincial Parliament to determine and control its own internal arrangements, proceedings and procedures. An important aspect of this right of the Provincial Parliament is the in-house control of its own administration, including the appointment of its own staff and the appropriation and expenditure of moneys for its services.
2. Chapter 3A of the Western Cape Law on the Powers and Privileges of the Provincial Legislature Act, 1995, regulates certain aspects of the financial arrangement of the Provincial Parliament, amongst others by providing that the Speaker is vested with the control of the expenditure and appropriation of moneys for the services of the Provincial Parliament. That Chapter also provides for the appointment of a Secretary and other staff for the Provincial Parliament.
3. The Constitution of the Republic of South Africa, 1996 (the National Constitution), requires transparency and accountability in all budget processes and effective financial management of the public sector. The Public Finance Management Act, 1999 (PFMA), provides the framework within which this can be achieved in national and provincial departments and certain other entities. The PFMA also establishes uniform treasury norms and standards as required by section 216 of the National Constitution. However, only a few provisions of the PFMA are applicable to the Provincial Parliament. In practice, the Provincial Parliament has voluntarily complied with the PFMA and Treasury regulations and instructions under the PFMA.
4. In terms of the PFMA and the Western Cape Law on the Powers and Privileges of the Provincial Legislature Act, 1995, the Speaker exercises treasury control over the Provincial Parliament. In practice, the Speaker also performs the functions of executive authority within the meaning of the PFMA. This fusion of different management roles is inconsistent with the principles of good corporate governance as set out in, amongst others, the King II Report on Corporate Governance for South Africa and the Report of a Study Group on Benchmarks for Democratic Legislatures, published by the Commonwealth Parliamentary Association.
5. The national Parliament recently adopted legislation to regulate the financial management of Parliament (the Financial Management of Parliament Act, 2009). That Act also prescribes norms and standards which a provincial legislature must adhere to in enacting legislation to regulate its financial management.

**Objects of Bill**

6. The Bill has two main objects: Firstly to establish a Parliamentary Service and a Governance Board. The Parliamentary Service, a continuance of the existing staff establishment, is to provide services to the Members of the Provincial Parliament to enable them to perform their functions. The Governance Board will be the executive authority responsible for controlling the revenue, expenditure, assets and liabilities of the Provincial Parliament. Secondly, the Bill seeks to consolidate and regulate the financial management of the Provincial Parliament in line with the Parliament's constitutional status and applicable national norms and standards. A Parliamentary Treasury is being established, with the Speaker performing the treasury functions. The Secretary to the Provincial Parliament is to be the Accounting Officer.

**Contents of Bill**

7. The gist of the clause by clause contents of the Bill is reflected in the Arrangements of Sections (before section 1) and the respective section headings. In summary some of the most notable aspects of the Bill are as follows:

**CHAPTER 2** sets out the proposed new governance arrangements for the Provincial Parliament. It deals, amongst others, with the establishment of the Parliamentary Service (**clause 2**), the Governance Board (**clause 3**), a parliamentary committee to maintain oversight of the financial management of the Provincial Parliament (**clause 9**), and an audit committee (**clause 10**).

**CHAPTER 3** regulates the financial management of the Provincial Parliament. Amongst others, the Chapter deals with the financial responsibilities of Governance Board (**clause 11**), the requirements for directives having financial implications (**clause 12**), financial support for Members and political parties (**clause 14**), the establishment of a Parliamentary Treasury (**clause 15**), the functions and responsibilities of the Accounting Officer and other officials involved in financial matters (**clauses 21–29**); the preparation of a strategic plan and performance plan (**clause 30**), the annual budget and adjustments budget of the Provincial Parliament (**clause 31**), annual appropriations and approvals (**clause 32**), financial misconduct (**clause 37**), and offences and penalties (**clauses 38–39**).

**CHAPTER 4** makes provision for treasury regulations made by the Parliamentary Treasury (**clause 40**) and directives issued by the Governance Board (**clause 41**).

**CHAPTER 5** deals with miscellaneous matters such as the liability of functionaries (**clause 42**) and the repeal of legislation (**clause 43**). The commencement of the legislation is regulated by **clause 44(2)**, read with the **Schedule**.

#### **Financial implications for the Province**

8. The Provincial Parliament will have to adapt and strengthen its existing financial management systems, but this should not entail substantial costs.

# WETSONTWERP

**Om voorsiening te maak vir die instelling van 'n Parlementêre Diens en 'n Bestuursraad vir die Wes-Kaapse Provinsiale Parlement; om die finansiële bestuur van die Wes-Kaapse Provinsiale Parlement te reël; en om voorsiening te maak vir aangeleenthede wat daarmee in verband staan.**

## AANHEF

**IN DIE BESEF** dat die Provinsiale Parlement beheers word deur die demokratiese waardes en beginsels wat vasgelê is in sowel die Grondwet van die Republiek van Suid-Afrika, 1996, as die Grondwet van die Wes-Kaap, 1998;

**EN** ten einde—

- effektiewe bestuur van die Provinsiale Parlement te verseker;
- professionele etiek van 'n hoë standaard in die finansiële bestuur van die Provinsiale Parlement te bevorder en te handhaaf;
- die doeltreffende, ekonomiese en effektiewe gebruik van hulpbronne wat aan die Provinsiale Parlement toegewys is, te bevorder; en
- die deursigtige, verantwoordingspligtige en gesonde bestuur van die inkomste, uitgawes, bates en laste van die Provinsiale Parlement te verseker,

**W**ORD DAAR DERHALWE BEPAAL deur die Provinsiale Parlement van die Wes-Kaap, soos volg:—

## INDELING VAN ARTIKELS

### HOOFSTUK 1

#### WOORDOMSKRYWINGS

5

1. Woordomsrywings

### HOOFSTUK 2

#### BESTUURSREELINGS

2. Instelling van Parlementêre Diens
3. Instelling van Bestuursraad
4. Samestelling van Bestuursraad
5. Prosedure van Bestuursraad
6. Werksaamhede van Bestuursraad
7. Sekretaris van die Provinsiale Parlement
8. Waarnemende Sekretaris
9. Parlementêre Toesigkomitee
10. Ouditkomitee

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12.	Uitvoerende lasgewing met finansiële implikasies	
13.	Tertafellegging van jaarverslag, strategiese plan, prestasieplan en begroting	5
14.	Ondersteuning vir Lede en politieke partye	
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16.	Wersaamhede van Parlementêre Tesourie	
17.	Kontantbestuur en belegging	
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20.	Rekenpligtige Beampte	
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23.	Rekenpligtige Beampte se verslagdoeningsverantwoordelikhede	15
24.	Sake geopper in ouditverslae	
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37.	Finansiële wangedrag	
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**HOOFSTUK 4****REGULASIES EN LASGEWINGS**

40.	Tesourieregulasies	
41.	Lasgewings	35

**HOOFSTUK 5****DIVERSE AANGELEENTHEDE**

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43.	Herroeping van wetgewing	
44.	Kort titel en inwerkingtreding	40

**BYLAE**

Oorgangsreëlings

**HOOFSTUK 1****WOORDOMSKRYWINGS**

<b>Woordomskrywings</b>	45
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1. In hierdie Wet, tensy uit die samehang anders blyk, beteken—

“**beampte**” ’n werknemer van die Parlementêre Diens;

- “**Bestuursraad**” of “**Raad**” die Bestuursraad van die Wes-Kaapse Provinsiale Parlement ingestel by artikel 3;
- “**finansiële jaar**” die tydperk wat begin op die eerste dag van April in ’n jaar tot op die een-en-dertigste dag van Maart in die volgende jaar, beide dae ingesluit;
- “**goedgekeurde begroting**” die totale bedrag aan fondse wat die Provinsiale Parlement— 5
- (a) uit die Provinsiale Inkomstefonds vir die Provinsiale Parlement bewillig het in ’n begrotingspos ingevolge ’n provinsiale begrotingswet; en
- (b) uit die Provinsiale Parlement se eie fondse ingevolge artikel 31(2)(c) goedgekeur het; 10
- “**hierdie Wet**”, behalwe in artikel 40, ook die regulasies en Bylae by die Wet;
- “**hoofindeling**” een van die hoofsegmente waarin die goedgekeurde begroting van die Provinsiale Parlement ingedeel word en wat die totale bedrag vermeld wat bewillig en goedgekeur word vir die items onder daardie segment;
- “**jaarverslag**” die jaarverslag bedoel in artikel 23(1); 15
- “**Komitee**” die komitee van die Provinsiale Parlement ingevolge artikel 9 ingestel;
- “**kwartaal**” enige van die volgende tydperke in ’n finansiële jaar—
- (a) 1 April tot 30 Junie;
- (b) 1 Julie tot 30 September;
- (c) 1 Oktober tot 31 Desember; of 20
- (d) 1 Januarie tot 31 Maart;
- “**Lid**” ’n lid van die Provinsiale Parlement;
- “**maand**” die tydperk wat strek van ’n dag in ’n maand tot en met die dag wat die dag voorafgaan wat numeries ooreenstem met die eersgenoemde dag in die volgende maand; 25
- “**Minister**” die Provinsiale Minister wat vir finansiële aangeleenthede in die provinsie verantwoordelik is;
- “**Nasionale Tesourie**” die tesourie ingestel by artikel 5 van die WOFB;
- “**ongemagtigde uitgawes**”—
- (a) oorbesteding van die goedgekeurde begroting of ’n hoofindeling; 30
- (b) enige besteding uit die goedgekeurde begroting of ’n hoofindeling vir ’n doel wat nie verband hou met die goedgekeurde begroting of hoofindeling nie, behoudens artikel 35; of
- (c) enige besteding van skenkersfondse vir ’n doel wat nie in die ooreenkoms met die skenker vermeld word nie; 35
- “**onreëlmatige uitgawes**” uitgawes, anders as ongemagtigde uitgawes, wat aangegaan is in stryd met, of wat nie in ooreenstemming is nie met, ’n voorskrif van hierdie Wet of enige ander toepaslike wetgewing;
- “**oorbesteding**”—
- (a) met betrekking tot die goedgekeurde begroting van die Provinsiale Parlement, om te veroorsaak dat uitgawes die bedrag oorskry wat vir die begroting bewillig en goedgekeur is; of 40
- (b) met betrekking tot ’n hoofindeling, om, behoudens artikel 35, te veroorsaak dat uitgawes die bedrag oorskry wat vir daardie hoofindeling bewillig of goedgekeur is; 45
- “**Parlementêre Diens**” die Parlementêre Diens bedoel in artikel 2, met inbegrip van die Sekretaris;
- “**Parlementêre Tesourie**” die Tesourie bedoel in artikel 15;
- “**politieke party**” ’n politieke party wat in die Provinsiale Parlement verteenwoordig word; 50
- “**prestasieplan**” die jaarlikse prestasieplan bedoel in artikel 30;
- “**provinsiale jaarlikse begroting**” die provinsiale jaarlikse begroting bedoel in artikel 27(2) van die WOFB;
- “**Provinsiale Parlement**” die Wes-Kaapse Provinsiale Parlement;
- “**Provinsiale Tesourie**” die tesourie ingestel vir die provinsie by artikel 17 van die WOFB; 55
- “**provinsie**” die Provinsie Wes-Kaap;
- “**regulasies**” die tesourieregulasies kragtens artikel 40 deur die Parlementêre Tesourie uitgevaardig;
- “**Rekenpligtige Beampte**” die Sekretaris; 60
- “**Sekretaris**” die Sekretaris van die Provinsiale Parlement aangestel ingevolge artikel 7(1) of die persoon wat ingevolge artikel 8 as Sekretaris waarneem;
- “**Speaker**” die Speaker van die Provinsiale Parlement;

- “standaarde van algemeen aanvaarde rekeningkundige praktyk” ’n rekeningkundige praktyk wat voldoen aan die standaard uitgereik deur die nasionale Minister verantwoordelik vir finansiële aangeleenthede op die advies van die Raad op Rekeningkundige Standaard; 5
- “strategiese plan” die strategiese plan bedoel in artikel 30; 5
- “voorskryf” by regulasie voorskryf;
- “vrugtelose en verkwistende uitgawes” uitgawes wat onnodig aangegaan is en vermy kon gewees het indien redelike sorg aan die dag gelê was;
- “WOFB” die Wet op Openbare Finansiële Bestuur, 1999 (Wet 1 van 1999).

## HOOFSTUK 2 10

### BESTUURSREËLINGS

#### Instelling van Parlementêre Diens

2. ’n Parlementêre Diens word hierby ingestel om dienste aan Lede te verskaf om hulle in staat te stel om hul werksaamhede te verrig.

#### Instelling van Bestuursraad 15

3. (1) ’n Raad wat as die Bestuursraad van die Wes-Kaapse Provinsiale Parlement bekend sal staan, word hierby ingestel.

(2) Die Raad is die uitvoeringsgesag wat verantwoordelik is vir die beheer van die inkomste, uitgawes, bates en laste van die Provinsiale Parlement.

(3) Ten opsigte van die verrigting van die werksaamhede van die Raad, is die lede van die Raad gesamentlik teenoor die Provinsiale Parlement aanspreeklik. 20

#### Samestelling van Bestuursraad

4. (1) Die Bestuursraad bestaan uit—

- (a) die Speaker; 25
- (b) die Hoofswep van die Meerderheidsparty;
- (c) ’n Lid deur die Meerderheidsparty aangewys;
- (d) die Leier van die amptelike Opposisie; en
- (e) ’n Lid van die grootste minderheidsparty behalwe die amptelike Opposisie, aangestel by besluit van die Provinsiale Parlement.

(2) Die Speaker is die voorsitter van die Raad. 30

(3) Die Sekretaris verskaf administratiewe ondersteuning aan die Raad.

(4) Die Speaker moet al die werksaamhede van die Raad verrig tussen opeenvolgende vergaderings van die Raad.

(5) Die Speaker moet alle besluite uit hoofde van subartikel (4) geneem, vir bekragtiging na die Raad verwys. 35

#### Prosedure van Bestuursraad

5. (1) Die Raad kan sy verrigtinge reël en sy werksaamhede verrig op die wyse wat hy goedvind.

(2) Die Raad moet minstens een maal per kwartaal vergader.

(3) By ’n vergadering van die Raad bestaan ’n kworum uit minstens drie lede. 40

(4) Die Raad moet sy werk doen op ’n wyse wat daarna streef om konsensus te bereik, maar indien konsensus nie bereik kan word nie, word besluite by meerderheid van stemme geneem.

## Werkzaamhede van Bestuursraad

- 6.** Die Raad moet—
- (a) bepaal watter dienste deur die Parlementêre Diens gelewer moet word en die nodige strukture tot stand bring om daardie dienste te lewer;
  - (b) die grootte en organisasie van die Parlementêre Diens bepaal; 5
  - (c) die lewering en administrasie van dienste deur die Parlementêre Diens monitor;
  - (d) die vergoeding en ander diensvoorwaardes van beamptes bepaal;
  - (e) die Provinsiale Parlement in enige samesprekings met die Minister verteenwoordig oor enige aspek van die Provinsiale Parlement se begroting of aansuiweringsbegroting; 10
  - (f) lasgewings uitreik ooreenkomstig artikel 41; en
  - (g) die ander werkzaamhede verrig wat by hierdie Wet of by besluit van die Provinsiale Parlement aan hom opgedra word.

## Sekretaris van Provinsiale Parlement 15

- 7.** (1) Die Provinsiale Parlement moet 'n persoon—
- (a) op aanbeveling van die Bestuursraad; en
  - (b) op 'n vastetermykontrak vir 'n tydperk van drie jaar, wat vir verdere tydperke van hoogstens drie jaar elk verleng kan word, by besluit as Sekretaris van die Provinsiale Parlement aanstel. 20
- (2) Die Bestuursraad en die Sekretaris moet binne 'n redelike tyd ná die aanstelling van die Sekretaris en daarna binne twee weke ná die begin van elke finansiële jaar 'n skriftelike prestasieooreenkoms aangaan.
- (3) Die prestasieooreenkoms moet—
- (a) prestasiestandaarde vermeld wat gekoppel is aan die doelwitte en teikens van die prestasieplan vir die betrokke finansiële jaar; 25
  - (b) die verantwoordelikhede van die Sekretaris as die Rekenpligtige Beampte vermeld;
  - (c) voorsiening maak vir 'n jaarlikse beoordeling van die Sekretaris se prestasie deur die Bestuursraad, met inagneming van, onder meer, die auditverslag oor die finansiële jaarstate van die Provinsiale Parlement; en 30
  - (d) die gevolge vermeld van prestasie wat nie aan die standarde voldoen nie.

## Waarnemende Sekretaris

- 8.** Indien die pos van Sekretaris vakant is, of indien die Sekretaris nie in staat is om die werkzaamhede van die pos te verrig nie, moet die Bestuursraad 'n beampte skriftelik as waarnemende Sekretaris aanwys. 35

## Parlementêre Toesigkomitee

- 9.** Die Provinsiale Parlement moet 'n parlementêre komitee aanstel wat die Parlementêre Toesigkomitee genoem word om toesig te hou oor die finansiële bestuur van die Provinsiale Parlement. 40

## Ouditkomitee

- 10.** (1) Die Bestuursraad moet 'n ouditkomitee instel.
- (2) Die Raad kan besluit om 'n ouditkomitee met een of meer openbare-sektorinstellings te deel.
  - (3) Die ouditkomitee moet uit minstens drie persone bestaan, van wie- 45
    - (a) die meerderheid nie beamptes of Lede mag wees nie; en
    - (b) die voorsitter nie 'n beampte of 'n Lid mag wees nie.
  - (4) Die ouditkomitee moet minstens twee maal per jaar vergader.



## HOOFSTUK 3

### FINANSIËLE BESTUUR

#### Finansiële verantwoordelikhede van Bestuursraad

- 11.** Die Bestuursraad moet—
- (a) sy werksaamhede verrig; en 5
  - (b) verseker dat die Rekenpligtige Beampte en ander beamptes hul werksaamhede verrig, binne die perke van die goedgekeurde begroting en die onderskeie hoofindelings.

#### Uitvoerende lasgewing met finansiële implikasies

- 12.** (1) 'n Lasgewing deur die Bestuursraad wat finansiële implikasies het, moet— 10
- (a) op skrif wees, onderteken deur die voorsitter van die Raad; en
  - (b) aan die Rekenpligtige Beampte gerig word.
- (2) Indien die implementering van 'n lasgewing waarskynlik ongemagtigde uitgawes tot gevolg sal hê—
- (a) mag die Rekenpligtige Beampte nie met die implementering van die lasgewing voortgaan nie; en 15
  - (b) moet die Rekenpligtige Beampte die Bestuursraad skriftelik in kennis stel van die waarskynlikheid dat die lasgewing ongemagtigde uitgawes tot gevolg sal hê.
- (3) Indien die Rekenpligtige Beampte voortgaan met die implementering van 'n lasgewing beoog in subartikel (2) sonder om 'n verdere instruksie van die Bestuursraad ingevolge subartikel (5) te ontvang, en dit ongemagtigde uitgawes tot gevolg het, is die Rekenpligtige Beampte verantwoordelik vir daardie ongemagtigde uitgawes. 20
- (4) 'n Beampte mag nie 'n lasgewing deur die Bestuursraad implementeer wat finansiële implikasies kan hê nie, tensy die Rekenpligtige Beampte 'n skriftelike instruksie uitreik om met die implementering voort te gaan. 25
- (5) Die Bestuursraad kan die Rekenpligtige Beampte beveel om met die implementering van 'n lasgewing beoog in subartikel (2) voort te gaan slegs indien dit is om voorsiening te maak vir—
- (a) uitgawes van 'n buitengewone aard waarvoor daar nie tans in die goedgekeurde begroting voorsiening gemaak word nie en wat nie, sonder ernstige benadeling van die belange van die Provinsiale Parlement, tot 'n toekomstige begroting of goedkeuring van fondse kan oorstaan nie; of 30
  - (b) onvoorsienbare en onvermydelike uitgawes goedgekeur deur die Provinsiale Parlement. 35
- (6) 'n Instruksie bedoel in subartikel (5) moet op skrif wees en moet die redes vir die instruksie vermeld.
- (7) Die Raad moet onverwyld 'n afskrif van die instruksie in die Provinsiale Parlement ter tafel lê vir stipte verwysing na die Komitee.
- (8) Die Rekenpligtige Beampte moet onverwyld 'n afskrif van die instruksie by die Ouditeur-generaal indien. 40

#### Tertafellegging van jaarverslag, strategiese plan, prestasieplan en begroting

- 13.** (1) Die Bestuursraad moet—
- (a) die jaarverslag, met inbegrip van die geouditeerde finansiële state en auditverslag oor daardie state, in die Provinsiale Parlement ter tafel lê binne een maand nadat die Rekenpligtige Beampte die auditverslag ontvang het; 45
  - (b) die strategiese plan en die prestasieplan in die Provinsiale Parlement ter tafel lê; en
  - (c) die begroting en aansuiweringsbegroting goedgekeur deur die Raad ingevolge artikel 31(3) in die Provinsiale Parlement ter tafel lê. 50
- (2) Indien die Bestuursraad versuim om die jaarverslag ooreenkomstig subartikel (1)(a) ter tafel te lê binne ses maande ná die einde van die finansiële jaar waarop dit betrekking het—
- (a) moet die Bestuursraad 'n verslag in die Provinsiale Parlement ter tafel lê oor die redes vir die versuim; en 55
  - (b) kan die Ouditeur-generaal 'n spesiale verslag oor die vertraging uitreik.

### Ondersteuning vir Lede en politieke partye

- 14.** (1) Die Bestuursraad moet lasgewings uitreik wat nie onbestaanbaar met hierdie Wet is nie oor die toewysing en gebruik van fondse wat deur die Provinsiale Parlement aan politieke partye en Lede verskaf word.
- (2) Voordat lasgewings uitgereik word, moet die Raad met die politieke partye oorleg pleeg. 5
- (3) Die lasgewings moet—
- (a) die toewysing van fondse op 'n billike wyse reël;
  - (b) die doeleindes vermeld waarvoor fondse gebruik kan word;
  - (c) voorsiening maak vir die stipte betaling van fondse in 'n bankrekening; 10
  - (d) die verantwoordelikhede bepaal van Lede en politieke partye om rekenskap te gee van toegekende fondse;
  - (e) 'n prosedure instel waarvolgens Lede en politieke partye rekenskap gee vir die gebruik van fondse;
  - (f) 'n formaat voorskryf vir finansiële state om rekenskap te gee vir die gebruik 15 van fondse;
  - (g) van politieke partye vereis om geouditeerde finansiële state in die voorgeskrewe formaat aan die Rekenpligtige Beampte voor te lê;
  - (h) voorsiening maak vir die verhaling van fondse wat onreëlmatig bestee is; en
  - (i) 'n geskilbeslegtingsprosedure instel. 20
- (4) Die lasgewings moet die Rekenpligtige Beampte magtig om fondse terug te hou wat aan 'n politieke party of Lid toegeken is—
- (a) totdat die Rekenpligtige Beampte—
    - (i) genoegsame inligting ontvang betreffende die vermoë van die politieke party of Lid om die fondse te bestuur en daarvan rekenskap te gee; 25
    - (ii) enige uitstaande auditverslae oor die gebruik van parlementêre fondse deur die politieke party of Lid ontvang; en
    - (iii) enige ander inligting ontvang wat redelikerwys nodig is om te bevestig dat die politieke party of Lid op die fondse geregtig is; en
  - (b) in die geval van 'n gekwalifiseerde auditverslag ten opsigte van sodanige 30 befondsing, totdat toereikende maatreëls ingestel word om die kwalifikasie reg te stel.

### Parlementêre Tesourie

- 15.** Daar word hierby 'n Parlementêre Tesourie ingestel, met die Speaker wat die tesouriewerksaamhede verrig. 35

### Werksaamhede van Parlementêre Tesourie

- 16.** (1) Die Parlementêre Tesourie moet—
- (a) toesig hou oor die opstel en implementering van die Provinsiale Parlement se begroting en aansuiweringsbegroting;
  - (b) deursigtigheid en effektiewe bestuur ten opsigte van inkomste, uitgawes, bates 40 en laste van die Provinsiale Parlement bevorder en afdwing;
  - (c) hierdie Wet afdwing;
  - (d) onverwyld enige inligting verskaf wat deur die Nasionale of Provinsiale Tesourie verlang word;
  - (e) 'n prosedure instel om ongemagtigde, onreëlmatige en vrugtelose en 45 verkwistende uitgawes te hanteer; en
  - (f) tesourieregulasies ooreenkomstig artikel 40 uitvaardig.
- (2) Die Parlementêre Tesourie kan—
- (a) enige stelsel van finansiële bestuur en interne beheer ondersoek wat deur die 50 Parlementêre Diens toegepas word; en
  - (b) enigiets anders doen wat nodig is om sy verantwoordelikhede effektief na te kom.

### Kontantbestuur en belegging

- 17.** (1) Die Parlementêre Tesourie moet 'n toepaslike beleid voorskryf wat—
- (a) doeltreffende en effektiewe bank- en kontantbestuur dek; en 55
  - (b) die belegging van geld dek wat nie onmiddellik nodig is nie.

(2) Die Rekenpligtige Beampte is verantwoordelik vir die instelling van stelsels en prosedures vir die effektiewe implementering van die beleid voorgeskryf ingevolge subartikel (1).

### **Aanvra van fondse**

**18.** Die Bestuursraad moet, ná oorleg met die Minister, 'n proses bepaal vir die aanvra 5  
van bewilligde fondse wat voorsiening maak vir gesonde kontantvloei bestuur.

### **Beperkings op leen, waarborge en ander transaksies**

**19.** (1) Die Provinsiale Parlement mag nie—

- (a) geld leen nie;
- (b) 'n waarborg of sekuriteit uitreik nie; of 10
- (c) enige ander soortgelyke transaksie aangaan wat hom verbind of kan verbind aan enige toekomstige finansiële verpligting nie.

(2) Nóg die Staat nóg die Provinsiale Parlement word gebind deur 'n lening, waarborg, sekuriteit of ander transaksie wat aangegaan is in stryd met subartikel (1).

(3) Subartikel (1) verhinder nie die Provinsiale Parlement of die Parlementêre 15  
Diens—

- (a) om waarborge vir lenings uit te reik, of gebind te word deur waarborge vir lenings, ingevolge 'n behuisingskema vir Lede of beamptes wat deur die Parlementêre Diens geadministreer word nie;
- (b) om 'n huurooreenkoms vir die gebruik van eiendom of toerusting aan te gaan 20  
nie; of
- (c) om kredietkaarte, vlootbestuurskaarte of ander kredietfasiliteite te gebruik wat terugbetaalbaar is binne 30 dae van die datum af waarop 'n rekening gelewer word nie.

### **Rekenpligtige Beampte** 25

**20.** (1) Die Sekretaris is die Rekenpligtige Beampte.

(2) Die Rekenpligtige Beampte is aanspreeklik teenoor die Bestuursraad vir die finansiële bestuur van die Provinsiale Parlement.

### **Algemene verantwoordelikhede van Rekenpligtige Beampte**

**21.** Die Rekenpligtige Beampte— 30

- (a) moet toesien dat die Parlementêre Diens—
  - (i) effektiewe, doeltreffende en deursigtige stelsels van finansiële en risikobestuur en interne beheer het en in stand hou;
  - (ii) 'n stelsel het en in stand hou van interne oudit onder die beheer en leiding van 'n ouditkomitee wat voldoen aan en bedryf word ooreenkomstig die 35  
regulasies;
  - (iii) 'n toepaslike verkrygings- en verskaffingstelsel het en in stand hou wat billik, regverdig, deursigtig, mededingend en kostedoeltreffend is; en
  - (iv) 'n stelsel het en in stand hou vir die behoorlike evaluering van alle groot kapitaalprojekte voor 'n finale besluit oor daardie projekte; 40
- (b) is verantwoordelik vir die effektiewe, doeltreffende, ekonomiese en deursigtige aanwending van die hulpbronne van die Provinsiale Parlement;
- (c) moet effektiewe en toepaslike stappe doen om—
  - (i) al die geld in te vorder wat aan die Provinsiale Parlement verskuldig is;
  - (ii) ongemagtigde uitgawes, onreëlmatige uitgawes en vrugtelose 45  
verkwistende uitgawes, en verliese wat uit kriminele optrede voortspruit, te voorkom; en
  - (iii) die beskikbare bedryfskapitaal doeltreffend en ekonomies te bestuur;
- (d) is verantwoordelik vir die bestuur, met inbegrip van die beveiliging en instandhouding, van die bates, en vir die bestuur van die laste, van die 50  
Provinsiale Parlement;
- (e) moet voldoen aan alle belasting-, heffings-, regte-, pensioen- en ouditverpligtinge wat deur wetgewing vereis word;

- (f) moet, binne die voorgeskrewe of ooreengekome tydperk, alle kontraktuele verpligtinge nakom en alle geld wat verskuldig is, met inbegrip van tussen-regeringseise, betaal;
- (g) moet, by ontdekking van enige ongemagtigde uitgawes, onreëlmatige uitgawes of vrugtelose en verkwistende uitgawes, onmiddellik besonderhede van die uitgawes skriftelik aan die Bestuursraad rapporteer; 5
- (h) moet effektiewe en toepaslike dissiplinêre stappe doen teen enige beampte wat—
  - (i) 'n bepaling van hierdie Wet oortree of versuim om daaraan te voldoen;
  - (ii) 'n daad pleeg wat die stelsel van finansiële bestuur en interne beheer van die Provinsiale Parlement ondermyn; of 10
  - (iii) 'n ongemagtigde uitgawe, onreëlmatige uitgawe of vrugtelose en verkwistende uitgawe aangaan of toelaat;
- (i) moet, voor die oordrag van enige fondse aan 'n entiteit binne of buite die regering, 'n skriftelike onderneming van die entiteit verkry dat daardie entiteit effektiewe, doeltreffende en deursigtige finansiële bestuurs- en interne beheerstelsels implementeer, of, indien sodanige skriftelike onderneming nie gegee word of gegee kan word nie, die oordrag van die fondse onderworpe stel aan voorwaardes en regstellende maatreëls wat van die entiteit vereis om effektiewe, doeltreffende en deursigtige finansiële bestuurs- en interne beheerstelsels in te stel en te implementeer; 15 20
- (j) moet voldoening aan enige voorgeskrewe voorwaardes afdwing indien die Provinsiale Parlement finansiële ondersteuning aan enige entiteit of persoon gee;
- (k) moet alle tersaaklike finansiële oorwegings, met inbegrip van sake van behoorlikheid, reëlmatigheid en waarde vir geld, in ag neem wanneer beleidsvoorstelle wat die Rekenpligtige Beampte se verantwoordelikhede raak, oorweeg word, en wanneer nodig daardie oorwegings onder die aandag van die Bestuursraad bring; 25
- (l) moet aan hierdie Wet voldoen en voldoening daaraan deur die Parlementêre Diens verseker; en 30
- (m) mag nie die Provinsiale Parlement verbind tot enige aanspreeklikheid waarvoor geld nie bewillig of goedgekeur is deur die Provinsiale Parlement nie.

#### **Rekenpligtige Beampte se verantwoordelikhede betreffende begrotingsbeheer** 35

- 22.** (1) Die Rekenpligtige Beampte moet toesien dat—
- (a) uitgawes in ooreenstemming is met die goedgekeurde begroting; en
  - (b) effektiewe en toepaslike stappe gedoen word om ongemagtigde uitgawes te voorkom.
- (2) Die Rekenpligtige Beampte moet, by die toepassing van subartikel (1)—
- (a) effektiewe en toepaslike stappe doen om enige oorbesteding te voorkom; 40
  - (b) aan die Bestuursraad verslag doen oor enige dreigende—
    - (i) onderinvordering van inkomste wat verskuldig is;
    - (ii) tekorte in inkomste waarvoor begroot is; en
    - (iii) oorbesteding; en 45
  - (c) voldoen aan enige regstellende maatreëls wat ingevolge hierdie Wet deur die Bestuursraad opgelê is om oorbesteding te voorkom.

#### **Rekenpligtige Beampte se verslagdoeningsverantwoordelikhede**

- 23.** (1) Die Rekenpligtige Beampte moet—
- (a) volledig en behoorlik rekord hou van die finansiële sake van die Provinsiale Parlement ooreenkomstig enige voorgeskrewe norme en standaarde; 50
  - (b) finansiële state vir elke finansiële jaar opstel ooreenkomstig algemeen erkende rekeningkundige praktyk;
  - (c) die finansiële state binne twee maande na die einde van 'n finansiële jaar voorlê aan— 55
    - (i) die Ouditeur-generaal vir ouditering; en
    - (ii) die Provinsiale Tesourie om daardie tesourie in staat te stel om gekonsolideerde finansiële state ingevolge artikel 19 van die WOFB op te stel; en

- (d) binne vyf maande na die einde van 'n finansiële jaar—
- (i) 'n jaarverslag oor die aktiwiteite vir daardie finansiële jaar;
  - (ii) die finansiële state vir daardie finansiële jaar nadat daardie state geouditeer is; en
  - (iii) die Ouditeur-generaal se verslag oor daardie state, aan die Bestuursraad voorlê. 5
- (2) Die Ouditeur-generaal moet—
- (a) die finansiële state bedoel in subartikel (1) ouditeer; en
  - (b) 'n auditverslag oor daardie state aan die Rekenpligtige Beampte voorlê binne twee maande na die ontvangs van die state. 10
- (3) Die jaarverslag en geouditeerde finansiële state bedoel in subartikel (1) moet—
- (a) die stand van sake van die Provinsiale Parlement, sy besigheid, sy finansiële resultate, sy prestasie teenoor voorafbepaalde doelwitte en sy finansiële toestand soos aan die einde van die betrokke finansiële jaar, redelik weergee; en 15
  - (b) besonderhede insluit van—
    - (i) enige wesentliche verliese weens kriminele optrede, en enige ongemagtigde uitgawes, onreëlmatige uitgawes en vrugtelose en verkwistende uitgawes, wat gedurende die finansiële jaar voorgekom het; 20
    - (ii) enige strafregtelike of dissiplinêre stappe wat gedoen is na aanleiding van sodanige verliese, ongemagtigde uitgawes, onreëlmatige uitgawes en vrugtelose en verkwistende uitgawes;
    - (iii) enige wesentliche verliese wat verhaal of afgeskryf is; en
    - (iv) enige ander voorgeskrewe aangeleenthede. 25
- (4) Die Rekenpligtige Beampte moet—
- (a) elke jaar voor die begin van 'n finansiële jaar die Bestuursraad, in die voorgeskrewe formaat, voorsien van 'n ontleding per maand van die verwagte inkomste en uitgawes vir daardie finansiële jaar;
  - (b) elke maand inligting in die voorgeskrewe formaat voorlê oor werklike inkomste en uitgawes vir die voorafgaande maand en die bedrae wat ingevolge paragraaf (a) vir daardie maand in die vooruitsig gestel is; en 30
  - (c) binne 15 dae na die einde van elke maand aan die Bestuursraad voorlê—
    - (i) die inligting vir daardie maand;
    - (ii) 'n projeksie van verwagte uitgawes en inkomste-invordering vir die oorblywende gedeelte van die lopende finansiële jaar; en 35
    - (iii) wanneer nodig, 'n verduideliking van enige wesentliche afwykings en 'n uiteensetting van die stappe wat gedoen word om te verseker dat die geprojekteerde uitgawes en inkomste binne die begroting bly.
- (5) Indien die Rekenpligtige Beampte nie in staat is om enige van die verantwoordelikhede wat in hierdie Wet vir die Rekenpligtige Beampte bepaal word, na te kom nie, moet die Rekenpligtige Beampte onverwyld die onvermoë, tesame met redes, aan die Bestuursraad rapporteer.
- (6) Die Rekenpligtige Beampte moet, binne 30 dae na die einde van elke kwartaal, aan die Bestuursraad verslag doen oor die Parlementêre Diens se prestasie in die implementering van die prestasieplan in daardie kwartaal. 45

### Sake geopper in auditverslae

24. Die Rekenpligtige Beampte moet—
- (a) al die sake deur die Ouditeur-generaal in 'n auditverslag geopper onverwyld aanpak; en 50
  - (b) die Bestuursraad in kennis stel van al die stappe wat gedoen is om die sake aan te pak.

### Gevolge van nie-nakoming van sekere bepalinge

25. Indien die Rekenpligtige Beampte nie die finansiële jaarstate aan die Ouditeur-generaal voorlê ooreenkomstig artikel 23(1)(c) nie— 55
- (a) moet die Rekenpligtige Beampte onverwyld 'n skriftelike verduideliking wat die redes vir die versuim uiteensit aan—
    - (i) die Ouditeur-generaal voorlê; en
    - (ii) die Bestuursraad voorlê;

- (b) (i) moet die Bestuursraad verslag doen aan die Provinsiale Parlement oor die redes vir die versuim;
- (ii) moet die Bestuursraad toepaslike stappe doen om te verseker dat die finansiële state vir ouditering voorgelê word; en
- (iii) kan die Bestuursraad gelas dat dissiplinêre stappe gedoen word teen die Rekenpligtige Beampte of beampte verantwoordelik vir die versuim; en 5
- (c) kan die Ouditeur-generaal 'n spesiale verslag aan die Provinsiale Parlement uitreik oor die versuim, en dié verslag moet openbaar gemaak word.

### Rapportering van onreëlmatighede

26. Die Rekenpligtige Beampte moet, onmiddellik wanneer besonderhede van enige ongemagtigde uitgawes, onreëlmatige uitgawes of vrugtelose en verkwistende uitgawes ontdek word, besonderhede van sodanige uitgawes, of van die waarskynlikheid van enige sodanige uitgawes, aan die Bestuursraad rapporteer. 10

### Delegering van bevoegdheid en pligte deur Rekenpligtige Beampte

27. (1) Die Rekenpligtige Beampte kan enige bevoegdheid of plig wat by of ingevolge hierdie Wet aan die Rekenpligtige Beampte verleen of opgedra is, aan 'n ander beampte deleger ooreenkomstig 'n delegeringstelsel. 15

(2) Die Rekenpligtige Beampte moet die delegeringstelsel met die instemming van die Bestuursraad ontwikkel, en dit moet—

- (a) administratiewe en bedryfsdoeltreffendheid maksimaliseer; en 20
- (b) toereikende wigte en teenwigte in die finansiële bestuur van die Provinsiale Parlement verskaf.

(3) Die Rekenpligtige Beampte moet gereeld delegasies ingevolge subartikel (1) uitgereik, hersien en, indien nodig, enige van daardie delegasies wysig of intrek.

(4) 'n Delegering ingevolge subartikel (1)— 25

- (a) moet skriftelik wees;
- (b) is onderworpe aan die beperkings en voorwaardes wat die Rekenpligtige Beampte oplê;
- (c) kan óf verleen word aan 'n individu óf aan die bekleër van 'n spesifieke pos in die Parlementêre Diens; 30
- (d) kan die beampte magtig om die gedelegeerde gesag of plig skriftelik aan 'n ander beampte, of die bekleër van 'n spesifieke pos in die Parlementêre Diens, te subdeleger; en
- (e) ontdoen nie die Rekenpligtige Beampte van die verantwoordelikheid met betrekking tot die uitoefening van die gedelegeerde bevoegdheid of die verrigting van die gedelegeerde plig nie. 35

(5) Die Rekenpligtige Beampte kan enige besluit geneem deur 'n beampte ingevolge 'n delegasie kragtens subartikel (1), bevestig, wysig of intrek, behoudens enige regte wat tot stand mag gekom het uit hoofde van die besluit.

### Verantwoordelikhede van beamptes 40

28. Elke beampte wat finansiële bestuursverantwoordelikhede uitoefen, moet—

- (a) aan hierdie Wet voldoen in die mate waarin dit op daardie beampte van toepassing is;
- (b) voldoen aan die voorwaardes van enige delegasie ingevolge artikel 30; en
- (c) alle redelike stappe binne daardie beampte se verantwoordelike gebied doen om te verseker dat— 45
  - (i) die Provinsiale Parlement se stelsel van finansiële bestuur en interne beheer nougeset geïmplementeer word;
  - (ii) die Provinsiale Parlement se finansiële en ander hulpbronne effektief, doeltreffend en deursigtig aangewend word; 50
  - (iii) enige ongemagtigde uitgawes, onreëlmatige uitgawes, vrugtelose en verkwistende uitgawes en ander verliese voorkom word, en dat sodanige uitgawes en verliese, wanneer dit wel plaasvind, aan die Rekenpligtige Beampte gerapporteer word;
  - (iv) alle inkomste aan die Provinsiale Parlement verskuldig, ingevorder word; en 55

- (v) die Provinsiale Parlement se bates en laste effektief bestuur word, en dat bates op gepaste wyse beveilig en in stand gehou word.

### **Fidusiêre verantwoordelikhede**

- 29.** (1) Die Rekenpligtige Beampte en ander beamptes met verantwoordelikheid kragtens hierdie Wet moet— 5
- (a) met getrouheid, eerlikheid, integriteit en in die beste belang van die Provinsiale Parlement optree wanneer die finansiële sake van die Provinsiale Parlement bestuur word;
  - (b) alle wesenlike feite wat vir daardie persoon beskikbaar is of redelikerwys vasgestel kan word, en wat op enige wyse enige besluit of optrede ingevolge hierdie Wet kan beïnvloed, openbaar; en 10
  - (c) probeer om enige benadeling van die finansiële belange en goeie reputasie van die Provinsiale Parlement te voorkom.
- (2) By die toepassing van subartikel (1) moet enige openbaarmaking gedoen word— 15
- (a) in die geval van die Rekenpligtige Beampte, aan die Bestuursraad; en
  - (b) in die geval van enige ander persoon, aan die Rekenpligtige Beampte.
- (3) Geen persone wat enige verantwoordelikheid kragtens hierdie Wet het—
- (a) mag op 'n wyse optree wat nie met die Wet bestaanbaar is nie; of
  - (b) mag hul posisie of enige vertroulike inligting wat in die uitoefening van hulle verantwoordelikhede bekom is, gebruik vir persoonlike gewin of om hulself of enige ander persoon onbehoorlik te bevoordeel nie. 20

### **Opstel van strategiese plan en prestasieplan**

- 30.** (1) Die Rekenpligtige Beampte moet, ná 'n verkiesing van die Provinsiale Parlement, 'n konsep-strategiese plan vir die Parlementêre Diens opstel en dit aan die Bestuursraad voorlê. 25
- (2) Die Rekenpligtige Beampte moet elke jaar, voor die begin van die finansiële jaar, 'n konsepprestasieplan vir die Parlementêre Diens opstel en dit aan die Bestuursraad voorlê.

### **Jaarlikse begroting en aansuiweringsbegroting**

- 31.** (1) Die Rekenpligtige Beampte moet elke jaar, op die voorgeskrewe wyse en binne die voorgeskrewe tydraamwerk, 'n konsepbegroting en 'n aansuiweringsbegroting vir die Provinsiale Parlement opstel en dit vir oorweging aan die Bestuursraad voorlê. 30
- (2) Die begroting moet die Provinsiale Parlement se verwagte inkomste vermeld, en onderskei tussen— 35
- (a) fondse wat by wyse van die provinsiale begroting bewillig gaan word;
  - (b) fondse wat 'n regstreekse las teen die Provinsiale Inkomstefonds is; en
  - (c) fondse wat uit die Provinsiale Parlement se eie inkomstebronne afkomstig is.
- (3) Die Raad moet, ná oorleg met die Minister—
- (a) 'n proses en tydraamwerk bepaal vir die voorlegging van die Provinsiale Parlement se begroting en aansuiweringsbegroting aan die Provinsiale Tesourie; en 40
  - (b) daardie begroting en aansuiweringsbegroting goedkeur.
- (4) Die Raad moet die begroting en aansuiweringsbegroting aan die Provinsiale Tesourie voorlê vir konsolidering in die provinsiale jaarlikse begroting of provinsiale aansuiweringsbegroting, na gelang van die geval. 45

### **Jaarlikse bewilligings en goedkeurings**

- 32.** (1) Vir elke finansiële jaar moet die Provinsiale Parlement—
- (a) fondse beoog in artikel 31(2)(a) in die provinsiale jaarlikse begroting bewillig; en 50
  - (b) die gebruik van die fondse beoog in artikel 31(2)(c) goedkeur.
- (2) Enige hersiening van 'n bewilliging ingevolge subartikel (1)(a) moet gedoen word—
- (a) deur 'n provinsiale aansuiweringsbegroting bedoel in artikel 31 van die WOFB; en 55

(b) ooreenkomstig die prosedure uiteengesit in artikel 31 van hierdie Wet.

(3) Enige hersiening van 'n goedkeuring ingevolge subartikel (1)(b) moet deur die Provinsiale Parlement goedgekeur word.

#### **Uitgawes voor jaarlikse begroting aangeneem word**

**33.** (1) Indien die Provinsiale Parlement nie die provinsiale jaarlikse begroting voor die begin van die finansiële jaar waarop dit betrekking het, aanneem nie— 5

(a) kan fondse uit die Provinsiale Inkomstefonds onttrek word vir die behoeftes van die Provinsiale Parlement gedurende daardie finansiële jaar as 'n regstreekse las teen daardie Fonds totdat die begroting goedgekeur word; en

(b) kan fondse uit die Provinsiale Parlement se eie inkomstebronne gebruik word om in die behoeftes van die Provinsiale Parlement te voorsien. 10

(2) Fondse wat ingevolge subartikel (1) beskikbaar gemaak word, mag nie—

(a) gedurende die eerste vier maande van die finansiële jaar, 45 persent van die totale bedrag in die vorige goedgekeurde begroting oorskry nie;

(b) gedurende elk van die maande wat daarop volg, 10 persent van die totale bedrag in die vorige goedgekeurde begroting oorskry nie; of 15

(c) in totaal, die totale bedrag oorskry wat in die vorige goedgekeurde begroting bewillig en goedgekeur is nie.

(3) Die fondse waarvoor in subartikel (1) voorsiening gemaak word, is nie bykomend tot die fondse wat vir die betrokke finansiële jaar bewillig of goedgekeur word nie, en enige fondse wat ingevolge daardie subartikel onttrek of gebruik word, moet geag word deel uit te maak van die fondse wat in die begroting vir daardie finansiële jaar bewillig en goedgekeur word. 20

#### **Ongemagtigde uitgawes**

**34.** (1) Hierdie artikel is van toepassing op enige ongemagtigde uitgawes deur die Parlementêre Diens aangegaan, behalwe ongemagtigde uitgawes ten opsigte van skenkersfondse. 25

(2) Ongemagtigde uitgawes deur die Parlementêre Diens aangegaan, word nie 'n las teen die Provinsiale Inkomstefonds nie, tensy die uitgawes—

(a) 'n oorbesteding is van die goedgekeurde begroting en die Provinsiale Parlement 'n bykomende bedrag bewillig om die oorbesteding te dek; of 30

(b) om 'n ander rede ongemagtig is en die Provinsiale Parlement die uitgawes as 'n regstreekse las teen die Provinsiale Inkomstefonds magtig.

(3) Die Parlementêre Tesourie moet die Provinsiale Tesourie in kennis stel van enige ongemagtigde uitgawes wat ingevolge subartikel (2) gemagtig word. 35

(4) Indien die Provinsiale Parlement ongemagtigde uitgawes ingevolge subartikel (2) magtig, maar nie 'n bykomende bedrag bewillig om die bedrag van die ongemagtigde uitgawes te dek nie, word die ongemagtigde uitgawes 'n las teen die Provinsiale Parlement se eie fondse.

(5) Enige ongemagtigde uitgawes wat nie deur die Provinsiale Parlement goedgekeur word nie, moet verhaal word van die persoon wat vir die ongemagtigde uitgawes verantwoordelik is. 40

#### **Fondsverskuiwing tussen hoofdelings**

**35.** (1) Die Rekenpligtige Beampte kan 'n besparing in die totale bedrag wat onder 'n hoofdeling bewillig of goedgekeur word, aanwend ter bestryding van oormatige besteding onder 'n ander hoofdeling, tensy die Bestuursraad anders gelas. 45

(2) Die Rekenpligtige Beampte moet die skriftelike toestemming van die Bestuursraad verkry om oormatige besteding beoog in subartikel (1) te bestry uit die besparings van 'n bedrag—

(a) spesifiek en uitsluitlik bewillig of goedgekeur vir 'n doel onder 'n hoofdeling vermeld; 50

(b) bewillig of goedgekeur vir oordrag aan 'n ander instelling; of

(c) bewillig of goedgekeur vir kapitaalbesteding indien dit aangewend gaan word om lopende uitgawes te bestry.

(3) Die bedrag van 'n besparing onder 'n hoofdeling wat ingevolge subartikel (1) aangewend kan word, mag nie agt persent van die bedrag oorskry wat onder daardie hoofdeling bewillig en goedgekeur is nie. 55



(4) Hierdie artikel magtig nie die aanwending van 'n besparing van 'n bedrag wat 'n regstreekse las teen die Provinsiale Inkomstefonds is ten einde die Provinsiale Parlement se bewilligde fondse aan te vul nie.

### Hantering van onbestede fondse

**36.** (1) Daar word nie van die Parlementêre Diens verlang om enige geld wat vir 'n bepaalde finansiële jaar bewillig en nie in daardie finansiële jaar bestee is nie, en wat van die Provinsiale Inkomstefonds ontvang is, aan daardie Fonds terug te gee nie. 5

(2) Onbestede fondse bedoel in subartikel (1) moet geag word fondse te wees wat uit die Provinsiale Parlement se eie inkomstebronne afkomstig is en die goedkeuring om dié fondse in latere jare te gebruik, moet ooreenkomstig artikel 31(2)(c) geskied. 10

(3) Fondse afkomstig uit die Provinsiale Parlement se eie inkomstebronne wat vir 'n bepaalde finansiële jaar goedgekeur word, maar nie in daardie finansiële jaar bestee word nie, moet ooreenkomstig artikel 31(2)(c) vir gebruik in latere finansiële jare goedgekeur word.

(4) Indien fondse bedoel in subartikel (1) nie binne die volgende twee finansiële jare bestee word nie, verval die betrokke bewilliging en die onbestede fondse moet aan die Provinsiale Inkomstefonds teruggegee word. 15

### Finansiële wangedrag

**37.** (1) Die Rekenpligtige Beampte pleeg 'n daad van finansiële wangedrag indien die Rekenpligtige Beampte opsetlik of op nalatige wyse— 20

- (a) 'n bepaling van hierdie Wet oortree;
- (b) versuim om 'n plig na te kom wat by hierdie Wet aan die Rekenpligtige Beampte opgedra is;
- (c) 'n ongemagtigde, onreëlmatige of vrugtelose en verkwistende uitgawe aangaan of magtig, of 'n ander beampte gelas om 'n ongemagtigde, onreëlmatige of vrugtelose en verkwistende uitgawe aan te gaan; of 25
- (d) onjuiste of misleidende inligting verskaf in enige dokument wat ingevolge hierdie Wet aan die Bestuursraad, die Provinsiale Tesourie of die Ouditeur-generaal voorgelê moet word.

(2) Die Bestuursraad moet— 30

- (a) enige bewering van finansiële wangedrag teen die Rekenpligtige Beampte onverwyld ondersoek; en
- (b) indien die ondersoek só 'n stap regverdig, onverwyld en ooreenkomstig die toepaslike stelsels en prosedures dissiplinêre verrigtinge instel.

(3) 'n Beampte aan wie 'n bevoegdheid of plig ingevolge artikel 27 gedelegeer is, of wat finansiële bestuursverantwoordelikhede ingevolge artikel 28 uitoefen, pleeg 'n daad van finansiële wangedrag indien daardie beampte opsetlik of op nalatige wyse— 35

- (a) versuim om die gedelegeerde bevoegdheid uit te oefen of plig uit te voer;
- (b) 'n voorwaarde van die gedelegeerde bevoegdheid of plig oortree of versuim om daaraan te voldoen; 40
- (c) 'n ongemagtigde uitgawe, onreëlmatige uitgawe of vrugtelose en verkwistende uitgawe aangaan of magtig, of 'n ander beampte gelas om 'n ongemagtigde uitgawe, onreëlmatige uitgawe of vrugtelose en verkwistende uitgawe aan te gaan; of
- (d) onjuiste of misleidende inligting verskaf in enige dokument wat aan die Rekenpligtige Beampte voorgelê word. 45

(4) Die Rekenpligtige Beampte moet—

- (a) enige bewering van finansiële wangedrag teen 'n beampte onverwyld ondersoek; en
- (b) indien die ondersoek so 'n stap regverdig, binne 30 dae en ooreenkomstig die toepaslike stelsels en prosedures dissiplinêre verrigtinge instel. 50

### Misdrywe

**38.** (1) Dit is 'n misdryf vir die Rekenpligtige Beampte om—

- (a) opsetlik of op 'n grof nalatige wyse 'n bepaling van artikel 21, 22 of 23 te oortree of te versuim om daaraan te voldoen; 55
- (b) te versuim om alle redelike stappe te doen om korrupte praktyke te voorkom in die—

- (i) bestuur van die Provinsiale Parlement se bates of die ontvangs van geld; of
  - (ii) implementering van die voorsieningsketteringbestuurstelsel van die Parlementêre Diens;
  - (c) die Bestuursraad of Ouditeur-generaal opsetlik te mislei of inligting van hulle te weerhou betreffende enige bankrekenings van die Provinsiale Parlement of betreffende geld ontvang of bestee deur die Parlementêre Diens; of
  - (d) opsetlik onwaar of misleidende inligting te verskaf in enige dokument wat ingevolge hierdie Wet aan die Bestuursraad of die Ouditeur-generaal voorgelê moet word. 10
- (2) Dit is 'n misdryf vir 'n beampte wat finansiële bestuursverantwoordelikhede uitoefen ingevolge artikel 28, om opsetlik of op 'n grof nalatige wyse te versuim om daardie verantwoordelikhede na te kom.
- (3) Dit is 'n misdryf vir enige persoon om artikel 29(3)(b) te oortree. 15

### Strawwe

39. 'n Persoon wat ingevolge artikel 38 aan 'n misdryf skuldig bevind word, is strafbaar met 'n boete of met gevangenisstraf vir 'n tydperk van hoogstens vyf jaar of met die boete sowel as die gevangenisstraf.

## HOOFSTUK 4

20

### REGULASIES EN LASGEWINGS

#### Tesourieregulasies

40. (1) Die Parlementêre Tesourie kan, ná oorleg met die Bestuursraad, regulasies uitvaardig oor—
- (a) enige aangeleentheid ten opsigte waarvan hierdie Wet regulasies vereis of magtig; 25
  - (b) die hantering van, en beheer oor, die bates van die Provinsiale Parlement;
  - (c) die vervreemding of verhuring van, of ander beskikking oor, die bates van die Provinsiale Parlement;
  - (d) 'n toepaslike voorsieningsketteringbestuurstelsel vir die Provinsiale Parlement; 30
  - (e) interne beheer en interne audit;
  - (f) die verlening van gratis dienste deur die Parlementêre Diens;
  - (g) die afskryf van, of skikking van eise ten opsigte van—
    - (i) verliese van geld of ander bates van die Provinsiale Parlement; of
    - (ii) bedrae aan die Provinsiale Parlement verskuldig; 35
  - (h) aanspreeklikheid vir verliese en skade, en prosedures vir verhaling, met inbegrip van die verhaling van ongemagtigde uitgawes, onreëlmatige uitgawes en vrugtelose en verkwistende uitgawes;
  - (i) die kansellering of verandering van kontrakte wat tot nadeel van die Provinsiale Parlement strek; 40
  - (j) die skikking van eise deur of teen die Provinsiale Parlement;
  - (k) die afstanddoening van eise deur die Provinsiale Parlement;
  - (l) die kwytskelding van geld verskuldig aan die Provinsiale Parlement;
  - (m) fondsverskuiwings tussen hoofindelings;
  - (n) geskenke of donasies aan beamptes; 45
  - (o) die ondersoek van bewerings van finansiële wangedrag; en
  - (p) enige ander aangeleentheid betreffende die finansiële bestuur van die Provinsiale Parlement wat nodig is vir die administrasie en implementering van Hoofstuk 3 of wat dit kan vergemaklik.
- (2) Die regulasies mag nie onbestaanbaar wees met hierdie Wet of met enige tesourienorme en -standaarde ingestel deur die nasionale wetgewing beoog in artikel 216(1) van die Grondwet van die Republiek van Suid-Afrika, 1996, nie.
- (3) Die Parlementêre Tesourie moet 'n konsep van enige voorgestelde regulasies vir openbare kommentaar publiseer.
- (4) 'n Regulasie word nie van krag tensy dit deur die Provinsiale Parlement goedgekeur word nie. 55

(5) Die Rekenpligtige Beampte moet alle regulasies wat deur die Provinsiale Parlement goedgekeur is in 'n parlementêre dokument en in die *Provinsiale Staatskoerant* publiseer.

### **Lasgewings**

- 41.** (1) Die Raad kan lasgewings uitreik wat nie met hierdie Wet strydig is nie 5  
betreffende—
- (a) enige aangeleentheid ten opsigte waarvan hierdie Wet vereis of in die vooruitsig stel dat lasgewings uitgereik word;
  - (b) diensvoorwaardes en ander vereistes ten opsigte van aanstelling in of 10  
oorplasing na die Parlementêre Diens;
  - (c) toegangsbeheer en veiligheidsaangeleenthede; en
  - (d) in die algemeen, enige ander aangeleentheid wat verband hou met die werking van die Parlementêre Diens.
- (2) Die Raad moet onverwyld 'n afskrif van 'n lasgewing uitgereik ingevolge subartikel (1) aan die Komitee voorlê. 15

## **HOOFSTUK 5**

### **DIVERSE AANGELEENTHEDE**

#### **Aanspreeklikheid van funksionarisse**

- 42.** (1) Die Bestuursraad, die Rekenpligtige Beampte of enige ander beampte wat 'n bevoegdheid uitoefen of 'n werksaamheid verrig ingevolge hierdie Wet, is nie 20  
aanspreeklik vir enige verlies of skade wat voortspruit uit die uitoefening van daardie bevoegdheid of die verrigting van daardie werksaamheid wat in goeie trou geskied nie.
- (2) Sonder beperking van aanspreeklikheid ingevolge die gemenerereg of ander wetgewing kan die Provinsiale Parlement enige verlies of skade gelyk deur die 25  
Provinsiale Parlement weens die opsetlike of nalatige onregmatige optrede van die Rekenpligtige Beampte of 'n ander beampte wanneer 'n werksaamheid ingevolge hierdie Wet verrig word, van die Rekenpligtige Beampte of daardie ander beampte verhaal.

#### **Herroeping van wetgewing**

- 43.** Die Wes-Kaapse Wet op die Bevoegdhede en Voorregte van die Provinsiale 30  
Wetgewer, 1995 (Wet 3 van 1995), en die Wes-Kaapse Wysigingswet op die Wet op die Bevoegdhede en Voorregte van die Provinsiale Wetgewer, 1998 (Wet 3 van 1998), word hierby herroep.

#### **Kort titel en inwerkingtreding**

- 44.** (1) Hierdie Wet heet die Wes-Kaapse Wet op Parlementêre Diens en Finansiële 35  
Bestuur, 2010.
- (2) Behoudens die oorgangsreëlings uiteengesit in die Bylae tree artikels 23, 25, en 31 tot 36 in werking aan die begin van die eerste finansiële jaar ná die publiserings van hierdie Wet ingevolge artikel 33(1) van die Grondwet van die Wes-Kaap, 1998.

## BYLAE

### Oorgangsreëlings

- (1) Die administrasie van die Provinsiale Parlement soos dit onmiddellik voor die inwerkingtreedingsdatum van artikel 2 bestaan het, gaan voort om as die Parlementêre Diens op te tree, en elke persoon wat onmiddellik voor daardie datum in die personeel van die Provinsiale Parlement gedien het, word geag ooreenkomstig hierdie Wet en die lasgewings aangestel te wees. 5
- (2) Tot op die datum bedoel in artikel 44(2) moet die Parlementêre Diens voortgaan om te voldoen aan enige toepaslike vereiste van die WOFB en die regulasies kragtens die WOFB uitgevaardig. 10
- (3) Tot tyd en wyl enige regulasie wat ingevolge hierdie Wet uitgevaardig moet word, van krag word, bly enige beleidsbepalings, regulasies, instruksies of reëls wat verband hou met die inhoud van die regulasie van krag.
- (4) Indien daar, wanneer artikel 7 in werking tree, geen prestasieooreenkoms vir die Rekenpligtige Beampte is soos deur daardie artikel vereis word nie, moet 'n ooreenkoms binne 'n maand gesluit word. 15
- (5) Nadat artikel 27 in werking getree het, mag geen bevoegdheids gedelegeer word totdat die delegeringstelsel wat in daardie artikel in die vooruitsig gestel word, goedgekeur word nie, behalwe dat, behoudens die ander bepalings van hierdie Wet—
- (a) beamptes wat bevoegdheids uitoefen wat deur die Rekenpligtige Beampte aan hulle gedelegeer is voordat artikel 27 in werking getree het, kan voortgaan om dit te doen; en 20
  - (b) indien 'n bevoegdheid aan die bekleër van 'n amp in die Provinsiale Parlement of die Parlementêre Diens gedelegeer is voordat artikel 27 in werking getree het, die bekleër van daardie amp en enige toekomstige bekleër van die amp kan voortgaan om daardie bevoegdheid uit te oefen. 25

## **MEMORANDUM OOR DIE OOGMERKE VAN DIE WES-KAAPSE WETSONTWERP OP PARLEMENTERE DIENS EN FINANSIËLE BESTUUR, 2009**

### **Agtergrond**

1. Die Grondwet van die Wes-Kaap, 1997 (die Provinsiale Grondwet), verleen die bevoegdheid aan die Provinsiale Parlement om sy eie interne reëlings, verrigtinge en prosedures te bepaal en te beheer. 'n Belangrike aspek van hierdie reg van die Provinsiale Parlement is die interne beheer van sy eie administrasie, met inbegrip van die aanstelling van sy eie personeel en die bewillinging en besteding van geld vir sy eie dienste.
2. Hoofstuk 3A van die Wes-Kaapse Wet op die Bevoegdhede en Voorregte van die Provinsiale Wetgewer, 1995, reël sekere aspekte van die finansiële reëlings ten opsigte van die Provinsiale Parlement, onder meer deur te bepaal dat die Speaker beklee is met die beheer van die besteding en bewillinging van geld vir die dienste van die Provinsiale Parlement. Daardie Hoofstuk maak ook voorsiening vir die aanstelling van 'n Sekretaris en ander personeel vir die Provinsiale Parlement.
3. Die Grondwet van die Republiek van Suid-Afrika, 1996 (die Nasionale Grondwet), vereis deursigtigheid en verantwoordingspligtigheid in alle begrotingsprosesse en die effektiewe finansiële bestuur van die openbare sektor. Die Wet op Openbare Finansiële Bestuur, 1999 (WOFB), voorsien die raamwerk waarbinne dit bereik kan word in nasionale en provinsiale departementen en sekere ander entiteite. Die WOFB stel ook uniforme tesourienorme en -standaarde in soos vereis deur artikel 216 van die Nasionale Grondwet. Slegs 'n paar bepalinge van die WOFB is egter van toepassing op die Provinsiale Parlement. In die praktyk het die Provinsiale Parlement op 'n vrywillige grondslag voldoen aan die bepalinge van die WOFB en die Tesourie-regulasies en instruksies kragtens die WOFB.
4. Ingevolge die WOFB en die Wes-Kaapse Wet op die Bevoegdhede en Voorregte van die Provinsiale Wetgewer, 1995, oefen die Speaker tesouriebeheer uit oor die Provinsiale Parlement. In die praktyk verrig die Speaker ook die werksaamhede van die uitvoeringsgesag binne die betekenis van die WOFB. Hierdie samevoeging van verskillende bestuursrolle is in stryd met die beginsels van goeie korporatiewe bestuur soos uiteengesit in onder meer die *King II Report on Corporate Governance for South Africa* en die *Report of a Study Group on Benchmarks for Democratic Legislatures*, gepubliseer deur die *Commonwealth Parliamentary Association*.
5. Die nasionale Parlement het onlangs wetgewing aangeneem om die finansiële bestuur van die Parlement (die "Financial Management of Parliament Act, 2009") te reël. Daardie Wet skryf ook norme en standaarde voor waarby 'n provinsiale wetgewer moet hou wanneer wetgewing verorden word om die wetgewer se finansiële bestuur te reël.

### **Oogmerke van Wetsontwerp**

6. Die Wetsontwerp het twee hoofogmerke: Eerstens om 'n Parlementêre Diens en 'n Bestuursraad in te stel. Die Parlementêre Diens, 'n voortsetting van die bestaande personeeldiensstaat, moet dienste aan die Lede van die Provinsiale Parlement lewer om hulle in staat te stel om hul werksaamhede te verrig. Die Bestuursraad sal die uitvoeringsgesag wees wat verantwoordelik is vir die beheer van die inkomste, uitgawes, bates en laste van die Provinsiale Parlement. Tweedens het die Wetsontwerp ten doel om die finansiële bestuur van die Provinsiale Parlement in ooreenstemming met die Parlement se grondwetlike status en toepaslike nasionale norme en standaarde te konsolideer en te reël. 'n Parlementêre Tesourie word ingestel, met die Speaker wat die tesouriewerksaamhede verrig. Die Sekretaris van die Provinsiale Parlement sal die Rekenpligtige Beampte wees.

### **Inhoud van Wetsontwerp**

7. Die kern van klousule-per-klousule inhoud van die Wetsontwerp word weerspieël in die Indeling van Artikels (voor artikel 1) en die onderskeie artikelopskrifte. Sommige van die belangrikste aspekte van die Wetsontwerp

word ter opsomming genoem: **HOOFSTUK 2** gee 'n uiteensetting van die voorgestelde nuwe bestuursreëlings vir die Provinsiale Parlement. Dit handel onder meer met die instelling van die Parlementêre Diens (**klousule 2**), die Bestuursraad (**klousule 3**), 'n parlementêre komitee om deurlopend toesig te hou oor die finansiële bestuur van die Provinsiale Parlement (**klousule 9**), en 'n ouditkomitee (**klousule 10**).

**HOOFSTUK 3** reël die finansiële bestuur van die Provinsiale Parlement. Die Hoofstuk handel onder meer met die finansiële verantwoordelikhede van die Bestuursraad (**klousule 11**), die vereistes vir lasgewings wat finansiële implikasies het (**klousule 12**), finansiële ondersteuning aan Lede en politieke partye (**klousule 14**), die instelling van 'n Parlementêre Tesourie (**klousule 15**), die werksaamhede en verantwoordelikhede van die Rekenpligtige Beampte en ander beamptes wat met finansiële aangeleenthede gemoeid is (**klousules 21–29**), die opstel van 'n strategiese plan en prestasieplan (**klousule 30**), die jaarlikse begroting en aansuiweringsbegroting van die Provinsiale Parlement (**klousule 31**), jaarlikse bewilligings en goedkeurings (**klousule 32**), finansiële wangedrag (**klousule 37**), en misdrywe en strawwe (**klousules 38–39**).

**HOOFSTUK 4** maak voorsiening vir tesourieregulasies uitgevaardig deur die Parlementêre Tesourie (**klousule 40**) en lasgewings uitgereik deur die Bestuursraad (**klousule 41**).

**HOOFSTUK 5** handel met diverse aangeleenthede soos die aanspreeklikheid van funksionarisse (**klousule 42**) en die herroeping van wetgewing (**klousule 43**). Die inwerkingtreeding van die wetgewing word gereël by **klousule 44(2)**, saamgelees met die Bylae.

#### **Finansiële implikasies vir die Provinsie**

8. Die Provinsiale Parlement sal moet aanpas en sy bestaande finansiële bestuurstelsels versterk, maar dit behoort nie wesenlike koste-implikasies in te hou nie.

# UMTHETHO OSAYILWAYO

Wenzelwe ukuba umisele iNkonzo yePalamente kunye neBhodi yoLawulo yePalamente yePhondo leNtshona Koloni eziya kunceda ekulawulweni kweemali zePalamente yePhondo leNtshona Koloni; yaye ukwayilelwe ukunceda kuyo yonke eminye imiba enxulumene nezimali.

## IMBULAMBETHE

**KUTHATHELWA INGQALELO** ukuba iPalamente yePhondo ilawulwa ziinqobo zedemokrasi kunye nemithetho-siseko efumaneka kuMgaqosiseko weRiphabliki yoMzantsi Afrika, 1996 kunye noMgaqosiseko weNtshona Koloni ka-1998;

**YAYE** ukuze—

- siqinisekise ulawulo ngempumelelo lwePalamente yePhondo;
- siphakamise yaye sigcine umgangatho ophezulu weenkqubo zokuphatha nokulawula iimali zePalamente yePhondo;
- siphakamise usetyenziso ngendlela efanelekileyo, nangeendleko eziphantsi nangempumelelo kwemithombo yeemali ezinikwe iPalamente yePhondo;
- nokuqinisekisa ulawulo olungafihlisiyo nalapho kunikwa inkcazelo epheleleyo ngengeniso nenkcitho, ngeesethi nezinto eziluxanduva lwePalamente yePhondo,

**M**AWENZIWE UBE NGUMTHETHO yiPalamente yePhondo leNtshona Koloni ngolu hlobo:—

## ULANDELELWANISO LWAMACANDELO

### ISAHLUKO 1

#### IINKCAZELO

5

1. Inkcazelo

### ISAHLUKO 2

#### AMALUNGISELELO OLAWULO

2. Ukumiselwa kweeNkonzo zePalamente
3. Ukumiselwa kweBhodi yoLawulo
4. Utyumbo lwaMalungu eBhodi eLawulayo
5. Inkqubo yokusebenza yeBhodi yoLawulo
6. Imisebenzi yeBhodi yoLawulo
7. Unobhala wePalamente yePhondo
8. Unobhala oBambeleyo
9. Ikomiti yokuBeka iLiso yePalamente
10. Ikomiti yokuPhicotha iincwadi zemali

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- |     |  |    |
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| 11. | Uxanduva lwezimali lweBhodi eLawulayo  |    |
| 12. | Umyalelo wesigqeba solawulo nefuthe kwizimali  |    |
| 13. | Ukwandlalwa kwengxelo yonyaka, izicwangciso zokusebenza, izicwangciso zenkqubo zokusebenza zonyaka kunye nolwabiwomali | 5  |
| 14. | Inkxaso yaMalungu namaqela ezopolitiko   |    |
| 15. | ISEbe likaNondyebo wePhondo  |    |
| 16. | Imsebenzi yeSebe likaNondyebo wePalamente  |    |
| 17. | Ulawulo lwemali notyalomali  | 10 |
| 18. | Ukucelwa kwenkxasomali   |    |
| 19. | Imiqathango yokuboleka, iigaranti nezinye izivumelwano zemali  |    |
| 20. | IGosa eliNika iNkcazo  |    |
| 21. | Imisebenzi yeGosa eliNika iNkcazo ngokubanzi   |    |
| 22. | Imisebenzi yeGosa eliNika iNkcazo ephathelele kulawulo lohlahlo-mali   | 15 |
| 23. | Imisebenzi yeGosa eliNika iNkcazo yokwenza ingxelo   |    |
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| 25. | Iziphumo zokungathotyelwa kwemiqathango ethile   |    |
| 26. | Ingxelo ngezinto ezigwenxa   |    |
| 27. | Ukunikezelwa kwamagunya nemisebenzi liGosa eliNika iNkcazo   | 20 |
| 28. | Uxanduva lwamagosa   |    |
| 29. | Uxanduva lokusebenzisa imali   |    |
| 30. | Ukuqulunqwa kwesicwangciso esiliqili nesicwangciso sokwenziwa komsebenzi   |    |
| 31. | Uhlahlo-mali lonyaka noqikelelo lohlanga-hlengiso  | 25 |
| 32. | Ulwabiwo lwemali lonyaka nolwamkelo  |    |
| 33. | Inkcitho phambi kokwamkelwa kohlahlo-mali lonyaka  |    |
| 34. | Inkcitho engagunyaziswanga   |    |
| 35. | Uxulo phakathi kwezahluho eziphambili  |    |
| 36. | Umba weemali ezingasetyenziswanga  | 30 |
| 37. | Ubugwenxa bokuziphatha ngokwasezimalini  |    |
| 38. | Izinto ezingamatyala   |    |
| 39. | Izohlwayo  |    |

**ISAHLUKO 4****IMIGAQO NEZIKHOKELO 35**

- |     |                                     |
|-----|-------------------------------------|
| 40. | Imigaqo yecandelo lenkcitho yemali? |
| 41. | Izikhokelo                          |

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- |     |   |    |
|-----|---|----|
| 42. | Ubutyala kubasebenzi                              | 40 |
| 43. | Ukutshitshiswa komthetho                          |    |
| 44. | Isihloko esifutshane nokuQalisa kokuSebenza kwawo |    |

**ISHEDYULI****Izicwangciso zexeshana****ISAHLUKO 1 45****IINKCAZELO****Iinkcazelo**

1. Kulo Mthetho, ngaphandle kokuba umxholo ubhekisa kwenye into—



- “Igosha eliNika iNkcazo”** libhekisa kuNobhala **“ingxelo yonyaka”**, ithetha ingxelo yonyaka ekubhekiswa kuyo kwicandelo 23(1);
- “ulwabiwo-mali olwamkelweyo”** luthetha yonke imali iPalamente yePhondo ethe—
- (a) yayabelwa kwiNgxowa yeNgeniso yePhondo isabelwa iPalamente yePhondo ngokwemiqathango yoMthetho wolwabiwomali wephondo; kunye 5
  - (b) naleyo iphuma kwingxowamali yePalamente yePhondo ngokwemigaqo yecandelo 31(2)(c);
- “Ikomiti”** ithetha ikomiti yePalamente yePhondo emiswe ngokwemigaqo yecandelo 9;
- “unyakamali”** uthetha isithuba sonyaka esiqala ngosuku lokuqala lukaEpreli enyakeni ukuya kuma kumhla wamashumi amathathu ananye kuMatshi wonyaka olandelayo; 10 zombini ezi ntsuku ziqukiwe.
- “inkcitho engenambuyekezo nenokuphetshwa”** ibhekisa kwinkcitho eyenziwe kungekho sidingo sayo nengeyiphetshiwe ukuba ngaba zonke iimeko bezijongiwe;
- “IBhodi eLawulayo”** okanye **“iBhodi”** ibhekisa kwiBhodi eLawulayo yePalamente yePhondo leNtshona Koloni emiselwe phantsi kwemiqathango yecandelo 3; 15
- “inkcitho engavumelekanga”** ibhekisa kwinkcitho, ngaphandle kwegunyazisiweyo ethe yenziwa kungathotyelwanga okanye kophulwe imiqathango yalo Mthetho okanye naluphi na olunye uwisomthetho oluchaphazelekayo;
- “isahlulo esingundoqo”** sibhekisa kwesinye seziqingatha ezingundoqo ezahluliweyo zolwabiwomali olwamkelweyo lwePalamente yePhondo esichaza isixamali sisonke 20 esithe sabiwa saze samkelwa sisabelwa izinto ezikweso siqingatha;
- “ILungu”** lithetha ilungu lePalamente yePhondo;
- “UMphathiswa”** uthetha uMphathiswa wePhondo onoxanduva lwezimali kwiphondo;
- “inyanga”** ithetha isithuba esisukela kusuku lokuqala lwenyanga ukuya kutsho kusuku lokugqibela okanye usuku olwandulela usuku lokuqala lwenyanga elandelayo; 25
- “Isebe likaNondyebo leSizwe”** lithetha isebe likanodyebo elimiselwe kulandelwana icandelo 5 le-PFMA
- “igosha”** libhekisa kumsebenzi okanye umqeshwa osebenzela iPalamente;
- “ukugqithisa kwisabelo senkcitho”—**
- (a) malunga nePalamente yePhondo, kukuchitha ngaphaya kwemali eyabelwe 30 iPalamente yePhondo neyamkeliweyo kulwabiwomali; okanye
  - (b) malunga nesahlulo esingundoqo, kuthetha ukwenza inkcitho engaphezulu kwisixamali esabiweyo okanye esabelwe eso sahlulo, kodwa ke oko kuxhomekeke kwicandelo 35;
- “Inkonzo yePalamente”** ithetha iNkonzo yePalamente ekubhekiswe kuyo kwicandelo 35 2, ekubandakanywa noNobhala kuyo;
- “Isebe likaNondyebo wePalamente”** lithetha isebe likaNondyebo ekubhekiswe kulo kwicandelo 15;
- “isicwangciso sokwenziwa komsebenzi”** sibhekisa kwisicwangciso sokwenziwa komsebenzi ekuthethwe ngaso kwicandelo 30; 40
- “I-PFMA”** ibhekisa kuMthetho woLawulo lweeMali zikaRhulumente, 1999 (UMthetho Nomb. 1 ka-1999);
- “iqela lezopolitiko”** lithetha iqela lezopolitiko elimelwe kwiPalamente yePhondo;
- “ukumisela”** kuthetha ukuba imiselwe ngumthetho
- “iphondo” lixela iPhondo leNtshona Koloni;** 45
- “uhlahlo-lwabiwomali lonyaka lwephondo”** luthetha ulwabiwomali lwephondo ekubhekiswe kulo kwicandelo 27(2) le-PFMA;
- “iPalamente yePhondo”** ibhekisa kwiPalamente yePhondo leNtshona Koloni;
- “uNondyebo wePhondo”** uthetha isebe likanondyebo elimiselwe liphondo lisebenza icandelo 17 le-PFMA; 50
- “ikota”** ibhekisa kuso nasiphi na isithuba sala maxesha angezantsi kunyakamali ngamnye:
- (a) 1 Epreli ukuya kwi-30 kaJuni;
  - (b) 1 Julayi ukuya kwi-30 kaSeptemba;
  - (c) 1 Oktobha ukuya kwi-31 kaDisemba; okanye 55
  - (d) 1 Januwari ukuya kwi-31 kaMatshi;
- “imimiselo”** ithetha imimiselo yesebe likanondyebo eyenziwe licandelo likaNondyebo lePalamente phantsi kwecandelo 40;

- “uNobhala”** ubhekisa kuNobhala wePalamente yePhondo oqeshwe phantsi kwemiqathango yecandelo 7(1) okanye umntu obambe njengoNobhala ngokwecandelo 8;
- “uSomlomo”** uthetha uSomlomo wePalamente yePhondo;
- “imigangatho yendlela yocwangciso-zimali eyamkelweyo”** ibhekisa kwindlela yokucwangcisa iimali ethobela imigangatho ekhutshwe nguMphathiswa wesizwe ojongene neemali elandela iingcebiso zeBhodi yeMigangatho yoCwangciso-Zimali. 5
- “isicwangciso”** ithetha isicwangciso ekubhekiswe kuso kwicandelo 30;
- “lo Mthetho”**, ngaphandle kwakwicandelo 40, ubandakanya imimiselo
- “inkcitho engagunyaziswanga”** ithetha— 10
- (a) ukudlulisa kwincitho eyamkelweyo okanye yesahlulo esingundoqo
- (b) nayiphi na incitho eyenziweyo kulwabiwomali olwamkelweyo okanye yesahlulo esingundoqo esetyenziselwe injongo engahambelaniyo nezo zichaziweyo eyenziwe kulwabiwomali olwamkelweyo okanye kwisahlulo esingundoqo, kodwa oko kuxhomekeke kwicandelo 35; okanye 15
- (c) nayiphi na incitho yenkxasomali efunyenweyo esetyenziselwe iinjongo ekungavunyelwananga ngazo nalowo unikele ngaloo mali;

## ISAHLUKO 2

### AMALUNGISELELO OLAWULO

#### Umiselo lweNkonzo yePalamente 20

2. Apha kumiselwa iNkonzo yePalamente eya kubonelela ngeenkonzo kuMalungu ukuze akwazi ukwenza imisebenzi yawo.

#### Umiselo lweBhodi yoLawulo

3. (1) Apha kumiselwa iBhodi eya kwaziwa njengeBhodi yoLawulo lwePalamente yePhondo leNtshona Koloni. 25
- (2) Le Bhodi sisigqeba esingugunyaziwe onoxanduva lokulawula incitho, ingeniso, iiasethi nokujongana nalo lonke uxanduva lwezimali lwePalamente yePhondo.
- (3) Malunga nokwenza imisebenzi yeBhodi, amalungu eBhodi ewonke kufuneka ephendule okanye enike inkcazo kwiPalamente yePhondo.

#### Abantu abangaMalungu eBhodi yoLawulo 30

4. (1) IBhodi yoLawulo inala malungu alandelayo—
- (a) USomlomo;
- (b) Umbhexeshi oyiNtloko weQela eliLawulayo;
- (c) iLungu elityunjwe liQela eliLawulayo;
- (d) iNkokeli yeQela eliPhikisayo; kunye 35
- (e) neLungu lelona qela linamalungu amaninzi kumaqela amancinci ngaphandle kweQela eliPhikisayo, ilungu elo eliya kube lonyulwe ngesigqibo sePalamente yePhondo.
- (2) Usihlalo weBhodi iya kuba nguSomlomo.
- (3) UNobhala ubonelela ngoncedo lokuqinisekisa ukuba yonke into efunwa yiBhodi iyenzeka. 40
- (4) USomlomo nguye owenza yonke imisebenzi yeBhodi phakathi kweentlanganiso ezilandelelanayo.
- (5) USomlomo kufuneka edlulisele zonke izigqibo eziphantsi kwecandelwana (4) kwiBhodi ukuze iziqinisekise ze izisayine. 45

#### Inkqubo yokuSebenza kweBhodi yoLawulo

5. (1) IBhodi inokwenza imisebenzi yayo ilawule neenkqubo zayo ngolu hlobo ilubona lufanelekile.
- (2) IBhodi kufuneka ihlangane ubuncinane kanye ngekota.
- (3) Kwintlanganiso yeBhodi kufuneka kubekho ubuncinane amalungu amathathu ukuze ibe neKhoram. 50
- (4) IBhodi kufuneka izame ukuba ivumelane ngezigqibo kodwa ukuba akufikelelwa kwisivumelwano, izigqibo ziya kuthathwa ngokuba kusetyenziswe inkqubo yevoti.

### Imisebenzi yeBhodi yoLawulo

#### 6. IBhodi kufuneka—

- (a) igqibe ngeenkonzelo ekufuneka zibonelelwe yiPalamente ze imisele iinkqubo eziyimfuneko ukuze ezo nkonzo ziboneleleke;
- (b) igqibe ngobungakanani kunye nendlela emayisebenze ngayo iPalamente; 5
- (c) ibeke iliso kwindlela ekubonelelwa nekulawulwa ngayo iPalamente;
- (d) igqibe ngemivuzo kunye neminye imiqathango yenkonzo yabasebenzi bePalamente;
- (e) imele iPalamente yePhondo kuzo naziphi iingxoxo noMphathiswa okanye nawuphi na umba wohlahlo lwabiwo-mali lwePalamente yePhondo okanye 10 uhlehlengiso lwalu;
- (f) ikhuphe imiyalelo phantsi kwemiqathango yecandelo 41; yaye
- (g) yenze yonke imisebenzi enyanzeliswa ngulo Mthetho okanye evela kwizigqibo zePalamente yePhondo.

### UNobhala wePalamente yePhondo

15

7. (1) Emva kokuthatha isigqibo, iPalamente yePhondo kufuneka iqeshe umntu oya kuba nguNobhala wePalamente yePhondo—

- (a) ilandela isindululo seBhodi yoLawulo; yaye
- (b) loo mntu aqeshwe ngekhontrakthi yeminyaka emithathu enokongezwa iphinde ibe yeminye iminyaka emithathu ngexesha. 20

(2) IBhodi yoLawulo kunye noNobhala kufuneka basayine isivumelwano sokusebenza esibhaliweyo ngexeshana nje emva kokuba uNobhala lowo eqeshiwe ze emva kwaleyo yokuqala basisayine zingaphelanga iiveki ezimbini emva kokuqala konyakamali.

#### (3) Isivumelwano sokusebenza kufuneka—

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- (a) sichaze imigangatho yokusebenza ehambelana neenjongo kunye neethagethi zesicwangciso sokwenziwa komsebenzi salo nyaka uphethweyo;
- (b) sichaze uxanduva nemisebenzi kaNobhala njengeGosa eliNika iNkcazo;
- (c) sibonelele ngovavanyo lonyaka lendlela yokusebenza kaNobhala oluya kwenziwa yiBhodi yoLawulo oluya kuthathela ingqalelo izinto ezifana nengxelo yophicotho kwiingxelo zezimali zonyaka zePalamente yePhondo; 30 yaye
- (d) sichaze ukuba kuya kwenzeka ntoni na xa umsebenzi owenziwe nguNobhala ungekho kumgangatho olindelekileyo.

### UNobhala oBambeleyo

35

8. Ukuba ngaba isithuba sikaNobhala asinamntu, okanye ukuba uNobhala akawenzi ngokufanelekileyo umsebenzi wakhe, iBhodi yoLawulo kufuneka ifake omnye umntu kulo msebenzi njengoNobhala obambeleyo.

### Ikomiti yokuBek'iLiso yePalamente

9. IPalamente yePhondo kufuneka imisele ikomiti yepalamente eya kubizwa ngokuba yiKomiti yokuBek'iLiso yePalamente emsebenzi wayo ikukubek' iliso kulawulo lweemali zePalamente yePhondo. 40

### Ikomiti yoPhicotho

10. (1) IBhodi yoLawulo kufuneka imisele ikomiti yophicotho.

(2) IBhodi isenokugqiba ukuba yabelane ngekomiti yophicotho nelinye iziko likarhulumente. 45

(3) Ikomiti yoPhicotho kufuneka ubuncinane ibe namalungu amathathu ekufuneka ukuba—

- (a) uninzi lwabo lungabi ngabasebenzi bepalamente okanye aMalungu yaye
- (b) usihlalo ayinakuba ngumsebenzi wepalamente okanye iLungu 50

(4) Ikomiti yoPhicotho kufuneka idibane ubuncinane kabini ngonyaka.

### ISAHLUKO 3

#### ULAWULO LWEZIMALI

##### Uxanduva lweeMali lweBhodi yoLawulo

- 11.** IBhodi yoLawulo kufuneka—
- (a) yenze imisebenzi yayo; yaye 5
  - (b) kufuneka iqinisekise ukuba iGosa eliNika iNkcazo kunye namanye amagosa ayawenza umsebenzi wawo esebenzisa imali eyabelwe iziko eli neyamkeliweyo kunye naleyo yezahlulo ezingundoqo.

##### Umyalelo wesigqeba solawulo onefuthe kwizimali

- 12.** (1) Umyalelo osuka kwiBhodi yoLawulo oya kuchaphazela iimali kufuneka— 10
- (a) uphume ubhaliwe yaye usayinwe nguSihlalo weBhodi; kananjalo
  - (b) mawuthunyelwe kwiGosa eliNika iNkcazo.
- (2) Ukuba ukuphunyezwa kwaloo myalelo kuya kukhokelela kwinkcitho engagunyaziswanga, iGosa eliNika iNkcazo—
- (a) alikwazi kuqhubeka nokuphumeza loo myalelo; kananjalo 15
  - (b) kufuneka libhalele iBhodi eLawulayo liyazise ukuba loo myalelo unokukhokelela ekubeni kwenziwe inkcitho engagunyaziswanga.
- (3) Ukuba ngaba iGosa eliNika iNkcazo liyaqhubeka nokuphumeza umyalelo ngokwecandelwana (2) lingafumenanga omnye umyalelo osuka kwiBhodi eLawulayo ngokwecandelwana (5), ze oko kukhokelele kwinkcitho engagunyaziswanga, liGosa eliNika iNkcazo eliya kuba noxanduva lwaloo nkcitho ingagunyaziswanga. 20
- (4) IGosa okanye umsebenzi wepalamente akanakuphumeza umyalelo osuka kwiBhodi yoLawulo onokuba nefuthe kwezimali ngaphandle kokuba iGosa eliNika iNkcazo likhuphe umyalelo obhaliweyo othi eso sicelo sebhodi sinakho ukuphunyezwa.
- (5) IBhodi eLawulayo ingayalela iGosa eliNika iNkcazo ukuba liqhubeka nokuphumeza umyalelo ochazwe kwicandelwana (2) kuphela xa ngaba kufuneka kwenziwe— 25
- (a) inkcitho yento ebaluleke kakhulu engakhange ibonelelwe kwibhajethi eyamkelweyo, nto leyo engenakumiselwa olunye ulwabiwomali okanye ulwamkelo lwenkxasomali ekunokuthi xa inokumiswa ichaphazele ukusebenza kwepalamente; okanye 30
  - (b) inkcitho engakhange icingwe okanye engenakuphetshwa eyamkelwe yiPalamente yePhondo.
- (6) Umyalelo ekubhekiswe kuwo kwicandelwana (5) kufuneka ube ubhaliwe yaye kufuneka kunikwe izizathu zaloo myalelo. 35
- (7) Ingalibazisanga, iBhodi kufuneka yandlale ikopi yaloo myalelo kwiPalamente yePhondo ukuze udluliselwe kwiKomiti.
- (8) IGosa eliNika iNkcazo kufuneka lingenise ikopi yaloo myalelo kuMhloli-Zincwadi Jikelele (Auditor-General).

##### Ukwandlalwa kwengxelo yonyaka, izicwangciso eziliqili, inkqubo yokusebenza nebhajethi 40

- 13.** (1) IBhodi eLawulayo kufuneka yandlale kwiPalamente yePhondo—
- (a) ingxelo yonyaka ebandakanya iingxelo zezimali eziphicothiweyo ingaphelanga inyanga enye emva kokuba iGosa eliNika iNkcazo liyifumene ingxelo yophicotho; 45
  - (b) izicwangciso nenkqubo yokusebenza; kwakunye
  - (c) nebhajethi kunye neengqikelelo ezihlengahlengisiweyo ezamkelwe yiBhodi phantsi kwemiqathango yecandelo 31(3).
- (2) Ukuba ngaba iBhodi yoLawulo ayiyandlalanga ingxelo yonyaka ngokwemiqathango yecandelwana (1)(a) zingaphelanga iinyanga ezintandathu zalo nyakamali ekufanele ukuba yandlalwe ngawo: 50

- (a) iBhodi yoLawulo kufuneka inike izizathu kwiPalamente yePhondo zokuba kutheni ingayandlalanga loo ngxelo; yaye
- (b) uMhloli-ziNcwadi Jikelele usenokukhupha ingxelo eyodwa ngolo libaziseko.

#### **Inkxaso yaMalungu neyamaqela opolitiko**

**14.** (1) IBhodi yoLawulo kufuneka ikhuphe imiyalelo ehambelana nalo Mthetho malunga nolwabiwo kunye nosetyenziso lwenkxasomali ebonelelwe yiPalamente yePhondo kumaqela ezopolitiko nakuMalungu. 5

(2) Phambi kokukhupha umyalelo, iBhodi kufuneka iqale ibonisane namaqela ezopolitiko.

(3) Imiyalelo kufuneka— 10

- (a) ilawule ukwabiwa kweemali ngendlela enobulungisa;
- (b) ichaze iinjongo ezinokusetyenziselwa zona iimali;
- (c) iqinisekise ukuba iimali zihlawulwa ngethuba kwiakhawunti yebhanki;
- (d) ichaze uxanduva lwaMalungu kunye nolwamaqela ezopolitiko ekunikeni inkcazo ngosetyenziso lwemali abayabelweyo; 15
- (e) amisele inkqubo aya kuthi amalungu namaqela opolitiko asebenzise yona xa enika iingxelo zosetyenziso lwemali;
- (f) mayikhuphe ifomathi yokubhalwa kweengxelo zemali ezichaza ngokusetyenziswa kwemali;
- (g) inyanzelise ukuba amaqela ezopolitiko makangenise iingxelo zezimali eziphicothiweyo kwiGosa elinika INkcazo esebenzisa loo fomathi ibekiweyo; 20
- (h) ibonelele ngendlela emakubuyiswe ngayo imali ezichithwe ngendlela engafanelekanga; kananjalo
- (i) mayibonelele ngenkqubo yokusombulula iimbambano.

(4) Imiyalelo mayinike igunya kwiGosa eliNika iNkcazo ukuba libambe iimali ezabelwe iqela lezopolitiko okanye iLungu— 25

- (a) de iGosa eliNika iNkcazo lifumane—
  - (i) ulwazi olwaneleyo malunga nokukwazi kweqela okanye iLungu ukulawula nokunika inkcazo ngenkxasomali;
  - (ii) naziphi na ingxelo malunga nokusetyenziswa kwenkxasomali yepalamente liqela okanye liLungu; kunye 30
  - (iii) naluphi na olunye ulwazi olufunekayo olungqina ukuba elo qela okanye elo Lungu lifanele ukufumana loo nkxasomali; yaye
- (b) kwimeko yengxelo yophicotho ekhwinisayo malunga naloo nkxasomali, imali mayibanjwe de kube kuthathwe amanyathelo ukulungisa loo nto ikhwinisayo. 35

#### **Icandelo likaNondyebo lePalamente**

**15.** Apha kumiselwa iCandelo likaNondyebo lePalamente apho kunikwa uSomlomo amagunya okuba enze imisebenzi yecandelo likanondyebo.

#### **Imisebenzi yeCandelo likaNondyebo lasePalamente 40**

**16.** (1) Icandelo likaNondyebo lePalamente kufuneka:

- (a) lenze yaye limisele ibhajethi yePalamente yePhondo kwakunye nohlenga-hlengiso lweebhajethi;
- (b) liphakamise yaye linyanzelise ukungafihlisi kunye nolawulo olululo lwengeniso, inkcitho, iiasethi kunye noxanduva lwezimali lwePalamente yePhondo; 45
- (c) liqinisekise ukuba iPalamente iba nesikhokelo solawulo lokuthengwa kweempahla zeziko engenamkhethe, enobulungisa, engafihlisiyo, esebenza ngokufana nezamanye amaziko kunye nenempumelelo
- (d) linyanzelise lo Mthetho; 50
- (e) libonelele ngokukhawuleza ngolwazi olufunwa licandelo likaNondyebo lePhondo okanye leSizwe;
- (f) libonelele ngenkqubo yokujongana nenkcitho engagunyaziswanga, engenesabelo sayo; engenaziqhamo zibonakalayo nemosha ngemali;
- (g) yenze imimiselo yeemali ilandela imiqathango yecandelo 40. 55

(2) Icandelo likaNondyebo wePalamente:

- (a) lingaphanda ngayo nayiphi inkqubo yolawulo lweemali kunye nenkqubo zangaphakathi ezisetyenziswayo zolawulo lwePalamente; yaye
- (b) ingeqithisela yenze nantoni na ukuzalisekisa imisebenzi yayo ngempumelelo.

#### **Ulawulo lwemali ezinkozo notyalomali** 5

- 17.** (1) Icandelo likaNondyebo kufuneka lichaze yaye linyanzelise umgaqonkqubo ofanelekileyo ojongene nale miba-
- (a) ukubhankisha nokulawula imali ngendlela efanelekileyo; kunye
  - (b) nokutyalwa kwemali ezingekazi kusetyenziswa.
- (2) IGosa eliNika iNkcazo linxanduva lokumisela iinkqubo zokumisela ngemfezeko umgaqonkqubo obekiweyo nochaziweyo ngokwemiqathango yecandelwana (1). 10

#### **Ukucelwa kwenkxaso-mali**

- 18.** Ibhodi eLawulayo kufuneka ithi, emva kokubonisana noMphathiswa, igqibe ngenkqubo eza kulandelwa ukucela imali ezabelwe ipalamente, nkqubo leyo eya kuqinisekisa ulawulo olululo lwezimali. 15

#### **Imiqathango yokuboleka, yeegaranti nezinye izivumelwano zemali**

- 19.** (1) IPalamente yePhondo ayinakho—
- (a) ukubolekisa ngemali;
  - (b) ukukhupha igaranti okanye isiqinisekiso sentlawulo; okanye
  - (c) ukungena kuzo naziphi izivumelwano eziya kuthi ziyibophelele ukuba imele abantu kumaziko eemali. 20
- (2) Urhulumente nePalamente yePhondo abakwazi ukuzibophelela kwimboleko-mali, igaranti, isiqinisekiso sentlawulo okanye nasiphi isivumelwano ekungenwe kuso esaphula imiqathango yecandelwana (1).
- (3) Icandelwana (1) alithinteli iPalamente yePhondo okanye iNkonzo yePalamente—
- (a) ekubeni ikhuphe okanye izibophelele kwigaranti yemboleko-mali yenkqubo yezindlu elawulwa yiPalamente elungiselelwe aMalungu kunye nabasebenzi bayo;
  - (b) ekungeneni kwisivumelwano sengqesho sokusetyenziswa kwepropati okanye izixhobo; okanye 30
  - (c) ekusebenziseni ikhadi lekrhediti, amakhadi osetyenziso lweemoto zikarhulumente okanye ezinye izibonelelo zamatyala ekufuneka zihlawulwe zingaphelanga iintsuku ezingamashumi ama-30 ukusukela kusuku lokufumana iakhawunti. 35

#### **IGosa eliNika iNkcazo**

- 20.** (1) UNobhala nguye iGosa eliNika iNkcazo.
- (2) IGosa eliNika iNkcazo linika inkcazo liphendule kwiBhodi yoLawulo malunga nolawulo lwePalamente yePhondo ngakwicala lemali.

#### **Imisebenzi yeGosa eliNika iNkcazo ngokubanzi** 40

- 21.** IGosa eliNika iNkcazo—
- (a) kufuneka liqinisekise ukuba iPalamente inezi zinto izilondolozayo—
    - (i) iinkqubo zolawulo lwemali ezinempumelelo nezinemfezeko neziselubala, ezolawulo lomngcipheko nezolawulo lwangaphakathi;
    - (ii) inkqubo yohlolo-zincwadi lwangaphakathi oluphantsi kolawulo neliso lekomiti yohlolo-zincwadi, ithobela imigaqo, ihamba ngayo; 45
    - (iii) inkqubo efanelekileyo yeentengo nobonelelo enobulali, nenobulungisa, neselubala, engabhabeli phezulu ngamaxabiso neendleko; kunye
    - (iv) nenkqubo yokuvandlakanywa ngokufanelekileyo kwazo zonke iiprowujekthi zeentengo ezinkulu phambi kokuba kuthathwe izigqibo zokugqibela ngezo prowujekthi; 50

- (b) linoxanduva lokuqinisekisa ukuba izinto zePalamente yePhondo zisetyenziswa ngendlela enempumelelo, nenemfezeko, engenazindleko neselubala;
- (c) kufuneka lithathe amanyathelo anempumelelo nafanelekileyo— 5  
 (i) okuqokelela zonke iimali ezifanele kufunyanwa yiPalamente yePhondo;  
 (ii) okuthintela inkcitho engagunyaziswanga, inkcitho engekho mgaqweni kunye nenkcitho ephuthileyo nekukudlala ngemali, kwakunye neelahleko ezibangwa yimikhwa yolwaphulo-mthetho; kananjalo  
 (iii) lilawule abantu bokusebenza abakhoyo ngempumelelo nangendlela engenazindleko; 10
- (d) linoxanduva lolawulo, olubandakanya ukubeka iliso nokulondoloza iimpahla zePalamente yePhondo kwakunye nololawulo lwamatyala ayo;
- (e) kufuneka lithobele zonke iimbopheleleko ezibekwa ngumthetho malunga nerhafu, iintlawulo, imirhumo kunye nohlolo-zincwadi;
- (f) kufuneka lifezekise zonke izibhambathiso zeekhontrakthi, kwaye lihlawule zonke iimali ezityalwayo, ngexesha elimiselweyo nekuvunyelwene ngalo; 15
- (g) xa lithe lafumanisa kukho inkcitho eyenzekileyo engagunyaziswanga, engekho mgaqweni okanye ephuthileyo nekukudlala ngemali, kufuneka likhawuleze linike iBhodi yoLawulo ingxelo ebhaliweyo ngayo, linike neenkukacha zaloo nkcitho; 20
- (h) kufuneka lithathe amanyathelo oluleko anempumelelo nafanelekileyo ngalo naliphi na igosa elithe—  
 (i) laphula okanye lasilela ukuthobela nawuphi na umqathango obekwa ngulo Mthetho;  
 (ii) lenza into etyekileyo kwinkqubo yolawulo lwemali nolawulo lwangaphakathi lwePalamente yePhondo; okanye 25  
 (iii) lenza okanye lavumela inkcitho engagunyaziswanga, engekho mgaqweni okanye ephuthileyo nekukudlala ngemali;
- (i) phambi kokuba lidlulisele nayiphi na imali kwisigqeba esiliziko likarhulumente elizimeleyo okanye esingaphandle kurhulumente, kufuneka lifumane isiqinisekiso esibhaliweyo kwisigqeba eso sokuba sihamba ngokweenkqubo zolawulo lwemali nezolawulo lwangaphakathi ezinempumelelo, ezinemfezeko neziselubala, okanye, ukuba ngaba eso siqinisekiso sibhaliweyo asinikwanga okanye asikwazi ukunikwa, likubekele imiqathango ukudluliselwa kwaloo mali, lize kananjalo lithathe amanyathelo okulungisa anqonqozisa eso sigqeba ukuba masiseke iinkqubo zolawulo lwemali nolawulo lwangaphakathi ezinempumelelo, ezicikizekileyo neziselubala; 30
- (j) kufuneka liqinisekise ngokuthotyelwa kwayo nayiphi na imiqathango ebekiweyo xa iPalamente yePhondo ithe yanika nasiphi na isigqeba okanye nawuphi na umntu uncediso ngemali; 40
- (k) kufuneka lizinike ingqwalaselo zonke iinkalo ezifanelekileyo eziphathelele emalini, kubandakanya nemiba ebhekisele kwipropati, ucwangco neziphumo ezibonakalayo, xa kuqwalaselwa izinto eziluxanduva lweGosa eliNika iNkcazo, kuze kuthi xa kukho imfuneko yoko, liyazise iBhodi yoLawulo ngaloo miba; 45
- (l) kufuneka liwuthobele lo Mthetho, liqinisekise kananjalo ukuba iPalamente iyawuthobela; kwaye
- (m) alinakho ukuba lingafaka iPalamente kuyo nayiphi na into elityala ekungekho mali ibiyabelwe okanye engakhange ivunywe yiPalamente yePhondo. 50

### **Imisebenzi yeGosa eliNika iNkcazo ephathelele kulawulo lohlahlo-mali**

22. (1) IGosa eliNika iNkcazo kufuneka liqinisekise ukuba—  
 (a) inkcitho iyahambelana nohlahlo-mali olwamkelweyo; nokuba  
 (b) kuthathwa amanyathelo anempumelelo nafanelekileyo okuthintela inkcitho engagunyaziswanga. 55
- (2) IGosa eliNika iNkcazo kufuneka ukuba, ngokuphathelele kwicandelwana (1)—  
 (a) lithathe amanyathelo anempumelelo nafanelekileyo okuthintela nayiphi na inkcitho edlulileyo;  
 (b) liyazise iBhodi yoLawulo xa kungathi kuza kubakho— 60  
 (i) ukungagqibeki koqokelelo lweemali ezifanele kufunyanwa;  
 (ii) ukuqhwalala kwimali ebihlahliwe;

- (iii) nenkcitho edlulileyo; kwaye
- (c) lithobele nawaphi na amanyathelo okulungisa athathwe yiBhodi yoLawulo phantsi kwalo Mthetho ngeenjongo zokuthintela inkcitho edlulileyo.

### Imisebenzi yeGosa eliNika iNkcazo yokwenza ingxelo

23. (1) IGosa eliNika iNkcazo kufuneka— 5
- (a) ligcine amarekhodi apheleleyo nafanelekileyo ngemicimbi yemali yePalamente yePhondo ngokwemimiselo nemigangatho ebekiweyo;
  - (b) lilungise iinkcazo zemali yonyaka-mali ngamnye ngokweenkqubo zokubhalwa nophengululo lweenkcukacha zemali ezivunyiweyo;
  - (c) lingenise iinkcazo zemali zingadlulanga iinyanga ezimbini emva kokuba uphelile unyaka-mali— 10
    - (i) kuMhlolizincwadi-Jikelele; kunye
    - (ii) nakwiCandelo leNkcitho yeMali yePhondo ukwenzela ukuba eli candelo likwazi ukulungisa iinkcazo zemali ezihlanganisiweyo ngokwemiqa-thango yecandelo 19 loMthetho oyi-PFMA; kunye 15
  - (d) lingenisele iBhodi yoLawulo, zingaphelanga iinyanga ezintlanu emva kokuba uphelile unyaka-mali—
    - (i) ingxelo yonyaka ngezinto ezenziweyo kuloo nyaka-mali;
    - (ii) iinkcazo zemali zaloo nyaka-mali, zisakuba ezo nkcazo zemali zenziwe uhlolo; kunye 20
    - (iii) nengxelo yoMhlolizincwadi-Jikelele ngezo nkcazo.
- (2) UMhlolizincwadi-Jikelele kufuneka
- (a) ahlole ezi nkcazo zemali zikhankanywe kwicandelwana (1) aze ke
  - (b) angenise ingxelo yohlolo-zincwadi ngezo nkcazo kwiGosa eliNika iNkcazo zingaphelanga iinyanga ezimbini emva kokuba ezifumene iinkcazo ezo. 25
- (3) Le ngxelo yonyaka kunye nezi nkcazo zemali zenziwe uhlolo zikhankanywe kwicandelwana (1) kufuneka—
- (a) ziyibonakalise kangangoko imeko yePalamente yePhondo, eyemicimbi yayo, iziphumo zemali yayo, indlela ohambe ngayo umsebenzi wayo xa kuthelekiswa neenjongo ebezibekiwe kunye nemeko yayo kwiinkalo yemali ekupheleni konyaka-mali lowo; kwaye 30
  - (b) zibandakanye neenkukacha malunga—
    - (i) nazo naziphi na iilahleko ezinkulu ezibangelwe zizenzo zolwaphulo-mthetho, nayo nayiphi na inkcitho engagunyaziswanga, engekho mgaqweni okanye ephuthileyo nekukudlala ngemali ethe yenzeka kunyaka-mali lowo; 35
    - (ii) nawo nawaphi na amanyathelo omthetho okanye oluleko athe athathwa ngenxa yezo lahleko naloo nkitho ingagunyaziswanga, ingekho mgaqweni okanye iphuthileyo nekukudlala ngemali;
    - (iii) naziphi na iilahleko ezithe zakwazi ukubuyiseleka nezo zithe zacinywa; kunye 40
    - (iv) nayo nayiphi na eminye imiba ebekiweyo.
- (4) IGosa eliNika iNkcazo kufuneka—
- (a) kunyaka ngamnye phambi kokuba uqale unyaka-mali, linike iBhodi yoLawulo, ngendlela ebekiweyo, inkcazo yemali ekulindelwe ukuba ingene nenkcitho ekulindelwe ukuba yenziwe kwinyanga nganye kuloo nyaka-mali; 45
  - (b) kwinyanga nganye lingenise iinkcukacha ngendlela ebekiweyo ngeyona-yona mali ingenileyo nangeyona-yona nkitho yenziweyo kwinyanga edlulileyo, kwakunye nezixamali ezilindelweyo kuloo nyanga ngokomhlathi (a); kwaye ke 50
  - (c) zingadlulanga iintsuku ezili-15 iphelile inyanga nganye lingenisele iBhodi yoLawulo —
    - (i) iinkcukacha zaloo nyanga;
    - (ii) uqikelelo lwenkcitho elindelweyo nolwemali eya kuqokelelwa kwesi sithuba sisaseleyo sonyaka-mali lowo kukuwo; kunye 55
    - (iii) nengcaciso yalo naluphi na uphambuko, xa ikhona imfuneko yoko kunye nesishwankathelo samanyathelo athathiweyo okuqinisekisa ukuba le nkitho nale mali icetywayo azisayi kutyeka kuhlahlo-mali.
- (5) Ukuba iGosa eliNika iNkcazo alikwazi ukuba liyifezekise nayiphi na imisebenzi yalo ebekelwe iGosa eliNika iNkcazo kulo Mthetho, kufuneka ukuba iGosa eliNika iNkcazo likhawuleze liyazise iBhodi yoLawulo ngoko kungakwazi linike nezizathu. 60



(6) IGosa eliNika iNkcazo kufuneka ukuba lithi, zingaphelanga iintsuku ezingama-30 iphelile ikota nganye, lingenise ingxelo kwiBhodi yoLawulo malunga nendlela ohambe ngayo umsebenzi wePalamente ekusebenziseni isicwangciso sokwenziwa komsebenzi kuloo kota.

**Imiba eveliswe kwiingxelo zohlolo-zincwadi** 5

- 24.** IGosa elinika iNkcazo kufuneka—
- (a) likhawuleze liyiqwalasele yonke imiba ethe yaveliswa nguMhlozilincwadi-Jikelele kwiingxelo zohlolo-zincwadi; lize ke
  - (b) liyazise iBhodi yoLawulo ngamanyathelo athe athathwa okuqwalasela naloo miba. 10

**Iziphumo zokungathotyelwa kwemiqathango ethile**

- 25.** Ukuba ngaba iGosa eliNika iNkcazo lithi lingazingenisi iinkcazo zemali kuMhlozilincwadi-Jikelele ngokwemiqathango yecandelo 23(1)(c)—
- (a) iGosa eliNika iNkcazo kufuneka likhawuleze lingenise inkcazo ebhaliweyo enika izizathu zoko kusilela— 15
    - (i) kuMhlozilincwadi-Jikelele; kunye
    - (ii) nakwiBhodi yoLawulo;
  - (b) iBhodi yoLawulo—
    - (i) kufuneka yazise iPalamente yePhondo malunga nezi zizathu zoku kusilela; 20
    - (ii) kufuneka ithathe amanyathelo afanelekileyo okuqinisekisa ukuba iinkcazo zemali zingenisiwe ukuze zenziwe uhlolo; kunye
    - (iii) isenokuyalela ukuba iGosa eliNika iNkcazo okanye elo gosa libangele oko kusilela malithathelwe amanyathelo oluleko; kwaye ke
  - (c) uMhlozilincwadi-Jikelele usenokuhuphela iPalamente yePhondo ingxelo eyodwa ngoku kusilela, ingxelo leyo ekufuneka yenziwe ikwazi ukuba yaziwe ngumntu wonke. 25

**Ingxelo ngezinto ezigwenxa**

**26.** IGosa eliNika iNkcazo kufuneka likhawuleze linike iBhodi yoLawulo ingxelo eneenkcukacha ezipheleleyo lakufumanisa nayiphi na inkcitho engagunyaziswanga, engekho mgaqweni okanye ephuthileyo nekukudlala ngemali, okanye xa kungathi ingenzeka inkcitho elolo hlobo. 30

**Ukunikezelwa kwamagunya nemisebenzi yeGosa eliNika iNkcazo komnye**

- 27.** (1) IGosa eliNika iNkcazo lisenokuthi linikezele amagunya nemisebenzi enikwe iGosa eliNika iNkcazo ngulo Mthetho kwelinye igosa ngokwenkqubo yokwenza unikezelo olunjalo. 35
- (2) IGosa eliNika iNkcazo kufuneka liqulunqe inkqubo yonikezelo ngemvumelwano neBhodi yoLawulo, kwaye ke kufuneka—
- (a) lilunyusele kwizinga eliphezulu ufezekiso lolawulo nolokusebenza; kwaye
  - (b) libe neendlela eziqokothekileyo zokubeka iliso elibukhali kulawulo lwemali lwePalamente yePhondo. 40
- (3) IGosa eliNika iNkcazo kufuneka lisoloko likuvandlakanya oku kunikezelwa kwamagunya nemisebenzi kwenziwe ngokwecandelwana (1) kwaye, ukuba ikhona imfuneko, lenze iinguqulelo okanye likurhoxise.
- (4) Unikezelo olwenziwe ngokwecandelwana (1)— 45
- (a) kufuneka lubhalwe phantsi;
  - (b) lusenokuba nayo nayiphi na imida nemiqathango enokuthi ibekwe liGosa eliNika iNkcazo;
  - (c) lusenokuthi lwenzelwe umntu othile okanye umntu okwisikhundla esithile apha kwiNkonzo yePalamente; 50
  - (d) lusenokugunyazisa elo gosa lithe lanikezelwa ukuba nalo lingathi, ngento ebhaliweyo, linikezele kwelinye igosa eliphantsi kwalo, okanye kumntu okwisikhundla esithile apha kwiNkonzo yePalamente; kanti ke
  - (e) alulikhululi iGosa eliNika iNkcazo kuxanduva lokwenziwa kwalo msebenzi uye wanikezelwa kwelinye igosa. 55

(5) IGosa eliNika iNkcazo lisenokuthi lisiqinisekise isigqibo esiye sathathwa ligosa ebelinikezelwe igunya ngokwecandelwana (1) okanye lisenze iinguqulelo okanye lisitshitshise, kodwa ke liwathathela ingqalelo loo malungelo anokuthi kanti ebenikiwe seso sigqibo.

#### **Uxanduva lwamagosa**

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**28.** Naliphi na igosa elinoxanduva lolawulo lwemali kufuneka—

- (a) iwuthobele lo Mthetho kwiinkalo ezilichaphazelayo igosa elo;
- (b) liyithobele imiqathango ebekelwe naluphi na unikezelo lwamagunya nemisebenzi ngokwecandelo 30; kananalo
- (c) lithathe onke amanyathelo afanelekileyo ngokoxanduva lwalo igosa elo okuqinisekisa ukuba—
  - (i) inkqubo yolawulo lwemali yePalamente yePhondo neyolawulo lwangaphakathi ilandelwa ngenkuthalo;
  - (ii) iimali zePalamente yePhondo kwakunye nezinye izinto zayo zisetyenziswa ngendlela enempumelelo nenemfezeko neselubala;
  - (iii) nayiphi na incitho engagunyaziswanga, engekho mgaqweni okanye ephuthileyo nekukudlala ngemali nezinye iilahleko ziyathintelwa, kwaye ke xa incitho elolo hlobo okanye iilahleko ezinjalo zithe zenzeka, liyaziswa iGosa eliNika iNkcazo ngazo;
  - (iv) zonke iimali ezifanele kungena kwiPalamente yePhondo ziyaqokelelwa; nokuba
  - (v) izinto zePalamente yePhondo kwakunye nezo zingamatyala ayo zilawulwa ngendlela enempumelelo, kwaye ezo zinto zikhuselekile kwaye zilondolozwa ngendlela efanelekileyo.

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#### **Uxanduva lokusebenzisa imali**

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**29.** (1) IGosa eliNika iNkcazo kunye namanye amagosa anoxanduva ngokwalo Mthetho kufuneka—

- (a) enze izinto ngentembeko, ngokunyaniseka nangobuchule nangeyona ndlela inokuthi iwuqaqambise umgangatho wePalamente yePhondo ngakulawulo lwemicimbi yayo yemali;
  - (b) azidize zonke iinkcukacha ezibalulekileyo eziyinyaniso azaziyo okanye ezinokuthi zifumaniseke nezinokuthi kananjalo zibe nefuthe kuso nasiphi na isigqibo okanye isenzo esiphathelele kulo Mthetho; kananjalo
  - (c) akhangele iindlela zokuthintela nayo nayiphi na imeko enokuthi ibeke ichaphaza kwimicimbi yemali yePalamente yePhondo nakwigama layo elingenachaphaza.
- (2) Ngokuphathelele kwicandelwana (1), naluphi na udizo kufuneka lwenziwe—
- (a) kwiBhodi yoLawulo, ukuba lwenziwa liGosa eliNika iNkcazo;
  - (b) kwiGosa eliNika iNkcazo, ukuba lwenziwa nguye nawuphi na omnye umntu.
- (3) Akukho mntu unoxanduva phantsi kwalo Mthetho—
- (a) unokuthi enze into ehamba nxamnye nalo Mthetho; okanye
  - (b) unokuthi asebenzise isikhundla sakhe okanye naziphi na iinkcukacha ezilihlebo athe wazifumana xa esenza umsebenzi wakhe, ekuzenzeleni inzuzo okanye umntu ngendlela egwenxa.

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#### **Ukuqulunqwa kwesicwangciso esiliqili kunye nesicwangciso sokwenziwa komsebenzi**

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**30.** (1) IGosa eliNika iNkcazo kufuneka ukuba lithi, emva kokunyulwa kwePalamente yePhondo, lenze isiqulunqo sesicwangciso esiliqili sePalamente lisingenise kwiBhodi yoLawulo.

(2) IGosa eliNika iNkcazo kufuneka ukuba, kunyaka ngamnye, phambi kokuba uqale unyaka-mali, lenze isiqulunqo sesicwangciso sokwenziwa komsebenzi sePalamente lisingenise kwiBhodi yoLawulo.

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#### **Uhlahlo-mali lonyaka noqikelelo lohlenga-hlengiso**

**31.** (1) IGosa eliNika iNkcazo kufuneka ukuba, kunyaka ngamnye, lenze isiqulunqo sohlahlo-mali lwePalamente yePhondo kunye noqikelelo lohlenga-hlengiso, ngendlela

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- ebekiweyo, lingadlulanga nexesha elibekelwe oko, lize ke lizingenise kwiBhodi yoLawulo ezi ziqulunqo, ize kuziqwalasela.
- (2) Uhlahlo-mali kufuneka luzicacise iimali ekulindeleke ukuba zingeniswe yiPalamente yePhondo, lwahlule phakathi—
- (a) kweemali ezifanele ukwabiwa ngohlalo-mali lonyaka lwephondo; 5
  - (b) neemali ezivela kwiNgxowa yeMali yePhondo ngqo; kunye
  - (c) neemali ezivela kwezo ndawo ithi izifumanele kuzo iimali ezizezayo iPalamente yePhondo.
- (3) IBhodi kufuneka ukuba ithi, isakuba idlene iindlebe noMphathiswa—
- (a) ibeke inkqubo yokungeniswa kohlahlo-mali noqikelelo lohlanga-hlengiso lwePalamente yePhondo kwiCandelo likaNondyebo wePhondo (Provincial Treasury), ibeke namaxesha okwenziwa koko; *kunye* 10
  - (b) ilwamkele olo hlahlo-mali nolo qikelelo lohlanga-hlengiso.
- (4) IBhodi kufuneka ingenisele iCandelo likaNondyebo wePhondo olu hlahlo-mali nolu qikelelo lohlanga-hlengiso ukuze ke lona liluhlanganise kuhlahlo-mali lonyaka lwephondo okanye kuqikelelo lohlanga-hlengiso lwephondo, ngokwaloo nto ithe yangeniswa. 15

### Ulwabiwo lwemali lonyaka nolwamkelo

- 32.** (1) Ngonyaka ngamnye iPalamente yePhondo kufuneka ukuba—
- (a) yabe ezi mali zikhankanywe kwicandelo 31(2)(a) kuhlahlo-mali lonyaka lwephondo; kananjalo 20
  - (b) yamkele ukusetyenziswa kwezi mali zikhankanywe kwicandelo 31(2)(c).
- (2) Naluphi na uhlanga-hlengiso lolu lwabiwo lukwicandelwana (1)(a) kufuneka lwenziwe—
- (a) ngokolu hlenga-hlengiso loqikelelo lwephondo lukhankanywe kwicandelo 31 loMthetho oyi-PFMA; futhi 25
  - (b) nangokwenkqubo echazwe kwicandelo 31 lalo Mthetho.
- (3) Naluphi na uhlanga-hlengiso olwenziwe ngokwecandelwana (1) (b) kufuneka lwamkelwe yiPalamente yePhondo.

### Inkcitho phambi kokwamkelwa kohlahlo-mali lonyaka 30

- 33.** (1) Ukuba ngaba iPalamente yePhondo ayilwamkeli uhlahlo-mali lonyaka lwephondo phambi kokuba uqale loo nyaka-mali lwenzelwe wona—
- (a) kusenokuthi kutsalwe iimali phaya kwiNgxowa yeMali yePhondo ukulungiselela iimfuno zePalamente yePhondo kuloo nyaka-mali, njengemali etsalwe ngqo kule Ngxowa, de lube lwamkelwe uhlahlo-mali olo; kananjalo 35
  - (b) kusetyenziswe iimali ezenzeleyo iPalamente yePhondo ukwenzela ukukhawulelana neemfuno zePalamente yePhondo.
- (2) Iimali ezithe zafumaneka ngokwemiqathango yecandelwana (1) azinakho ukuba—
- (a) kwiinyanga ezine zokuqala zonyaka-mali, zibe ngaphaya kwe-45% yohlalo-mali olwamkelwayo kunyaka-mali odlulileyo lulonke; 40
  - (b) kwiinyanga nganye kwezilandelayo, zibe ngaphaya kwe-10% yohlalo-mali olwamkelwayo kunyaka-mali odlulileyo lulonke; okanye
  - (c) ngokomyinge, zidlule kwisixa esabiwayo samkelwa kunyaka-mali odlulileyo sisonke. 45
- (3) Ezi mali kubonelelwe ngazo kwicandelwana (1) azongezelelwanga kwiimali ezabiweyo zamkelwa kunyaka-mali lowo ufanelekileyo, kwaye nazo naziphi na iimali ezisaliweyo okanye ezisetyenzisiweyo ngokwemiqathango yelo candelwana kufuneka zithathwe njengeziyinxenye yeemali ezabiweyo zamkelwa kuhlahlo-mali lonyaka-mali lowo ufanelekileyo. 50

### Inkcitho engagunyaziswanga

- 34.** (1) Eli candelo libhekisele kuyo nayiphi na incitho engagunyaziswanga ekuthe kwangenwa kuyo yiPalamente, engeyiyo incitho engagunyaziswanga yeemali ezivela kubalizi.
- (2) Incitho engagunyaziswanga ekungenwe kuyo yiPalamente ayinakutsalwa kwiNgxowa yeMali yePhondo, ngaphandle kokuba loo nkcitho—

- (a) yimali ekudlulwe ngayo kuhlalo-mali olwamkelweyo, yaza iPalamente yePhondo yaba enye imali eyongezelelweyo ukuvala eso sithuba saloo mali kudlulwe ngayo; okanye
- (b) ayigunyaziselwanga esinye isizathu yaza iPalamente yePhondo yayigunyazisa loo nkcitho njengemali enokutsalwa ngqo kwiNgxowa yeMali yePhondo. 5
- (3) ICandelo leNkcitho yeMali yePalamente kufuneka lilazise iCandelo leNkcitho yeMali yePhondo ngayo nayiphi na inkcitho engagunyaziswanga ethe yagunyaziswa ngokwecandelwana (2).
- (4) Ukuba ngaba iPalamente yePhondo igunyazisa inkcitho engagunyaziswanga ngokwecandelwana (2) kodwa ingabi yenye imali eyongezelelweyo yokukhawulelana naloo nkcitho ibingagunyaziswanga, le nkcitho ingagunyaziswanga itsalwa kwiimali ezizezePalamente yePhondo. 10
- (5) Nayiphi na inkcitho engagunyaziswanga ethe ayamkelwa yiPalamente yePhondo kufuneka ibizwe kulowo mntu uthe wenza inkcitho engagunyaziswanga. 15

### Uxulo phakathi kwezahlulo eziphambili

35. (1) IGosa eliNika iNkcazo lisenokuthi lisebenzise imali ebithe yasindiswa kwisixa ebesabiwe samkelwa phantsi kwesahlulo esiphambili ekukhawuleleni nokuvalwa kwenkcitho ekudlulwe ngayo kwesinye isahlulo esiphambili, ngaphandle ke kokuba iBhodi yoLawulo iyalela ngolunye uhlobo. 20
- (2) IGosa eliNika iNkcazo kufuneka lifumane imvume ebhaliweyo kwiBhodi yoLawulo yokuvala le nkcitho kudlulwe ngayo ikhankanywe kwicandelwana (1) ngemali esindisiweyo—
- (a) kwimali ebiyabelwe yaza yamkelelwa injongo ethile ekhankanyiweyo phantsi kwesahlulo esiphambili; 25
- (b) kwimali ebiyabelwe yamkelelwa ukuba idluliselwe kwelinye iziko; okanye
- (c) kwimali ebiyabelwe yamkelelwa iintengo ezinkulu, ukuba ngaba iza kusetyenziselwa ukukhawulelana nenkcitho yomhla nezolo.
- (3) Isixamali esithe sasindiswa phantsi kwesahlulo esiphambili esinokuthi sisetyenziswe ngokwecandelwana (1), asinakho ukuba sidlule kwi-8% yesixa ebesabiwe samkelwa phantsi kweso sahlulo. 30
- (4) eli candelo aligunyazisi ukusetyenziswa kwesixamali esisindisiweyo esitsalwe kwiNgxowa yeMali yePhondo ngeenjongo zokuba kongezwe kwiimali ebezabelwe iPalamente yePhondo.

### Umba weemali ezingasetyenziswanga 35

36. (1) IPalamente ayibekelwa mqathango wokuba iyibuyisele kwiNgxowa yeMali yePhondo nayiphi na imali ebiyabelwe kunyaka-mali lowo ebithe yayifumana kule Ngxowa, kodwa ayayisebenzisa kuloo nyaka.
- (2) Ezi mali zingasetyenziswanga kuthethwa ngazo kwicandelwana (1) kufuneka ukuba zithathwe njengeemali ezithathwe kwiimali ezenzeleyo iPalamente yePhondo, kwaye ke ukuvunyelwa kokuba ingasetyenziswa kunyaka-mali olandelayo kufuneka kuhambe ngokwecandelo 31(2)(c). 40
- (3) Iimali ezivela kwiimali ezenzeleyo iPalamente yePhondo ezithe zavunywa kunyaka-mali othile, kodwa azasetyenziswa kuloo nyaka, kufuneka zamkelelwe ukusetyenziswa kunyaka-mali olandelayo ngokwecandelo 31(2)(c).. 45
- (4) Ukuba ngaba ezi mali zikhankanywe kwicandelwana (1) azithanga zasetyenziswa nakwiminyaka-mali emibini elandelayo, luyaphelelwa olo lwabelo, kuze ke kufunike ukuba ezo mali zingasetyenziswanga mazibuyiselwe kwiNgxowa yeMali yePhondo.

### Ubugwenxa bokuziphatha ngokwasezimalini

37. (1) IGosa eliNika iNkcazo lenza isenzo sokuziphatha gwenxa ngokwasezimalini ukuba lithi ngabom nangokungabi nankathalo— 50
- (a) lityeshele umqathango obekwa ngulo Mthetho;
- (b) lisilele ukuthobela umsebenzi obekelwa iGosa eliNika iNkcazo ngulo Mthetho;
- (c) lenza okanye livumela okanye liyalela elinye igosa ukuba lenze inkcitho engagunyaziswanga, engekho mgaqweni okanye ephuthileyo nekukudlala ngemali; okanye 55

- (d) linika iinkcukacha ezingachanekanga okanye ezilahlekisayo kulo naluphi na uxwebhu olufanele kungeniswa kwiBhodi yoLawulo, kwiCandelo leNkcitho yeMali kaRhulumente wePhondo okanye kuMhlozincwadi-Jikelele phantsi kwemiqathango yalo Mthetho.
- (2) IBhodi yoLawulo kufuneka— 5
- (a) ikhawuleze iphande ngawo nawaphi na amarhe okuba iGosa eliNika iNkcazo liye laziphatha gwenxa ngokwasezimalini; kwaye
- (b) ukuba ngaba uphando luwafanele amanyathelo anjalo, ikhawuleze ithathe amanyathelo oluleko ihamba ngokwezo nkqubo zifanelekileyo.
- (3) IGosa elithe lanikezelwa igunya okanye umsebenzi ngokwecandelo 27, okanye elinoxanduva lolawulo lwemali ngokwecandelo 28, laza lenza isenza esigwenxa ngokwasezimalini, ukuba ngaba elo gosa lithi ngabom nangentswela-nkathalo— 10
- (a) liyasilela ukusebenzisa elo gunya belilnikezelwe okanye ukwenza loo msebenzi beliwunikezelwe;
- (b) lityeshela okanye liyasilela ukuthobela umqathango welo gunya belilnikezelwe okanye laloo msebenzi beliwunikezelwe; 15
- (c) lenza okanye livumela okanye liyalela elinye igosa ukuba lenze inkcitho engagunyaziswanga, engekho mgaqweni okanye ephuthileyo nekukudlala ngemali; okanye
- (d) linika iinkcukacha ezingachanekanga okanye ezilahlekisayo kulo naluphi na uxwebhu olufanele kungeniswa kwiGosa eliNika iNkcazo. 20
- (4) IGosa eliNika iNkcazo kufuneka—
- (a) liphande ngawo nawaphi na amarhe okuba igosa liye laziphatha gwenxa ngokwasezimalini; kwaye
- (b) ukuba ngaba uphando luwafanele amanyathelo anjalo, lithathe amanyathelo oluleko zingaphelanga iintsuku ezingama-30, lihamba ngokwezo nkqubo zifanelekileyo. 25

#### Izinto ezingamatyala

38. (1) Kulityala ukuba iGosa eliNika iNkcazo—
- (a) lithi ngabom okanye ngendlela engenankathalo kakhulu lityeshele okanye lisilele ukuthobela icandelo 21, 22 okanye 23; 30
- (b) lisilele ukuthabatha amanyathelo afanelekileyo okuthintela izenzo zobuqhetseba—
- (i) kulawulo lwezinto zePalamente yePhondo okanye ekufunyanweni kwemali; okanye 35
- (ii) ekusetyenzisweni kwenkqubo yolawulo lomjikelo weentengo;
- (c) lithi ngabom lilahlekise iBhodi yoLawulo okanye uMhlozincwadi-Jikelele okanye lingabaniki iinkcukacha eziphathelele kwiikhawunti zebhanki zePalamente yePhondo okanye kwiimali ezifunyenweyo okanye ezichithiweyo yiPalamente; okanye 40
- (d) lithi ngabom linike iinkcukacha ezingeyonyaniso okanye ezilahlekisayo kulo naluphi na uxwebhu olufanele kungeniswa kwiBhodi yoLawulo okanye uMhlozincwadi-Jikelele ngokwemiqathango yalo Mthetho.
- (2) Kulityala ukuba igosa elinoxanduva lolawulo lwemali ngokwecandelo 28, lithi ngabom okanye ngendlela engenankathalo kakhulu lisilele ukufezekisa olo xanduva 45
- (3) Kulityala ukuba nawuphi na umntu atyeshela icandelo 29(3)(b).

#### Izohlwayo

39. Umntu othe wabanjelwa ityala ngokwakwicandelo 38 ufanele ukuba ahlawuliswe ifayini okanye avalelwe entolongweni isithuba esingadlulanga kwiminyaka emihlanu okanye azinikwe zozibini izohlwayo zefayini nokuvallelwa entolongweni. 50

### ISAHLUKO 4

#### IMIGAQO NEZIKHOKELO

##### Imigaqo yecandelo likaNondyebo

40. (1) ICandelo likaNondyebo lePalamente lisenokuthi, lisakuba lidlene iindlebe neBhodi yoLawulo, liqulunqe imigaqo malunga— 55

- (a) nawo nawuphi na umba ekufuneka ngokwalo Mthetho okanye ekugunyaziswa ngulo Mthetho ukuba mawube nemigaqo;
- (b) nokuphathwa nokulawulwa kwezinto zePalamente yePhondo;
- (c) nokuchithwa, ukuqeshiswa okanye enye iindlela yokuchithwa kwezinto zePalamente yePhondo; 5
- (d) nenkqubo efanelekileyo yokulawulwa komjikelo weentengo yePalamente yePhondo;
- (e) nolawulo lwangaphakathi nohlolo-zincwadi lwangaphakathi;
- (f) nokunikwa kweenkonzo zasimahla yiPalamente; nokucinywa okanye ukuhlawulwa kwamabango aphahelele kwiilahleko zemali okanye zezinye izinto zePalamente yePhondo okanye kwezinye iimali ezityalwa iPalamente yePhondo; namatyala eelahleko nomonakalo kunye neendlela zokubuyisa, ezibandakanya nokuhlawulwa kweenkcitho engagunyaziswanga, engekho mgaqweni okanye ephuthileyo nekukudlala ngemali; nokutshitshisa okanye ukwenza izilungiso kwiikhontrakthi ezibeka iPalamente yePhondo emngciphekweni; 10
- (g) nokuhlawulwa kwamabango enziwa yiPalamente yePhondo okanye enziwa kuyo;
- (h) nokurhoxiswa kwamabango enziwa yiPalamente yePhondo;
- (i) nokuhanjiswa kweemali ezifanele kufunyanwa yiPalamente yePhondo; 20
- (j) nokuxula kwesinye isahlulo esiphambili;
- (k) nezipho okanye amalizo anikwa amagosa;
- (l) nokuphandwa kwezityholo zokuziphatha gwenxa ngokwasezimalini; nawo
- (m) nawuphi na omnye umba ophahelele kulawulo lwemali lwePalamente yePhondo ofuna oko okanye onokuthi ukwenze lula ukuqhutywa nokulandelwa kweSahluko 3. 25
- (2) Le migaqo akufuneki ukuba ibe nxamnye nalo Mthetho okanye nazo naziphi na izimiselo nemigangatho yenkcitho-mali ebekwa yesizwe ekuthethwa ngayo kwicandelo 216(1) loMgaqo-siseko weRiphabliki yoMzantsi Afrika, 1996.
- (3) ICandelo leNkcitho yeMali yePhondo kufuneka lipapashe isiqulunqo sayo nayiphi na imigaqo ecetywayo ukwenzela ukuba uluntu luvakalise izimvo zalo ngayo. 30
- (4) Umgaqo awuqalisi ukusebenza ngaphandle kokuba uye wamkelwa yiPalamente yePhondo.
- (5) IGosa eliNika iNkcazo kufuneka liyipapashe yonke imigaqo ethe yamkelwa yiPalamente yePhondo kwiphapha lepalamente nakwiGazethi yePhondo. 35

### Izikhokelo

41. (1) IBhodi isenokuthi ikhuphe izikhokelo ezihambelana nalo Mthetho malunga—
- (a) nawo nawuphi na umba ekufuneka ukuba ngokwalo Mthetho ukhutshelwe izikhokelo;
- (b) nemiqathango yenkonzo nezinye iimfuneko zokuqeshwa okanye zokusiwa kwiNkonzo yePalamente; 40
- (c) nemiba yolawulo lokungena nokhuseleko; kunye
- (d) nawo nawuphi na omnye umba onxulumene nokusebenza kwePalamente ngokubanzi nje.
- (2) IBhodi kufuneka ikhawuleze ingenisele iKomiti ikopi yesikhokelo esithe sakhutshwa ngokwecandelwana (1). 45

## ISAHLUKO 5

### AMANYE AMAGQABANTSHINTSHI NGOKUBANZI

#### Ubutyala kubasebenzi

42. (1) IBhodi yoLawulo, iGosa eliNika iNkcazo okanye nalo naliphi na igosa elisebenzisa igunya okanye elenza umsebenzi phantsi kwalo Mthetho alinabutyala ngayo nayiphi na ilahleko okanye umonakalo othe wenzeka xa belisebenzisa elo wonga okanye xa belisenza loo msebenzi njengoko lifanele ukwenza kakade. 50

(2) Ingakhange ibe ibeka imida kubutyala ngokwemithetho engabhalwanga okanye ebhaliweyo, iPalamente yePhondo isenokuthi ifune imbuyekezo kwiGosa eliNika iNkcazo okanye kulo naliphi na elinye igosa ngelahleko okanye ngomonakalo othe wenzeka ngenxa yezenzo zentswela-nkathalo zeGosa eliNika iNkcazo okanye elinye igosa elo xa belisenza umsebenzi phantsi kwalo Mthetho.

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#### **Ukutshitshiswa komthetho**

**43.** UMthetho oyiWestern Cape Law on the Powers and Privileges of the Provincial Legislature, 1995, (uMthetho 3 ka-1995), kunye noMthetho oyiWestern Cape Law on the Powers and Privileges of the Provincial Legislature Amendment Act, 1998 (uMthetho 3 ka-1998) iyatshitshiswa ngulo.

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#### **Isihloko esifutshane nokuqalisa kokusebenza kwawo**

**44.** (1) Lo Mthetho ubizwa ngokuba nguMthetho weNkonzo yePalamente yePhondo leNtshona Koloni noLawulo lweMali (Western Cape Parliamentary Service and Finance Management Act), ka-2010.

(2) Kuxhomekeke kambe kwizicwangciso zexeshana ezichazwe kwiShedyuli, amacandelo 23, 25, and 31 to 36 aya kuqalisa ukusebenza ekuqaleni konyaka-mali olandela ukupapashwa kwalo Mthetho ngokweCandelo 33(1) loMgaqo-siseko weNtshona Koloni, 1998.

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## ISHEDYULI

### Izicwangciso zexeshana

- (1) Ulawulo lwePalamente yePhondo obeluhqhuba kufutshane nje phambi komhla wokuqalisa kwecandelo 2 ukusebenza, luyaqhuba ukusebenza njengeNkonzo yePalamente, kwaye nawuphi na umntu obengumsebenzi kwiPalamente yePhondo kufutshane nje phambi kwaloo mhla uthathwa ngokuba uqeshwe ngokwalo Mthetho nangokwezikhokelo. 5
- (2) De kufike umhla ekubhekiswe kuwo kwicandelwana 44(2), iPalamente kufuneka iqhubeke nokuthobela yonke imiqathango yoMthetho woLawulo lweziMali zikaRhulumente, i-PFMA nemithetho kunye nemimiselo yawo. 10
- (3) Kude kube lelo xesha, nawuphi na umgaqo ofanele ukwenziwa ngokwalo Mthetho node waba uyaqalisa ukusebenza, kunye nayiphi na imigaqo-nkqubo, imigaqo, imiyalelo okanye imithetho emalunga nalo mba ungawo lo mgaqo ungekaqalisi ukusebenza ihlala isebenza.
- (4) Ukuba ngaba xa liqala ukusebenza icandelo 7, akukho sivumelwano sokwenziwa komsebenzi sikhoyo neGosa eliNika iNkcazo, njengoko lifuna nalo eliya candelo, kufuneka ukuba kubekho isivumelwano ekungenwa kuso ingaphelanga inyanga. 15
- (5) Lisakuba liqalisile ukusebenza icandelo 27, akukho magunya anokunikezelwa de ibe laa nkqubo ichazwa kweliya candelo iye yamkelwa, ngaphandle nje ke kokuba, kuthathelwa ingqalelo eminye imiqathango yalo Mthetho— 20
- (a) amagosa asebenzisa amagunya ebenikezelwe kuwo liGosa eliNika iNkcazo phambi kokuba icandelo 27 liqalise ukusebenza, angaqhuba ukuwasebenzisa; kananjalo
- (b) ukuba igunya elithile laliye lanikezelwa kumntu onesikhundla kwiPalamente yePhondo okanye kwiNkonzo yePalamente phambi kokuba icandelo 27 liqalise ukusebenza, umntu okwesokhondla kwakunye nomnye othe kwixesha elizayo waba kweso sikhundla angaqhuba ngokusebenzisa elo gunya. 25



**IMEMORANDAMU YEENJONGO ZOMTHETHO OSAYILWAYO  
WENKONZO YEPALAMENTE YEPHONDO LENTSHONA KOLONI  
NOLAWULO LWEMALI, 2009**

**Imvelaphi**

1. Umgaqosiseko weNtshona Koloni, ka-1997 (uMgaqosiseko wePhondo), unika amagunya iPalamente yePhondo ukuba izigqibele yaye izenzele amalungiselelo emicimbi yayo neenkqubo zayo. Okubaluleke ngamandla kweli lungelo lePalamente yePhondo kukukwazi kukuzilawulela imicimbi yayo yangaphakathi ebandakanya ukuqesha abasebenzi bayo kunye nokwaba kunye nokusebenzisa iimali zayo kwiinkonzo zayo.
2. Isahluko 3A soMthetho iWestern Cape Law on the Powers and Privileges of the Provincial Legislature Act, 1995, sivumela ulawulo lwemicimbi ethile yamalungiselelo ezemali ePalamente yePhondo, phakathi kweminye yalo micimbi kukubonelelwa kukaSomlomo ngolawulo lwenkcitho kunye nolwabiwo lweemali olwabelwa iinkonzo zePalamente yePhondo. Esi sahluko sibonelela nangegunya lokuqesha uNobhala kunye nabanye abasebenzi bePalamente yePhondo.
3. Umgaqosiseko weRiphabliki yoMzantsi Afrika, 1996 (uMgaqosiseko weSizwe), unyanzelisa ukuba izinto zenziwe elubala yaye kunikwe inkcazelo ngazo zonke iinkqubo zolawulo lohlahlo-mali kuzo zonke iimali zikarhulumente. Umthetho i-Public Finance Management Act, 1999 (PFMA), ubonelela ngesikhokelo esincedisa ukuba kube lula ukukuphumeza oko kwisizwe nakwiphondo nakwamanye amaziko karhulumente. I-PFMA ikwamisa imiqathango nemigangatho enyanzeliswa licandelo 216 loMgaqosiseko weSizwe. Kambe ke, zibalwa izibonelelo ze-PFMA ezichaphazela iPalamente yePhondo. IPalamente yePhondo iye nje yazikhethela ukuba mayiyithobele i-PFMA nemigaqo yeCandelo likaNondyebo nemiyalelo ephuma kwi-PFMA inganyanzelekanga.
4. Ngokwe-PFMA nomthetho i-Western Cape Law on the Powers and Privileges of the Provincial Legislature Act, ka-1995, uSomlomo nguye onolawulo lwengeniso nenkcitho yePalamente yePhondo. Loo nto ithetha ukuba, uSomlomo wenza nemisebenzi yesigqeba solawulo echazwe kwi-PFMA. Olu hlanganiso lweendima zolawulo ezahlukileyo aluhambelani nemithetho-siseko yolawulo olululo nolulungileyo oluchazwe kumaxwebhu afana nengxelo i-*the King II Report on Corporate Governance for South Africa* kunye nengxelo i-*Report of a Study Group on Benchmarks for Democratic Legislatures*, ezipapashwe yi- Commonwealth Parliamentary Association.
5. IPalamente yesizwe isandula ukuphumeza uwisomthetho lokulawula iimali zePalamente (the Financial Management of Parliament Act, 2009). Loo Mthetho unyanzelisa ukuba indlu yowisomthetho yephondo kufuneka ithobele imiqathango nemigangatho ethile xa iphumeza uwisomthetho lokulawula iimali.

**Injongo zalo Mthetho usaYilwayo**

6. Lo Mthetho uneenjongo ezimbini: Okokuqala wenzelwe ukumisela iNkonzo yePalamente kunye neBhodi yoLawulo. Inkonzo yePalamente, eqhubeka nale nkonzo yabasebenzi ikhoyo ngoku, ibonelela ngeenkonzo kumalungu ePalamente yePhondo ukuwalungiselela ukuba akwazi ukwenza umsebenzi wawo. IBhodi yoLawulo iza kuba sisigqeba solawulo esinoxanduva lokulawula ingeniso, inkcitho, iiasethi nezinto eziluxanduva lwePalamente yePhondo ngokwasezimalini. Okwesibini, uMthetho osaYilwayo unenjongo zokuhlenganisa nokulawula iimali zePalamente yePhondo uhambiselana okanye uthobela umgaqonkqubo wePalamente kunye nayo yonke imiqathango nemigangatho echaphazelekayo. Ngoku kumiselwa iCandelo likaNondyebo lePalamente; imisebenzi yeli candelo likanondyebo iza kwenziwa nguSomlomo. UNobhala wePalamente yePhondo uya kuba liGosa eliNika iNkcazo.

**Iziququlatho zoMgaqonkqubo**

7. Umongo wamabinzana alo Mthetho usaYilwayo ubonakala phaya kudweliso loLandeletwaniso lwaMacandelo (phambi kwecandelo 1) kwakunye nezihloko zamacandelo ezilandela emva koko. Xa sishwankathela, eyona miba iphambili

yalo Mthetho usaYilwayo yile ilandelayo: **ISAHLUKO 2** sichaza ngamalungiselelo amatsha aphakanyisiweyo nalungiselelwe iPalamente yePhondo. Sibonelela, phakathi kwezinye, izinto ngokumiselwa kweNkonzo yePalamente (**ibinzana 2**), iBhodi yoLawulo (**ibinzana 3**), ikomiti yepalamente eza kubeka iliso kulawulo lweemali zePalamente yePhondo (**ibinzana 9**), kunye nekomiti yohlolo-mali (**ibinzana 10**).

**ISAHLUKO 3** sibonelela ngeenkqubo zolawulo lweemali zePalamente yePhondo. Phakathi kwezinye izinto, esi sahluko sijongana noxanduva lwezimali olusemagxeni eBhodi yoLawulo (**ibinzana 11**), iimfuno zemiqathango nemiyalelo enefuthe ezimalini (**ibinzana 12**), inkxaso yezimali yaMalungu namaqela ezoPolitiko (**ibinzana 14**), ukumiselwa kweCandelo likaNondyebo lePalamente (**ibinzana 15**), imisebenzi noxanduva lweGosa eliNika iNkcazo kunye nabanye abasebenzi bepalamente abajongene nemicimbi yeemali (**amabinzana 21–29**); ukuqulunqwa kwesicwangciso esiliqili nesicwangciso sokwenziwa komsebenzi (**ibinzana 30**), uhlahlo-mali lonyaka lwePalamente yePhondo noHlengahlengiso lohlahlo-mali (**ibinzana 31**), ulwabiwo nolwamkelo lweemali (**ibinzana 32**), ukuphatha imali ngendlela engamkelekanga (**ibinzana 37**), Ubugwenxa bokuziphatha ngokwasezimalini (**amabinzana 38–39**).

**ISAHLUKO 4** sibonelela ngolawulo lwengeniso nenkcitho olwenziwa liCandelo likaNondyebo lePalamente (**ibinzana 40**) kunye nemiqathango nezikhokelo ezikhutshwa yiBhodi yoLawulo (**ibinzana 41**).

**ISAHLUKO 5** sithetha ngamanye amaqabantshintshi afana nobutyala kubasebenzi (**ibinzana 42**) nokutshitshiswa komthetho (**ibinzana 43**). Ukuqalisa kokusebenza kwalo mthetho kulawulwa **ibinzana 44(2)**, elifundwa kunye **neShedyuli**.

#### **Ukuchaphazeleka kweemali zePhondo**

8. Kuza kunyanzeleka ukuba iPalamente yePhondo itshintshe indlela esebenza ngayo ukulungiselela lo mthetho kunye nokuqinisa iinkqubo zayo zolawulo lwezimali, kodwa oku akunyanzelekanga ukuba kukhokelele kwiindleko ezinkulu.



