

PROVINCE OF THE WESTERN CAPE

PROVINSIE WES-KAAP

IPHONDO LENTSHONA KOLONI

**Provincial Gazette
Extraordinary**

**Buitengewone
Provinsiale Koerant**

**Isongezelelo
kwiGazethi yePhondo**

8405

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Tuesday, 30 March 2021

Dinsdag, 30 Maart 2021

Lwesibini, 30 Matshi 2021

Registered at the Post Office as a Newspaper

*(*Copies are obtainable at Room M21, Provincial Legislature Building, 7 Wale Street, Cape Town 8001.)*

OFFICE OF THE SPEAKER
OF THE WESTERN CAPE
PROVINCIAL PARLIAMENT

P.N. 30/2021 30 March 2021

It is hereby notified that the House adopted the Code of Conduct (English version) on 3 December 2020 and that the Speaker, Masizole Mngqasela, on 8 March 2021 determined 1 April 2021 to be the date for implementation of the Code.

Code of Conduct for Members of the Western Cape Provincial Parliament.

As 'n nuusblad by die Poskantoor geregistreer

*(*Afskrifte is verkrygbaar by Kamer M21, Provinsiale Wetgewer-gebou, Waalstraat 7, Kaapstad 8001.)*

KANTOOR VAN DIE SPEAKER
VAN DIE WES-KAAPSE
PROVINSIALE PARLEMENT

P.K. 30/2021 30 Maart 2021

Hiermee word bekend gemaak dat die Huis die Gedragskode (Engelse weergawe) op 3 Desember 2020 aangeneem het en dat die Speaker, Masizole Mngqasela, op 8 Maart 2021 bepaal het dat 1 April 2021 die datum vir implementering van die Gedragskode is.

Gedragskode vir die Lede van die Wes-Kaapse Provinsiale Parlement.

Ibhaliswe ePosini njengePhephandaba

*(*Iikopi ziyafumaneka kwiGumbi M21, iSakhiwo seNdlu yoWiso-mthetho yePhondo, 7 Wale Sitalato, eKapa 8001.)*

I-OFISI KASOMLOMO
WEPALAMENTE YEPHONDO
LENTSHONA KOLONI

I.S. 30/2021 30 Matshi 2021

Kuyaziswa ukuba iNdlu yamkele uMqaqo wokuziPhatha ngowe 3 Disemba 2020 kwano-kuba uSomlomo, Masizole Mngqasela, ngowe 8 Matshi 2021 umise, owama 1 Epreli 2021 ukuba ibe ngumhla wokuwuphumeza.

UMqaqo wokuziPhatha waMalungu ePalamente yePhondo leNtshona Koloni.

PROVINCE OF THE WESTERN CAPE

**CODE OF CONDUCT FOR MEMBERS OF THE
WESTERN CAPE PROVINCIAL PARLIAMENT**

(As agreed to by the House on 3 December 2020)

PART I

Preamble

WHEREAS the Constitution of the Republic of South Africa requires that all spheres of government promote accountability, responsibility and openness;

and whereas the Constitution of the Western Cape affirms that the Western Cape Province is founded on responsible and accountable government and that government must aim to promote a work ethic;

WE, the Members of the Western Cape Provincial Parliament

- (a) recognising that we are accountable to the electorate and have a duty to instil and maintain public trust in democratic institutions;
- (b) affirming that Members of the Provincial Parliament have an obligation to perform their duties conscientiously, with honour and dignity; to be true and faithful public representatives, having due regard for the common good;

THEREFORE agree to abide, individually and collectively, by the principles, rules and obligations set out in this Code of Conduct.

1. Definitions

In this Code, unless the context indicates otherwise —

“**Act**” means the Members of the Western Cape Provincial Parliament Code of Conduct Act, 2002 (Act 3 of 2002);

“**Appeals Committee**” means the Committee established under paragraph 30;

“**Code**” means the Code of Conduct for Members of the Western Cape Provincial Parliament.

“**Committee**” means a committee established under the Standing Rules of the Western Cape Provincial Parliament;

“**Conduct Committee**” means the Committee established under the Standing Rules of the Western Cape Provincial Parliament;

“**Constitution**” means the Constitution of the Republic of South Africa, 1996;

“**corporate entity**” includes any public or private company, close corporation and any trust, other than a charitable trust, but does not include a charitable organisation or an association not for gain (section 21 company);

“**day**” means a calendar day;

“**designated staff**” and “**staff assigned to the Conduct Committee**” means staff identified to assist the Registrar and the Conduct Committee with administrative and logistical support;

“**family member**” in relation to a Member, means a Member’s spouse, dependent child or dependent children or permanent companion and dependent child or dependent children of permanent companions;

“**Member**” means a Member of the Western Cape Provincial Parliament,

“**parliamentary forum**” means any legislative forum, outside the Provincial Parliament, in which Members participate;

“**permanent companion**” in relation to a Member, means a person or persons who is with the Member and is publicly acknowledged by the Member as that Member’s permanent companion;

“**provincial Constitution**” means the Constitution of the Western Cape, 1997;

“**Provincial Parliament**” means the Western Cape Provincial Parliament;

“**Public Protector**” means the Public Protector contemplated in section 181 of the Constitution;

“**Register**” means the Register of Members’ Interests opened under paragraph 10;
 “**Registrar**” means the Registrar of Members’ Interests appointed in terms of the Act;

“**registrable interest**” means financial interests listed in paragraph 12, and in relation to a Member, includes the financial interests of that Member’s spouse, dependent child or dependent children and/or permanent companion;

“**remuneration**” means receipt of benefits in cash or in kind;

“**Secretary**” means the Secretary to the Provincial Parliament; and

“**Speaker**” means the Speaker of the Provincial Parliament.

PART II — PRINCIPLES AND GENERAL OBLIGATIONS

2. Principles

A Member shall adhere to the following principles:

(1) **Loyalty to the Western Cape Province and South Africa**

(a) A Member shall be loyal to the Western Cape Province, to South Africa and its people.

(b) A Member will uphold the provincial and national Constitutions and all other laws of the province and of the country.

(2) **Primacy of the public interest**

(a) A Member shall take decisions only in the interest of the public.

(b) A Member shall avoid conflicts of interest between personal interest and public duty.

(3) **Integrity**

A Member shall ensure at all times that the dignity, credibility and integrity of the Provincial Parliament is maintained.

(4) **Accountability**

A Member —

(a) is accountable to the public for his or her decisions and actions and shall submit himself or herself to whatever scrutiny is appropriate to his or her office;

(b) shall exercise due diligence in the performance of his or her official duties;

(c) shall apply public resources efficiently and effectively and only for the purpose for which they are intended; and

(d) shall avoid improper use of any payment or allowances made to a Member for public purposes, and observe strictly the administrative rules that apply to these payments.

(5) **Openness and honesty**

A Member shall —

(a) exercise his or her public duties in an open and transparent manner, and

(b) act honestly and maintain the trust that the public places in him or her.

(6) **Act in good faith and meet obligations**

A member shall —

(a) at all times act in good faith and in the interest of good governance; and

(b) meet all obligations imposed on him or her by law.

3. General obligations

A Member shall, at all times, in the exercise of his or her duties adhere to the principles set out in paragraph 2 of the Code and shall —

(1) conduct himself or herself with dignity and integrity appropriate to his or her office;

(2) not place himself or herself under financial or other obligations to outside individuals or organisations that might improperly influence the performance of his or her duties;

(3) ensure that his or her personal conduct is consistent with the dignity and integrity of the Provincial Parliament;

(4) make choices on merit in carrying out public business, including making public appointments, awarding contracts, or recommending individuals for reward or benefit;

(5) subject himself or herself to any form of lawful scrutiny appropriate to his or her office as a Member;

(6) declare any private interest relating to his or her official duties;

(7) declare in the Register of Members' Interests all registrable interests as required; and

(8) take steps to resolve any conflict of interest that may arise in a manner that protects the public interest, as opposed to his or her private interests, as well as the Provincial Parliament's dignity, credibility and integrity.

PART III — CONDUCT

4. Declaration of interests in a matter before a committee, parliamentary forum or proceedings of the Provincial Parliament

A Member shall —

(1) declare any personal or private financial or business interest that he or she, his or her family member or business partner may have, in a matter before a committee, proceedings of the Provincial Parliament or parliamentary forum in which that Member participates and/or serves; and

(2) withdraw from the proceedings of that Committee, parliamentary forum or proceedings of the Provincial Parliament when that matter is considered, unless that Committee, parliamentary forum or the Provincial Parliament decides that the Member's interest is immaterial.

5. Declaration of private interests when making representations

If a Member makes representations, either formally or informally, in his or her capacity as a public representative, to a member of the Executive or any other organ of state with regard to a matter in which that Member, his or her family member or business partner has a personal, private financial interest or business interest, that Member must declare that interest before such representations are made to that member of the Executive or organ of state.

6. Lobbying for reward

No Member shall lobby for reward in cash or kind.

7. Remunerated employment outside the Provincial Parliament

A Member may only engage in remunerated employment outside the Provincial Parliament when such employment is —

- (1) sanctioned by the political party to which the Member belongs; and
- (2) compatible with that Member's functions as a public representative.

8. Improper exercise of influence

A Member shall not utilise the influence he or she derives from public office to improperly give advantage to private entities or persons in their dealings with the government, where this will result in pecuniary gain for such entities or persons.

9. Refrain from using "insider" information

A Member shall not use confidential government information or information obtained in the course of exercising a public duty to advance a private interest.

PART IV — DISCLOSURE OF REGISTRABLE INTERESTS

10. Establishment of Register of Members' Interests

(1) The Registrar must open and keep a register for the purposes of the Code, called the Register of Members' Interests.

(2) The Register must —

- (a) be divided into a public section and a confidential section;
- (b) contain the information regarding Members' registrable interests as set out in paragraph 10(3) read with paragraph 12; and
- (c) be in a format approved by the Conduct Committee.

(3) The Registrar must record all details of the following registrable interests in the confidential section of the Register:

- (a) the value of financial interests in a corporate entity;
- (b) the amount of any remuneration for any employment outside the Provincial Parliament;
- (c) the amount of any remuneration for any directorship or partnership;
- (d) details, including the address, of any private residence;
- (e) the value of any pension;
- (f) details of all financial interests of a Member's family member; and
- (g) a Member's liabilities.

(4) Where any doubts exist as to whether any particular financial interest must be disclosed, the Member concerned must consult the Registrar.

(5) Notwithstanding subparagraph (3), the Conduct Committee may on good cause shown, instruct the Registrar to record any details of any of a Member's registrable interests in the confidential part of the Register.

11. Disclosure of registrable interests

(1) A Member must disclose to the Registrar, on the form prescribed for this purpose by the Conduct Committee, particulars of all his or her registrable interests.

(2) Disclosure of registrable interests shall be within 60 days after the first sitting of a parliamentary term or appointment of a Member.

(3) Thereafter Members must disclose particulars of their registrable interests on or before 30 April of each year.

(4) If a Member has no registrable interests he or she must indicate this on the form referred to in (1) above.

12. Nature and details of registrable interests to be disclosed

A Member must disclose the following registrable interests, held in and outside South Africa, and details of:

(1) **Shareholding and financial interests in corporate entities**

- (a) The number, nature and nominal value of shares of any type in any public or private company;
- (b) the name of that company; and
- (c) the nature and value of any other financial interests held in any company or any other corporate entity.

(2) **Ownership and any other interest in land or property in or outside South Africa**

- (a) A description of and the extent of the land or property;
- (b) the area in which the land or property is situated; and
- (c) the nature and value of the interest in the land or property.

(3) **Pensions**

- (a) The source of any pension; and
- (b) the value of the pension.

(4) **Remunerated employment outside the Provincial Parliament**

- (a) The type of employment;
- (b) the name and type of business activity of the employer; and
- (c) the amount of remuneration received for such employment.

(5) **Consultancies**

- (a) The nature of the consultancy or any retainership of any kind;
- (b) the name and type of business activity of the client concerned; and
- (c) the amount of any remuneration or other benefits received for such a consultancy or retainership.

(6) **Directorship and partnerships**

- (a) The name and type of business activity of the corporate entity or partnership; and
- (b) the amount of any remuneration received for such directorship or partnership.

(7) **Sponsorships**

- (a) The source and description of direct financial sponsorship or assistance from any source other than the Member's party which benefits the Member in his or her personal and private capacity; and
- (b) the amount or value of the sponsorship or assistance.

(8) Gifts and hospitality received by a Member from a source other than a family member

A description, including the value and source of

- (a) any gift with a value in excess of R1 500;
- (b) gifts received from a single source which cumulatively exceed the value of R1 500 in any calendar year;
- (c) hospitality intended as a personal gift and with a value of more than R1 500; and
- (d) hospitality intended as a gift and received from a single source, and which cumulatively exceeds the value of R1500 in any calendar year.

(9) Foreign travel (other than personal visits paid for by the Member, business visits unrelated to the Member's role as a public representative and official and formal visits paid for by the state or the Member's party)

- (a) A brief description of the journey abroad; and
- (b) particulars of the sponsor.

(10) Any other benefit of material nature

- (a) The nature and source of any other benefit of a material nature; and
- (b) the value of that benefit.

13. Disclosure of and access to Register of Members' Interests

(1) Any person has access to the public part of the Register on parliamentary working days and at times prescribed by the Registrar.

(2) Only the Conduct Committee, the Public Protector, the Registrar and his or her designated staff shall have access to the confidential part of the Register.

(3) No person who has access to the confidential part of the Register may, except when a court so orders, disclose particulars of any entry in that part to anyone other than the Member concerned or another person who has such access.

(4) A member of the Conduct Committee who contravenes paragraph 13(3) is in breach of the Code and shall:

- (a) be ineligible to continue as a member of the Conduct Committee; and
- (b) be liable to reduction of up to 30 days' salary.

(5) The Registrar or a staff member who contravenes paragraph 13(3) is subject to disciplinary action applicable to parliamentary staff, including dismissal.

PART V — CONDUCT COMMITTEE

14. Powers and functions

(1) The Conduct Committee established in terms of the Standing Rules of the Western Cape Provincial Parliament is charged with carrying out the functions required from it under the Code.

(2) The Conduct Committee shall:

- (a) implement the Code of Conduct;
- (b) develop standards of conduct;
- (c) regularly review the Code and make recommendations for its amendment;
- (d) perform other functions and exercise other powers reasonably assigned to the Committee by the Code and in terms of resolutions adopted; and
- (e) report to the House at least annually on its operations and the effectiveness of the Code.

15. Meetings

(1) All meetings of the Conduct Committee are open until the Registrar tables his or her report. Proceedings will then be closed to the public and non-committee members for the tabling of the report of the Registrar and consideration of the report by the Committee as set out in paragraph 25(6)–(9) of the Code. Thereafter the proceedings will be open.

(2) When the Conduct Committee regards a matter as being confidential all reports and minutes related to the relevant matter of the Conduct Committee are to be kept confidential.

(3) Material identified by the Conduct Committee as confidential shall be distributed to Conduct Committee members and stored confidentially.

16. Quorum

The Standing Rules applicable to quorums apply *mutatis mutandis* to Conduct Committee meetings.

17. Decisions

The Standing Rules applicable to decisions by a committee apply *mutatis mutandis* to decisions taken by the Conduct Committee.

18. Recusal by Member

Should any Member of the Conduct Committee be the subject of a conduct investigation, that Member should recuse himself or herself from the committee's deliberations on that investigation.

19. Confidentiality and affirmation of Members of Conduct Committee, Registrar and staff assigned to the Conduct Committee

(1) Each Member of the Conduct Committee must swear or affirm before the Speaker to honour the requirements of confidentiality.

(2) The Registrar appointed in terms of the Code and each member of staff assigned to work for the Conduct Committee must swear or affirm, before the Speaker to honour the requirements of confidentiality.

PART VI — REGISTRAR OF MEMBERS' INTERESTS

20. Appointment of Registrar

(1) Appointment

- (a) The Registrar shall be appointed in terms of section 3 of the Members of the Western Cape Provincial Parliament Code of Conduct Act, 2002 (Act 3 of 2002).
- (b) The Registrar shall be assisted by such staff, assigned by the Secretary, for the work of the Conduct Committee.
- (c) The Speaker may determine the additional remuneration and conditions of service, if any, of the Registrar.

(2) Functions of Registrar

The Registrar shall —

- (a) open and keep a register for the purposes of this Code, called the Register of Members' Interests;
- (b) record in the Register particulars of Members' registrable interests;
- (c) amend any entries in the Register when necessary;
- (d) perform the other duties in connection with the implementation of this Code as required by the Conduct Committee;
- (e) perform the functions of office in accordance with the directions of the Conduct Committee; and
- (f) act impartially.

(3) Advice and counsel to Members

- (a) A Member may approach the Registrar to obtain personal advice and counsel, if he or she suspects that he or she may have committed a violation.
- (b) All sessions of advice and counsel between the Registrar and the Member shall be confidential.
- (c) Should the Registrar, during the advice and counselling session, realise that there is a possible violation of the Code, the Registrar shall inform the Member, that he or she is obliged to report this to the Conduct Committee and the Registrar shall inform the Conduct Committee thereof within a reasonable time.
- (d) The Registrar shall report to the Conduct Committee the number of times he or she has had advice and counselling sessions over a given period of time without disclosing the identity of the Member involved.

PART VII — BREACH OF CODE

21. Breach of Code by a Member

A Member breaches this Code if the Member —

- (1) contravenes or fails to comply with a provision of this Code; or
- (2) wilfully provides the Registrar with incorrect or misleading details, when disclosing registrable interests.

PART VIII — COMPLAINTS PROCEDURE

22. Submission of complaint

- (1) Any person or body who reasonably believes that a Member of the Provincial Parliament has breached this Code may lodge a complaint by submitting an affidavit setting out the grounds for the complaint with the Registrar.
- (2) The complaint shall contain the following information —
 - (a) the name and address of the complainant;
 - (b) full particulars of the alleged conduct of the Member; and
 - (c) such other information as may be required by the Registrar.
- (3) The Registrar shall assist any person wishing to report a breach and who requires assistance to do so.
- (4) The Registrar shall register all complaints received.

23. Investigation and report by the Registrar

- (1) The Registrar shall commence an investigation into the matter, in accordance with the procedure set out in Part IX, after registration of the complaint.
- (2) The Member implicated in the alleged breach shall make himself or herself accessible to the Registrar for the purpose of the investigation.
- (3) The Registrar shall have the power to request documentation from a Member, an official of the government, provincial organ of state or a member of the public in order to further his or her investigation.
- (4) The Registrar shall, within 30 days of receiving the complaint, produce a report on his or her findings, detailing both the merits and demerits of the case brought forth once the investigation has been finalised. The report will include detailed recommendations for action on the matter and shall be submitted to the Conduct Committee for consideration.

PART IX—PROCEDURE FOR INVESTIGATION OF COMPLAINTS

24. General

This procedure is based on and is intended to be guided by, the principles of *audi alteram partem*, promptness, fairness and consistency.

25. Procedures

- (1) The Registrar shall within seven days of receiving a complaint inform the Member concerned of the substance of the complaint.
- (2) The Member shall respond to the Registrar within fourteen days of being informed of the complaint.
- (3) The Registrar shall consider the Member's response or if the Member does not respond, the Registrar may begin a preliminary investigation to determine the facts. The Member shall be notified in writing within three days in this regard.
- (4) The Registrar may decide to take no further action if he or she regards the complaint as frivolous, vexatious or unfounded. A decision of the Registrar in this regard shall be confirmed by the Conduct Committee.
- (5) If urgency demands, the Registrar in consultation with the Chairperson of the Conduct Committee may call a special meeting of the Conduct Committee.
- (6) The Registrar shall provide the Conduct Committee a summary of the preliminary investigation and a proposed procedure for further investigation, including an assessment on the need for a hearing.

(7) The Conduct Committee shall consider the report provided by the Registrar and may call for further evidence from any other person relevant to the case.

(8) The Conduct Committee may

- (a) accept the Registrar's report;
- (b) reject the Registrar's report and refer it back to the Registrar with further instructions and clear timelines to resubmit the report;
- (c) reject the Registrar's report; or
- (d) it may call for further evidence.

(9) The Conduct Committee must agree to the procedure for further investigation.

(10) If a further investigation is required, the Registrar must proceed on the basis of the instruction of the Committee

26. Hearings

(1) Hearings must be held when the facts are in dispute. The Conduct Committee may decide to call a hearing if the investigation of the Registrar is inconclusive or if the Registrar is unable to make a recommendation or if the Conduct Committee decides that a hearing should be held.

(2) The hearing will be on an inquisitorial basis and witnesses may be called.

(3) The Member, the complainant and any prospective witnesses shall be given a minimum of 10 days' written notice of the date of the hearing.

(4) In each case the Conduct Committee has the discretion regarding the weight to be attached to different forms of evidence and the extent of cross examination of witnesses.

(5) The Member shall be notified of his or her right to be represented by another Member, to call material witnesses and have an interpreter present.

(6) The Chairperson of the Conduct Committee presides at the hearing.

(7) The Registrar presents the evidence to the Conduct Committee.

(8) The Registrar may call witnesses.

(9) The proceedings must be recorded.

(10) The Conduct Committee will decide in each circumstance on issues related to costs for witnesses and complainants.

(11) The Conduct Committee shall make a full and considered finding supported by reasons on the validity of any complaint at the conclusion of its investigations, which it must make public, together with any sanction imposed, and must also supply an adequate summary of the facts.

(12) The findings of the Conduct Committee must be reported to the House within seven days of a hearing being concluded or, if the House is in recess, within seven days of the date on which it resumes business.

(13) In conducting hearings, the Conduct Committee may adopt any procedures it deems reasonable, just and fair.

27. Reacting to media reports

(1) The Registrar, subject to the approval of the Conduct Committee, may initiate a preliminary investigation to assess the validity of allegations made in media reports.

(2) The Member named in the media shall be informed immediately of the allegations and of the preliminary investigation being conducted.

(3) Should the situation warrant it, the Conduct Committee may authorise a full investigation. If a full investigation is carried out the procedure to be followed is that which is detailed in the Code.

28. Findings of Conduct Committee

(1) At the conclusion of its investigation, the Conduct Committee shall make a finding, supported by reasons, on the alleged breach of the Code.

(2) The finding and the reasons for the finding must be announced in the *Announcements, Tablings and Committee Reports*.

(3) If the hearing was in closed session (*in camera*) a summary of the facts must be announced in the *Announcements, Tablings and Committee Reports*.

29. Right of appeal

A Member found guilty by the Conduct Committee of contravening the Code may appeal to the Appeals Committee.

30. Appeals Committee

(1) The Appeals Committee is hereby established and shall consist of the following:

- (a) Speaker (Chairperson);
- (b) Deputy Speaker;
- (c) Chief Whip(s) of the governing party or an alternate Member;
- (d) one member of the official opposition; and
- (e) one member of an opposition party.

(2) No Member serving on the Conduct Committee may serve on the Appeals Committee.

31. Appeals procedure

(1) The affected Member who is aggrieved by a decision made by the Conduct Committee, may, within 14 days after the submission of the Conduct Committee's report, give notice of leave to appeal to the Appeals Committee.

(2) The affected Member shall, within 30 days thereafter, submit a written submission for an appeal to the Speaker stipulating the basis and reasons for an appeal.

(3) In hearing evidence, the Appeals Committee may within 30 days of receiving the written submission for an appeal, request the Registrar and the appellant to give evidence, after providing a minimum of 10 days' written notice to the Registrar and the appellant.

(4) The provisions of paragraphs 15, 16, 17, 18 and 19 with the necessary changes apply to Appeals Committee proceedings.

(5) The Appeals Committee shall not later than 30 days after the close of the hearing mentioned in paragraph 31(3) either affirm, amend or reverse the decision of the Conduct Committee.

(6) The decision of the Appeals Committee must be embodied in a report and shall be announced in the *Announcements, Tabling and Committee Reports*.

32. Penalties

(1) If it is found that a Member has breached the Code, an opportunity may be afforded to him or her to make representations in writing and to provide mitigating reasons before the Committee recommends the imposition of one or more penalties.

(2) The Conduct Committee must recommend the imposition of one or more of the following penalties where it has found that a Member has breached a provision of the Code —

- (a) a reprimand;
- (b) a fine not exceeding the value of 30 days' salary; or
- (c) the suspension of privileges or a Member's right to a seat in parliamentary debates or committees for a period not exceeding 15 days.

33. Conduct Committee and/or Appeals Committee to report to House

(1) The Conduct Committee or the Appeals Committee, as the case may be, shall report its findings and recommendations as to penalties, if any, to the House.

(2) If the Conduct Committee and/or Appeals Committee recommends a penalty, the House shall either —

- (a) accept or reject the recommendation; or
- (b) refer the matter back to the Committee with reason(s) for further consideration.

(3) If the House accepts the Conduct Committee and/or Appeals Committee's recommendation, the Speaker shall act on such decision without undue delay.

34. Access to information

A Member or members of the public shall gain access to information on matters already decided upon by the Conduct Committee or as prescribed by the Constitution, the Promotion of Access to Information Act, 2000 (Act 2 of 2000), or as otherwise provided by any other law.

35. General

(1) The Code may be amended or replaced, and the amounts specified in the Code adjusted, from time to time by publication in the *Announcements, Tablings and Committee Reports* and with the adoption of the publication by a decision of the House.

(2) The Code is called the Code of Conduct for Members of the Western Cape Provincial Parliament, 2020, and comes into effect on the date determined by promulgation in the *Provincial Gazette*.

PROVINSIE WES-KAAP

GEDRAGSKODE VIR LEDE VAN DIE WES-KAAPSE PROVINSIALE PARLEMENT

(Soos deur die Huis op 3 Desember 2020 goedgekeur)

DEEL I

Aanhef

AANGESIEN die Grondwet van die Republiek van Suid-Afrika vereis dat alle regeringsvlakke aanspreeklikheid, verantwoordelikheid en deursigtigheid bevorder;

en aangesien die Grondwet van die Wes-Kaap bepaal dat die Provinsie van die Wes-Kaap op verantwoordelike en verantwoordbare regering gegrond is en dat die regering moet poog om 'n werksetiek te bevorder;

ONS, die Lede van die Wes-Kaapse Provinsiale Parlement

- (a) aanvaar dat ons aanspreeklik is teenoor die kieserskorps en 'n verpligting het om openbare vertroue in demokratiese instellings te vestig en te handhaaf;
- (b) bevestig dat Lede van die Provinsiale Parlement 'n verpligting het om hulle pligte nougeset, eerbiedig en waardig na te kom; om opregte en getroue openbare verteenwoordigers te wees, met behoorlike inagneming van die openbare belang;

DERHALWE instem om, individueel en gesamentlik, by die beginsels, reëls en verpligtinge, soos in dié Gedragskode uiteengesit, neer te lê.

1. Woordomskrywings

In hierdie Kode, tensy uit die samehang anders blyk, beteken —

- “**Aangewese personeel**” en “**personeel toegewys aan die Gedragskomitee**” beteken personeel geïdentifiseer om die Registrateur en die Gedragskomitee met administratiewe en logistieke steun te help;
- “**Appèlkomitee**” die Komitee ingestel ingevolge paragraaf 30;
- “**besoldiging**” die ontvang van byvoordele in kontant of in ruil;
- “**dag**” kalenderdag;
- familielid** met betrekking tot 'n Lid, 'n Lid se gade, afhanklike kind of afhanklike kinders of permanente metgesel en afhanklike kind of afhanklike kinders van permanente metgeselle;
- Gedragskomitee** die Komitee ingestel ingevolge die Reglement van die Wes-Kaapse Provinsiale Parlement;
- “**Grondwet**” beteken die Grondwet van die Republiek van Suid-Afrika, 1996;
- “**Kode**” die Gedragskode vir Lede van die Wes-Kaapse Provinsiale Parlement;
- “**Komitee**” 'n staande komitee ingestel ingevolge die Reglement van die Wes-Kaapse Provinsiale Parlement;
- “**korporatiewe entiteit**” ook enige openbare of privaat maatskappy, beslote korporasie en enige trust, anders as 'n liefdadigheidstrust, maar sluit nie 'n liefdadigheidsorganisasie of 'n nie-winsgewende vereniging in nie (artikel 21-maatskappy);
- “**Lid**” 'n Lid van die Wes-Kaapse Provinsiale Parlement, en sluit 'n lid van die Provinsiale Kabinet in;
- “**parlementêre forum**” beteken enige wetgewende forum, buite die Provinsiale Parlement, waaraan Lede deelneem;
- “**Openbare Beskermer**” die Openbare Beskermer soos bedoel in artikel 181 van die Grondwet;
- “**permanente metgesel**” met betrekking tot 'n Lid, 'n persoon of persone wat saam met die Lid woon en algemeen deur die Lid as sy/haar permanente metgesel erken word;
- “**provinsiale Grondwet**” die Grondwet van die Wes-Kaap, 1997;

“Provinsiale Parlement” die Wes-Kaapse Provinsiale Parlement;
“Register” die Register van Lede se Belange geopen ingevolge paragraaf 10;
“Registrateur” die Registrateur van Lede se Belange aangestel ingevolge die Wet;
“registreerbare belange” finansiële belange soos in paragraaf 12 gelys, en met betrekking tot ’n Lid, ook die finansiële belange van daardie Lid se gade, afhanklike kind of afhanklike kinders en/of permanente metgesel;
“Sekretaris” die Sekretaris van die Provinsiale Parlement;
“Speaker” die Speaker van die Provinsiale Parlement; en
“Wet” die Wet op ’n Gedragskode vir Lede van die Wes-Kaapse Provinsiale Parlement, 2001 (Wet 3 van 2002).

DEEL II — BEGINSELS EN ALGEMENE VERPLIGTINGE

2. Beginsels

’n Lid moet die volgende beginsels onderskryf:

(1) **Lojaliteit teenoor die Provinsie Wes-Kaap en Suid-Afrika**

- (a) Lid moet lojale wees teenoor die Provinsie Wes-Kaap, Suid-Afrika en sy mense.
- (b) n Lid moet die provinsiale en nasionale grondwette en alle ander wette van die Provinsie en die land onderhou.

(2) **Vorrang van die openbare belang**

- (a) n Lid moet besluite slegs in die belang van die publiek neem.
- (b) Lid moet konflik van belang tussen persoonlike belang en openbare plig vermy.

(3) **Integriteit**

’n Lid moet ten alle tye verseker dat die waardigheid en integriteit van die Provinsiale Parlement gehandhaaf word.

(4) **Aanspreeklikheid**

’n Lid —

- (a) is aanspreeklik teenoor die publiek vir sy of haar besluite en optrede en moet homself of haarself onderwerp aan welke toesig ook al op sy of haar amp van toepassing is;
- (b) moet genoegsame ywer in die uitvoering van sy of haar amptelike pligte aan die dag lê;
- (c) moet openbare hulpbronne doeltreffend en effektief aanwend en slegs vir die doel waarvoor dit bestem is; en
- (d) moet onbehoorlike gebruik van enige betaling of toelae wat aan ’n Lid vir openbare doeleindes gemaak word, vermy, en die administratiewe reëls wat op sodanige betalings van toepassing is, streng nakom.

(5) **Deursigtigheid en eerlikheid**

’n Lid moet —

- (a) sy of haar openbare pligte op ’n oop en deursigtige manier uitvoer, en
- (b) eerlik optree en die vertrouwe handhaaf wat die publiek in hom of haar plaas.

(6) **Treue op in goeie trou en nakoming van verpligtinge**

’n Lid moet —

- (a) te alle tye in goeie trou en in belang van goeie bestuur optree; en
- (b) alle verpligtinge nakom wat regtens aan hom of haar opgelê is.

3.

3. Algemene verpligtinge

’n Lid moet te alle tye in die uitvoering van sy of haar pligte aan die beginsels, soos in paragraaf 2 van die Kode uiteengesit, voldoen, en sal —

- (1) met waardigheid en integriteit optree, in ooreenstemming met sy of haar amp;
- (2) nie homself of haarself onder finansiële of ander verpligtinge aan buite individue of organisasies plaas wat moontlik die uitvoering van sy of haar pligte onbehoorlik kan beïnvloed nie;
- (3) verseker dat sy of haar persoonlike gedrag in ooreenstemming met die waardigheid en integriteit van die Provinsiale Parlement is;

(4) keuses op meriete maak in die uitvoering van openbare pligte, insluitende die maak van openbare afsprake, toekenning van kontrakte, of aanbeveling van individue vir vergoeding of voordeel;

(5) homself of haarself onderwerp aan enige vorm van regsondersoek toepaslik met sy of haar amp as 'n Lid;

(6) enige privaat belange verklaar wat met sy of haar amptelike pligte verband hou;

(7) in die Register van Lede se Belange alle registreerbare belange, soos verlang, verklaar; en

(8) stappe doen om enige konflik van belange wat mag voorkom, op so manier op te los dat dit die openbare belang, in teenstelling met sy of haar privaat belange, sowel as die Provinsiale Parlement se waardigheid, geloofwaardigheid en integriteit, sal beskerm.

DEEL III — GEDRAG

4. Verklaring van belange in 'n saak voor 'n komitee, parlementêre forum of verrigtinge van die Provinsiale Parlement

'n Lid moet —

(1) enige persoonlike of private finansiële of sakebelange verklaar wat hy of sy, sy of haar familielid of sakevennoot mag hê, in 'n saak voor 'n komitee, verrigtinge van die Provinsiale Parlement of parlementêre forum waaraan daardie Lid deelneem en/of waarin hy of sy dien; en

(2) van die verrigtinge van daardie komitee, parlementêre forum of verrigtinge van die Provinsiale Parlement onttrek wanneer daardie saak oorweeg word, behalwe as daardie komitee, parlementêre forum of die Provinsiale Parlement besluit dat die Lid se belang nie wesenlik is nie.

5. Verklaring van privaat belange wanneer vertoë gerig word

Indien Lid vertoë rig, formeel of informeel, in sy of haar hoedanigheid as openbare verteenwoordiger, tot lid van die Uitvoerende Gesag of enige ander staatsinstelling rakende aangeleentheid waarin daardie Lid, sy of haar familielid of sakevennoot 'n persoonlike, private finansiële belang of sakebelang het, moet die Lid daardie belang verklaar voordat sodanige vertoë tot daardie lid van die Uitvoerende Gesag of staatsinstelling gerig word.

6. Stemwerwing vir vergoeding

Geen Lid mag stemwerwing vir vergoeding in kontant of gunste doen nie.

7. Besoldigde werk buite die Provinsiale Parlement

'n Lid mag slegs besoldigde werk buite die Provinsiale Parlement onderneem indien sodanige werk —

(1) deur die politieke party waaraan die Lid behoort goedgekeur is; en

(2) met daardie Lid se pligte as openbare verteenwoordiger bestaanbaar is.

8. Onbehoorlike uitoefening van invloed

'n Lid mag nie die invloed wat voortspruit uit sy of haar openbare amp aanwend om onbehoorlik voorkeur te verleen aan privaat entiteite of persone in hul omgang met die regering nie, waar dit tot geldelike gewin vir sodanige entiteite of persone kan lei.

9. Weerhouding van gebruik van “binne”-inligting

Lid mag nie vertroulike regeringsinligting of inligting verkry tydens die uitvoering van 'n openbare plig gebruik om 'n privaat belang te bevorder nie.

DEEL IV VERKLARING VAN REGISTREERBARE BELANGE

10. Instelling van Register van Lede se Belange

- (1) Ingevolge die doelwitte van die Kode, moet die Registrateur 'n register open en byhou, wat die Register van Lede se Belange genoem word.
- (2) Die Register moet —
- (a) in 'n openbare afdeling en 'n vertroulike afdeling verdeel word;
 - (b) die inligting rakende Lede se registreerbare belange bevat, soos in paragraaf 10(3), saamgelees met paragraaf 12, uiteengesit; en
 - (c) in 'n formaat wees wat die Gedragskomitee goedgekeur het.
- (3) Die Registrateur moet in die vertroulike afdeling van die Register rekord hou van alle besonderhede van die volgende registreerbare belange:
- (a) die waarde van finansiële belange in 'n korporatiewe entiteit;
 - (b) die bedrag van enige besoldiging vir enige werk buite die Provinsiale Parlement;
 - (c) die bedrag van enige besoldiging vir enige direkteurskap of vennootskap;
 - (d) besonderhede, insluitende die adres, van enige privaat woning;
 - (e) die waarde van enige pensioen;
 - (f) besonderhede van alle finansiële belange van 'n Lid se familielid; en
 - (g) 'n Lid se laste.
- (4) Waar enige twyfel bestaan of enige spesifieke finansiële belang verklaar moet word, moet die betrokke Lid die Registrateur raadpleeg.
- (5) Nieteenstaande subparagraaf (3), kan die Gedragskomitee na goeddunke die Registrateur opdrag gee om enige besonderhede van enige van 'n Lid se registreerbare belange in die vertroulike deel van die Register aan te teken.

11. Verklaring van registreerbare belange

- (1) 'n Lid moet besonderhede van al sy of haar registreerbare belange aan die Registrateur verklaar op die vorm wat deur die Gedragskomitee vir dié doel voorgeskryf is.
- (2) Verklaring van registreerbare belange moet binne 60 dae na die eerste sitting van 'n parlementêre termyn of aanstelling van 'n Lid geskied.
- (3) Daarna moet Lede besonderhede verklaar van hul registreerbare belange voor of op 30 April van elke jaar.
- (4) Indien 'n Lid geen registreerbare belange het nie, moet hy of sy so aandui op die vorm waarna in (1) hierbo verwys word.

12. Aard en besonderhede van registreerbare belange wat verklaar moet word

'n Lid moet die volgende registreerbare belange wat binne en buite Suid-Afrika gehou word en besonderhede verklaar van:

- (1) **Aandeelhouding en finansiële belange in korporatiewe instellings**
- (a) Die aantal, aard en nominale waarde van aandele van enige soort in enige openbare of privaat maatskappy;
 - (b) die naam van dié maatskappy; en
 - (c) die aard en waarde van enige ander finansiële belange wat in enige maatskappy of enige ander korporatiewe entiteit besit word.
- (2) **Eiendomsreg en enige ander belang by grond of eiendom in of buite Suid-Afrika**
- (a) 'n Beskrywing van en die omvang van die grond of eiendom;
 - (b) die gebied waarbinne die grond of eiendom geleë is; en
 - (c) die aard en waarde van die belang in die grond of eiendom.
- (3) **Pensioene**
- (a) Die bron van enige pensioen; en
 - (b) die waarde van die pensioen.
- (4) **Besoldigde werk buite die Provinsiale Parlement**
- (a) Die aard van die werk;
 - (b) die naam en aard van die besigheidsaktiwiteit van die werkgewer; en
 - (c) die bedrag van besoldiging vir sodanige werk ontvang.
- (5) **Konsultasiedienste**
- (a) Die aard van die konsultasiediens of enige retensiegeld van enige aard;

- (b) die naam en aard van die besigheidsaktiwiteit van die betrokke kliënt; en
- (c) die bedrag van enige besoldiging of ander voordele vir so 'n konsultasiediens of retensiegeld ontvang.
- (6) **Direkteurskap en vennootskappe**
 - (a) Die naam en aard van die besigheidsaktiwiteit van die korporatiewe entiteit of vennootskap; en
 - (b) die bedrag van enige besoldiging ontvang vir sodanige direkteurskap of vennootskap.
- (7) **Borgskappe**
 - (a) Die bron en beskrywing van direkte finansiële borgskappe of hulp van enige bron anders as die Lid se party wat die Lid in sy of haar persoonlike en private hoedanigheid sal bevoordeel; en
 - (b) die bedrag of waarde van die borgskap of hulp.
- (8) **Geskenke en gasvryheid deur 'n Lid ontvang van 'n ander bron as 'n familielid**
 - 'n Beskrywing, insluitende die waarde en bron van
 - (a) enige geskenk met 'n waarde van meer as R1 500;
 - (b) geskenke van 'n enkele bron in enige kalenderjaar ontvang wat gesamentlik die waarde van R1 500 oorskry;
 - (c) gasvryheid wat as 'n persoonlike geskenk bedoel is en 'n waarde van meer as R1 500 het; en
 - (d) gasvryheid wat as 'n geskenk bedoel is en in enige kalenderjaar van 'n enkele bron ontvang is, en wat gesamentlik die waarde van R1 500 oorskry.
- (9) **Buitelandse reise** (behalwe persoonlike besoeke waarvoor die Lid betaal het, besigheidsbesoeke wat nie met die Lid se rol as openbare verteenwoordiger verband hou nie en amptelike en formele besoeke waarvoor die staat of die Lid se party betaal het)
 - (a) 'n Kort beskrywing van die buitelandse reis; en
 - (b) besonderhede van die borg.
- (10) **Enige ander voordeel van materiële aard**
 - (a) Die aard en bron van enige ander voordeel van 'n materiële aard; en
 - (b) die waarde van daardie voordeel.

13. Openbaarmaking van en toegang tot Register van Lede se Belange

- (1) Enige persoon het toegang tot die openbare deel van die Register op parlementêre werksdae en op tye soos deur die Registrateur bepaal.
- (2) Slegs die Gedragskomitee, die Openbare Beskermer, die Registrateur en sy of haar toegewysde personeel het toegang tot die vertroulike deel van die Register.
- (3) Behalwe wanneer 'n hof so gelas, mag geen persoon wat toegang tot die vertroulike deel van die Register het besonderhede bekend maak van enige inskrywing in daardie gedeelte aan enige iemand anders behalwe die betrokke Lid of 'n ander persoon wat sodanige toegang het nie.
- (4) 'n Lid van die Gedragskomitee wat paragraaf 13(3) oortree, oortree die Kode en sal:
 - (a) nie geskik wees om verder as lid van die Gedragskomitee aan te bly nie; en
 - (b) onderhewig wees aan 'n salarisvermindering van tot 30 dae.
- (5) Die Registrateur of personeellid wat paragraaf 13(3) oortree, is onderworpe aan dissiplinêre optrede van toepassing op parlementêre personeellede, ontslag ingesluit.

DEEL V — GEDRAGSKOMITEE

14. Bevoegdhede en funksies

- (1) Die Gedragskomitee wat ingevolge die Reglement van die Wes-Kaapse Provinsiale Parlement ingestel is, is belas met die uitvoer van die funksies wat onder die Kode daarvan verwag word.
- (2) Die Gedragskomitee moet:
 - (a) die Gedragskode implementeer;
 - (b) gedragstandaarde ontwikkel;
 - (c) gereeld die Kode hersien en aanbevelings vir die wysiging daarvan maak;
 - (d) ander take uitvoer en ander bevoegdhede toepas wat redelikerwys deur die Kode aan die Komitee opgedra is en ingevolge resolusies aanvaar is; en

- (e) ten minste jaarliks aan die Huis verslag doen oor sy werksaamhede en die effektiwiteit van die Kode.

15. Vergaderings

(1) Alle vergaderings van die Gedragskomitee is oop totdat die Registrateur sy of haar verslag ter tafel lê. Verrigtinge sal dan geslote wees vir die publiek en vir nielede van die Komitee vir die tertafellegging van die verslag van die Registrateur en die oorweging van die verslag deur die Komitee, soos uiteengesit by paragraaf 25(6)–(9) van die Kode. Daarna sal die verrigtinge oop wees.

(2) Wanneer die Gedragskomitee 'n aangeleentheid as vertroulik beskou, moet alle verslae en notules verwant aan die tersaaklike saak van die Gedragskomitee as vertroulik hanteer word.

(3) Materiaal wat deur die Gedragskomitee as vertroulik geïdentifiseer word, moet aan die lede van die Gedragskomitee uitgedeel word en as vertroulik bewaar word.

16. Kworum

Die Reglement van toepassing op kworums is *mutatis mutandis* op vergaderings van die Gedragskomitee van toepassing.

17. Besluite

Die Reglement van toepassing op besluite deur 'n komitee is *mutatis mutandis* van toepassing op besluite wat deur die Gedragskomitee geneem word.

18. Onttrekking deur Lid

Indien enige Lid van die Gedragskomitee die onderwerp van 'n gedragsondersoek is, moet daardie Lid homself of haarself van die komitee se beraadslaging oor daardie ondersoek onttrek.

19. Vertroulikheid en bevestiging van lede van Gedragskomitee, Registrateur en personeel wat aan die Gedragskomitee toegewys is

(1) Elke Lid van die Gedragskomitee moet voor die Speaker 'n eed aflê of 'n plegtige verklaring doen dat die vertrouensbepalings eerbiedig sal word.

(2) Die Registrateur wat ingevolge die Kode aangestel is en elke personeel lid wat aan die Gedragskomitee toegewys is, moet voor die Speaker 'n eed aflê of 'n plegtige verklaring doen dat hulle die vertrouensbepalings sal eerbiedig.

DEEL VI — REGISTRATEUR VAN LEDE SE BELANGE

20. Aanstelling van Registrateur

(1) Aanstelling

- (a) Die Registrateur word aangestel ingevolge artikel 3 van die Wet op 'n Gedragskode vir Lede van die Wes-Kaapse Provinsiale Parlement, 2002 (Wet 3 van 2002).
- (b) Die Registrateur moet deur personeel, soos deur die Sekretaris aangewys, met die werksaamhede van die Gedragskomitee bygestaan word.
- (c) Die Speaker kan die bykomende besoldiging en diensvoorwaardes, indien enige, van die Registrateur bepaal.

(2) Funksies van Registrateur

Die Registrateur moet —

- (a) register oopmaak en hou met die oog op hierdie Kode wat die Register van Lede se Belange genoem word;
- (b) besonderhede van Lede se registreerbare belange in die Register opneem;
- (c) enige inskrywings in die Register wysig wanneer nodig;
- (d) die ander pligte met betrekking tot die implementering van hierdie Kode uitvoer, soos deur die Gedragskomitee vereis;

- (e) die funksies van sy of haar amp verrig in ooreenstemming met die leiding van die Gedragskomitee; en
 - (f) onpartydig optree.
- (3) **Advies en raadgewing aan Lede**
- (a) 'n Lid mag die Registrateur nader om persoonlike advies en raadgewing te verkry, indien hy of sy vermoed dat hy of sy 'n oortreding begaan het.
 - (b) Alle sessies van advies en raadgewing tussen die Registrateur en die Lid moet vertroulik wees.
 - (c) Indien die Registrateur tydens die advies- en raadgewingsessie beseft dat daar moontlike oortreding van die Kode is, moet die Registrateur die Lid verwittig dat hy of sy verplig is om dit by die Gedragskomitee te rapporteer en die Registrateur sal die Gedragskomitee binne 'n redelike tyd daarvan verwittig.
 - (d) Die Registrateur moet aan die Gedragskomitee verslag doen oor die aantal kere wat hy of sy advies- en raadgewingsessies oor 'n gegewe tydperk gehad het, sonder om die identiteit van die betrokke Lid openbaar te maak.

DEEL VII — OORTREDING VAN KODE

21. Oortreding van Kode deur 'n Lid

'n Lid oortree hierdie Kode as die Lid —

- (1) 'n bepaling van hierdie Kode oortree of in gebreke bly om dit na te kom; of
- (2) willens en wetens onjuiste of misleidende besonderhede aan die Registrateur verskaf wanneer registreerbare belange openbaar gemaak word.

DEEL VIII — KLAGTEPROSEDURE

22. Voorlegging van klagte

- (1) Enige persoon of liggaam wat redelikerwys glo dat 'n Lid van die Provinsiale Parlement hierdie Kode oortree het, kan 'n klagte aan die Registrateur voorlê deur 'n beëdigde verklaring in te dien wat die gronde vir die klagte uiteensit.
- (2) Die klagte moet die volgende inligting bevat —
 - (a) Die naam en adres van die klaer;
 - (b) volle besonderhede van die beweerde gedrag van die Lid; en
 - (c) sodanige ander inligting wat die Registrateur mag verlang.
- (3) Die Registrateur moet enige persoon bystaan wat 'n oortreding wil aanmeld en wat hulp benodig om dit te doen.
- (4) Die Registrateur moet alle klagtes registreer wat ontvang word.

23. Ondersoek en verslag deur die Registrateur

- (1) Die Registrateur moet 'n ondersoek gelas na die aangeleentheid, in ooreenstemming met die prosedure soos in Deel IX uiteengesit, nadat die klagte genoteer is.
- (2) Die Lid betrokke by die beweerde oortreding moet homself of haarself aan die Registrateur beskikbaar stel vir die doel van die ondersoek.
- (3) Die Registrateur is by magte om bewysstukke van 'n Lid, 'n amptenaar van die regering of provinsiale staatsinstelling of 'n lid van die publiek te versoek om hom of haar in die ondersoek by te staan.
- (4) Sodra die ondersoek afgehandel is, moet die Registrateur binne 30 dae nadat die klagte ontvang is 'n verslag oor sy of haar bevindings voorlê, met 'n uiteensetting van beide die feite vir en teen die saak. Die verslag moet breedvoerige aanbevelings bevat oor stappe wat in dié verband gedoen moet word en dit moet vir oorweging aan die Gedragskomitee voorgelê word.

DEEL IX — PROSEDURE VIR ONDERSOEK VAN KLAGTES

24. Algemeen

Hierdie prosedure is gebaseer op en is bedoel om gelei te word deur die beginsels van *audi alteram partem*, stiptheid, billikheid en konsekwensie.

25. Prosedures

(1) Die Registrateur moet binne sewe dae na ontvangs van 'n klag die betrokke Lid oor die inhoud van die klag inlig.

(2) Die Lid moet binne veertien dae nadat hy of sy van die klag verwittig is teenoor die Registrateur hierop reageer.

(3) Die Registrateur moet die Lid se antwoord oorweeg, of indien die Lid nie antwoord nie, kan die Registrateur voorlopige ondersoek begin om die feite vas te stel. Die Lid sal binne drie dae skriftelik in hierdie opsig in kennis gestel word.

(4) Die Registrateur kan besluit om geen verdere stappe te doen nie indien hy of sy die klagte as beuselagtig, ergerlik of ongegrond beskou.

(5) Indien dringend, kan die Registrateur in konsultasie met die Voorsitter van die Gedragskomitee 'n spesiale vergadering van die Gedragskomitee belê.

(6) Die Registrateur moet die Gedragskomitee van 'n opsomming van die voorlopige ondersoek en 'n voorgestelde prosedure vir verdere ondersoek, insluitend 'n assessering oor die behoefte aan 'n verhoor voorsien.

(7) Die Gedragskomitee moet die verslag wat deur die Registrateur voorsien is, oorweeg en kan aandrang op verdere bewyse van enige ander persoon wat op die saak betrekking het.

(8) Die Gedragskomitee kan —

(a) die Registrateur se verslag aanvaar;

(b) die Registrateur se verslag verwerp en dit terugverwys na die Registrateur met verdere instruksies en duidelike tydlime om die verslag weer voor te lê;

(c) die Registrateur se verslag verwerp; of (d) op verdere bewyse aandrang.

(9) Die Gedragskomitee moet saamstem oor die prosedure vir verdere ondersoek.

(10) Indien verdere ondersoek vereis word, moet die Registrateur op grondslag van die Komitee se instruksie te werk gaan.

26. Verhore

(1) Verhore moet gehou word wanneer feite betwis word. Die Gedragskomitee kan besluit om op 'n verhoor aan te dring indien die ondersoek van die Registrateur nie afdoende is nie of indien die Registrateur nie in staat is om 'n aanbeveling te maak nie of indien die Gedragskomitee besluit dat 'n verhoor gehou moet word.

(2) Die verhoor sal op 'n inkwistoriale basis plaasvind en ooggetuies kan opgeroep word.

(3) Die Lid, die klaer en enige voornemende getuies sal minstens 10 dae voor die tyd skriftelike kennis van die datum van die verhoor kry.

(4) In elke geval is die gewig wat aan verskillende vorms van bewyse geheg word en die omvang van kruisverhoor van getuies volgens die Gedragskomitee se diskresie.

(5) Die Lid moet verwittig word van sy of haar reg om deur 'n ander Lid verteenwoordig te word, belangrike getuies op te roep en 'n tolk teenwoordig te hê.

(6) Die Voorsitter van die Gedragskomitee moet op die verhoor voorsit.

(7) Die Registrateur stel die bewyse aan die Gedragskomitee voor.

(8) Die Registrateur kan getuies oproep.

(9) Die verrigtinge moet op band opgeneem word.

(10) Die Gedragskomitee sal in elke geval besluit oor kwessies verwant aan kostes vir getuies en klaers.

(11) Die Gedragskomitee moet volle en oorwoë bevinding bereik wat deur redes vir die geldigheid van enige klagte by die a oop van sy ondersoeke ondersteun word. Dit moet openbaar gemaak word saam met enige sanksie wat opgelê is en moet ook 'n toereikende opsomming van die feite verskaf.

(12) Die bevindings van die Gedragskomitee moet binne sewe dae na 'n verhoor afgehandel is of, indien die Huis op reses is, binne sewe dae na die datum waarop sake hervat word, gerapporteer word.

(13) Wanneer verhore gelei word, kan die Gedragskomitee enige redelike, regverdigende en billike prosedures aanwend.

27. Reaksie op nuusberigte

(1) Die Registrateur kan, onderhewig aan die goedkeuring van die Gedragskomitee, op sy of haar eie 'n voorlopige ondersoek inisieer om die gegrondheid van bewerings in nuusberigte te assesser.

(2) Die Lid wat in die nuusberig genoem word, sal onmiddellik verwittig word van die bewerings en van die voorlopige ondersoek wat gelas is.

(3) Indien die situasie dit regverdig, kan die Gedragskomitee 'n volledige ondersoek magtig. Indien 'n volledige ondersoek uitgevoer word, moet die prosedure wat in die Kode uiteengesit is, gevolg word.

28. Bevindings van Gedragskomitee

(1) By die voltooiing van sy ondersoek moet die Gedragskomitee 'n bevinding maak, gerugsteun deur redes, oor die beweerde oortreding van die Kode.

(2) Die bevinding en die redes vir die bevinding moet in die "*Aankondigings, Tertafelleggings en Komiteeverslae*" gepubliseer word.

(3) Indien die verhoor agter geslote deure plaasgevind het (*in camera*) moet 'n opsomming van die feite in die "*Aankondigings, Tertafelleggings en Komiteeverslae*" gepubliseer word.

29. Reg tot appèl

'n Lid wat deur die Gedragskomitee skuldig bevind word aan die oortreding van die Kode kan 'n appèl tot die Appèlkomitee rig.

30. Die Appèlkomitee

(1) Die Appèlkomitee word hiermee gestig en bestaan uit die volgende:

- (a) Speaker (Voorsitter);
- (b) Adjunkspeaker;
- (c) HoofswEEP/-swepe van die regerende party of 'n alternatiewe Lid;
- (d) een lid van die amptelike opposisie; en
- (e) een lid van opposisieparty.

(2) Geen Lid wat in die Gedragskomitee dien, mag in die Appèlkomitee dien nie.

31. Appèlprosedure

(1) Die geaffekteerde Lid wat gegrief voel deur 'n besluit wat deur die Gedragskomitee geneem is, mag binne 14 dae ná die voorlegging van die Gedragskomitee se verslag, kennis gee van verlof om appèl tot die Appèlkomitee te rig.

(2) Die geaffekteerde Lid moet, binne 30 dae daarna, skriftelike voorleggings vir 'n appèl aan die Speaker voorlê waarin die gronde en redes vir 'n appèl uiteengesit is.

(3) Tydens die aanhoor van getuienis kan die Appèlkomitee binne 30 dae ná ontvangs van die skriftelike voorlegging die Registrateur en die appellant versoek om getuienis af te lê nadat 'n minimum van 10 dae skriftelike kennisgewing aan die Registrateur en die appellant gegee is.

(4) Die bepalinge van paragraaf 15, 16, 17, 18 en 19 met die nodige veranderinge is van toepassing op die verrigtinge van die Appèlkomitee.

(5) Die Appèlkomitee moet, nie later nie as 30 dae ná die sluiting van die verhoor genoem in paragraaf 31(3), die besluit van die Gedragskomitee óf bekragtig óf nietig verklaar.

(6) Die besluit van die Appèlkomitee moet in verslagvorm wees en in die *Aankondigings, Tertafelleggings en Komiteeverslae* aangekondig word.

32. Strawwe

(1) Indien bevind is dat Lid die Kode oortree het, kan geleentheid aan hom of haar gebied word om skriftelike verdoë te rig en om versagtende redes aan te voer voordat die Komitee die instelling van een of meer strawwe aanbeveel.

(2) Die Gedragskomitee moet, waar dit bevind het dat 'n Lid 'n bepaling van die Kode oortree het, die instelling van een of meer van die volgende strawwe aanbeveel —

- (a) 'n berisping;
- (b) 'n boete wat nie die waarde van 30 dae se salaris oorskry nie; of
- (c) die opskorting van voorregte van 'n Lid se regte op 'n sitting in parlementêre debatte of komitees vir 'n tydperk van nie langer nie as 15 dae.

33. Gedragskomitee en/of Appèlkomitee se verslag aan Huis

(1) Die Gedragskomitee of die Appèlkomitee, soos die geval mag wees, moet aan die Huis verslag doen oor sy bevindings en aanbevelings met betrekking tot strawwe, indien enige.

(2) Indien die Gedragskomitee en/of Appèlkomitee 'n straf aanbeveel, moet die Huis of —

(a) die aanbeveling aanvaar of verwerp; of

(b) die aangeleentheid met rede of redes vir verdere oorweging na die Komitee terugverwys.

(3) Indien die Huis die aanbevelings van die Gedragskomitee en/of Appèlkomitee aanvaar, moet die Speaker sonder verwyl op die besluit reageer.

34. Toegang tot inligting

'n Lid of lede van die publiek kan toegang verkry tot inligting oor aangeleenthede waarvoor reeds deur die Komitee beslis is, of soos voorgeskryf deur die Grondwet, die Wet op die Bevordering van Toegang tot Inligting, 2000 (Wet 2 van 2000), of soos deur enige ander wet bepaal.

35. Algemeen

(1) Die Kode kan gewysig of vervang word, en die bedrae in die Kode gemeld, kan van tyd tot tyd aangepas word deur publikasie in die “*Aankondigings, Tertafelleggings en Komiteeverslae*” en met die aanneming van die publikasie met besluit van die Huis.

(2) Hierdie Kode heet die Gedragskode vir Lede van die Wes-Kaapse Provinsiale Parlement, 2020, en tree in werking op die datum wat deur proklamasie in die *Provinsiale Koerant* bepaal word.

IPHONDO LENTSHONA KOLONI

UMGAQO WOKUZIPHATHA KWAMALUNGU EPALAMENTE YEPHONDO WENTSHONA KOLONI

(Njengoko kuvunyelwene yiNdlu ngowa 3 Disemba 2020)

ICANDELO I

Imbulambethe

NANGONA uMgaqo-siseko weRiphabhliki yoMzantsi Afrika ufuna ukuba onke amanqanaba karhulumente akhuthaze ukukwazi ukuphendula, ukuthabatha uxanduva nokuvuleleleka;

kwakhona nangona uMgaqo-siseko weNtshona Koloni ungqina ukuba iPhondo leNtshona Koloni lisekwe phantsi korhulumente othabatha uxanduva nokwaziyo ukuphendula kwanokuba urhulumente makajonge ekuphakamiseni intsulungeko yokusebenza;

THINA, Malungu ePalamente yePhondo leNtshona Koloni

- (a) siyaqonda ukuba sithabatha uxanduva lwabavoti kwaye sinomsebenzi wokufaka nokugcina intembeko yoluntu kumaziko edemokrasi;
- (b) siyangqina ukuba aMalungu ePalamente yePhondo anoxanduva lokwenza imisebenzi yawo ngokuqinisa, ngesithozela nesidima; abe ngabameli abanyanisekileyo nabathembekileyo boluntu, aze azimisele ukwenza okulungileyo;

NGOKO siyavuma ukuzibophelela, umntu ngamnye kwaye sisonke, kwimigaqo, imithetho nakuxanduva oluchazwe apha kulo Mgaqo wokuziphatha.

1. Iinkcazo

Kulo Mgaqo, ngaphandle kokuba kubhekiswa kwenye into —

“**UMthetho**” uthetha uMthetho weNdlu yokuziphatha waMalungu ePalamente yePhondo leNtshona Koloni, 2001 (uMthetho 3 ka-2002);

“**IKomiti yeZibheni**” ithetha iKomiti esekelezelwe phantsi komhlathi 23;

“**INdlela**” ithetha iNdlu yokuziphatha kwaMalungu ePalamente yePhondo leNtshona Koloni.

“**IKomiti**” ithetha iKomiti eSisigxina esekelezelwe phantsi kweMithetho eSisigxina yePalamente yeNtshona Koloni;

“**INKampani okanye amaqumrhu akhoyo**” iquka nayiphi na inkampani karhulumente okanye eyabucala, ishishini elisakhulayo okanye ingxowamali, ngaphandle kwengxowamali yembedlenge, kodwa ayiquki umbutho weembedlenge okanye umbutho ongajonge ngeniso (icandelo 21 lenkampani);

“**usuku**” oko kuthetha usuku lwekhalenda

“**IKomiti yokuziphatha**” ithetha iKomiti esekelezelwe phantsi kweMithetho eSisigxina yePalamente yeNtshona Koloni;

“**UMgaqo-siseko weNtshona Koloni**” uthetha uMgaqo-siseko weNtshona Koloni, 1997 (uMthetho 1 ka-1998);

“**Iqumrhu okanye i-ofisi yoMgaqo-siseko**” ithetha i-ofisi okanye iqumrhu elisekelezelwe phantsi koMthetho woMgaqo-siseko weRiphabhliki yoMzantsi Afrika (uMthetho 108 ka-1996);

“**ilungu losapho**” xa kubhekiswa kwiLungu, kuthethwa iqabane leLungu, umntwana oxhomekeke/abantwana abaxhomekeke kulo okanye umlingane osisigxina; kunye nomntwana/abantwana abaxhomekekileyo bomlingane osisigxina

“**ILungu**” lithetha iLungu lePalamente yePhondo leNtshona Koloni, yaye libandakanya iLungu leKhabhinethi yePhondo;

“**umlingane osisigxina**” weLungu, kuthethwa umntu okanye abantu ohlala neLungu kwaye esamkelwa ngokuphandle liLungu njengomlingane weLungu osisigxina;

“**IPalamente yePhondo**” ithetha iPalamente yePhondo leNtshona Koloni;

“**UMkhuseli woLuntu**” uthetha uMkhuseli woLuntu okhankanywe kwiCandelo 181 loMgaqo-siseko wesizwe;

“**INcwadi yokuBhala (Irejista)**” ithetha iNcwadi yokuBhala iZinto aMalungu anazo evulwe phantsi komhlathi 10;

2 wePhondo leNtshona Koloni: kwiGazethi eManyanisiweyo yePhondo 7272 30 Meyi 2014

“**UMgcini-zincwadi**” uthetha uMgcini-zincwadi weZinto zaMalungu otyunjwe ngokwemigaqo yoMthetho;

“**izinto zamalungu ezifanele ukubhaliswa**” zibhekisa kwizinto ezinokwenza nemali ezidweliswe kumhlathi 12, kwaye xa kubhekiswa kwiLungu, kuqukwa izinto ezidibene nemali yeqabane leLungu elo, umntwana oxhomekeke/ nabantwana abaxhomekeke kulo kwanomlingane osisigxina;

“**intlawulo**” ithetha ukufunyanwa kweenzuzo ngezimali okanye ngesisa;

“**UNobhala**” uthetha uNobhala wePalamente yePhondo; kunye

“**noSomlomo**” uthetha uSomlomo wePalamente yePhondo;

ICANDELO II — IMIGAQO NOXANDUVA LWAMALUNGU

2. Imigaqo

ILungu malithobele le migaqo ilandelayo:

(1) **INtembeko kwiPalamente yeNtshona Koloni nakwiSizwe**

(a) ILungu liya kuthobela iNtshona Koloni, uMzantsi Afrika nabantu bawo.

(b) ILungu liya kuxhasa imigaqo-siseko yephondo neyesizwe kwanayo yonke eminye imithetho yephondo kwaneyesizwe.

(2) **Ukungcingeli wena wedwa / Ukubekwa phambili kwezinto ezichaphazela uluntu**

(a) ILungu liya kuthabatha izingqibo kuphela ezithathela ingqalelo iimfuno zoluntu.

(b) ILungu liya kuzikhwebula kwizinto eziya kuthi zidale ungquzulwano phakathi kwezinto ezifunwa lilungu nezomsebenzi woluntu.

(3) **Ubungangamsha**

ILungu liza kuqinisekisa ukuba ngalo lonke ixesha isidima nobunganga bePalamente yePhondo buyagcinwa.

(4) **Ukuphendula**

ILungu —

(a) liphendula kuluntu ngezizigqibo nezenzo zalo kwaye kufuneka lizinikele nakolunjani na uphicotho olufaneleke kwi-ofisi yalo;

(b) maliwenze ngokukhuthala umsebenzi walo waseburhulumenteni;

(c) malinikezele ngemithombo karhulumente ngokubonakalayo nokusebenzayo kwaye kuphela ngesizathu eyenzelwe yona; kwanokuba

(d) maliphophe usetyenziso gwenxa lwayo nayiphi na intlawulo okanye izibonelelo ezenzelwe iLungu kulungiselelwa iinjongo zoluntu, kwaye maliqaphela ngeliso elibukhali imithetho yolawulo esebenza kwezi ntlawulo.

(5) **Ukuvuleleka nentembeko**

ILungu liza —

(a) kuyenza imisebenzi yalo ngendlela evulelekileyo neselubala, kwaye

(b) kwenza imisebenzi yalo ngentembeko lize ligcine ukuthembeka uluntu olukubeke kwiLungu elo.

(6) **Yenza ngokunyaniseka kwaye ulungele uxanduva**

ILungu liza —

(a) ngalo lonke ixesha enza ngokunyaniseka kunye nangomdla wolawulo olulungileyo; kwaye

(b) amelane nalo lonke uxanduva olubekwe kuye ngumthetho.

3. Uxanduva ngokubanzi

ILungu liza kuthi, ngamaxesha onke, xa lisenza imisebenzi yalo lithobele imigaqo ebekwe kumhlathi 2 walo Mgaqo kwaye —

(1) liya kwenza imisebenzi yalo lize liziphathe ngesidima nesithozela esifanele i-ofisi yalo;

(2) aliyi kuzibeka lona kuxanduva lwezimali okanye olunye uxanduva kubantu okanye imibutho engaphandle eya kuthi ibe nefuthe elibi kwimisebenzi yalo;

(3) liya kuqinisekisa ukuba isimilo salo sihambelana nesidima nesithozela sePalamente yePhondo;

(4) iya kuwukhetha liwulandelelanise ngokufaneleka kwawo umsebenzi woluntu, oko kuquka ukuqeshwa koluntu, ukunikezwa kwezivumelwano, okanye ekuphakamiseni abantu abathile xa kufuneka bevuziwe okanye bezuzile;

(5) liya kuzinikela nakoluphi na uhlobo lophicotho olusemthethweni olufanele i-ofisi yalo njengeLungu;

(6) liya kuchaza izinto zalo zabucala ezinokuchaphazela imisebenzi yalo ye-ofisi;

(7) liya kubhalisa kwiNcwadi yokuBhalisa iZinto zaMalungu zonke izinto elinazo elifanele ukuzibhalisa njengoko kufuneka; kwaye

(8) liza kuthabatha amanyathelo okusombulula naziphi na izinto ezinokudala ungquzulwano ngendlela ekhusela uluntu, kunokuba lijonge lona kuqala, ngokunjalo nesidima nesithozela sePalamente yePhondo.

ICANDELO III — UKUZIPHATHA

4. **Ukwaziswa kwezinto zamalungu zabucala kwiKomiti nakwiinkqubo zePalamente yePhondo**

ILungu kufuneka —

(1) lixele nayiphi na into elinayo eyiyeyalo edibene nezimali okanye ishishini iLungu, usapho lwalo, ilungu losapho lwalo okanye umlingane walo elinalo okanye analo, njengomba kwiKomiti eSisigxina, iKomiti yeThutyana okanye elinye iqonga lepalamente apho iLungu lithabatha inxaxheba khona; yaye

(2) kufuneka lirhoxe kwiinkqubo zaloo Komiti okanye iqonga lepalamente xa kuqwalaselwa loo mba, ngaphandle kokuba iqonga lepalamente lithabatha isigqibo sokuba loo nto yinto engenamsebenzi.

5. **Ukwaziswa kwezinto zamalungu zabucala xa kusenziwa iintetha**

Ukuba iLungu lenza iintetha, ngokusesikweni okanye ngokungekho sesikweni, kwisikhundla salo njengommeli woluntu, kwiLungu leSigqeba okanye naliphi na inqwanqwa likarhulumente mayela nombona ongento elinayo elo Lungu, ilungu losapho lwalo okanye ihlakani lalo kwezoshishino edibene nezimali okanye ishishini elinjalo, elo Lungu malikuchaze oko linalo phambi kokuba iintetha ezinjalo zenziwe kwelo lungu leSigqeba okanye kwelo nqwanqwa likarhulumente.

6. **Ukugayela isipho**

Akukho Lungu liya kugayela ukuba lifumene imali ezinkozo okanye isipho.

7. **Ingqesho ehlawulayo ngaphandle kwePalamente yePhondo**

ILungu lingazibandakanya kwingqesho ehlawulayo ngaphandle kwePalamente yePhondo xa ingqesho enjalo-

(1) ivunyelwe liqela lezopolitiko iLungu eliphuma kulo; yaye

(2) iyahambelana nemisebenzi yeLungu njengommeli woluntu.

8. **Ukusebenzisa isihlalo ngendlela eyiyo**

ILungu alisayi kusebenzisa ifute elilifumana kwi-ofisi yoluntu ukuze linikezele gwenxa ngenzuzo kwizinto zabucala okanye abantu kwimicimbi yabo norhulumente, apho oku kuya kukhokelela ekubeni abo Bantu bafumane iimali ngezinto ezinjalo okanye abantu.

9. **Ukuzikhwebula ekusebenziseni ulwazi “lomntu wangaphakathi”**

ILungu aliyi kusebenzisa ulwazi olungekho selubala lungelulo nolukarhulumente okanye ulwazi olufunyenwe xa bekusenziwa umsebenzi ukuphumeza umsebenzi walo wabucala.

ICANDELO IV — UKUXELWA KWEZINTO AMALUNGU ANAZO EMAZIBHALISWE

10. Ukumiselwa kweRejista yokuBhala iZinto aMalungu anazo

(1) UMcini-zincwadi makavule aze agcine irejista ukulungiselela lo Mgaqo, ebizwa ngokuba yiRejista yokuBhala iZinto aMalungu aNazo.

(2) IRejista kufuneka —

- (a) yahlulwe ibe **necandelo loluntu necandelo lemfihlo**;
- (b) ibe nolwazi olumalunga nezinto zaMalungu ekufuneka zibhalisiwe njengoko kubekiwe kumhlathi 12(3) ofundwa nomhlathi 14; kwaye
- (c) mayibe ngendlela ephunyezwe yiKomiti yokuziPhatha.

(3) UMcini-zincwadi makabhale zonke iinkcukacha zezinto amalungu anazo **kwicandelo lemfihlo** leRejista:

- (a) ixabiso lezinto ezinxulumene nezimali kwiqumrhu;
- (b) isixamali sayo nayiphi na intlawulo sawo nawuphi na umsebenzi ongaphandle kwePalamente yePhondo;
- (c) isixamali sayo nayiphi na intlawulo yalo naluphi na ulawulo oluphezulu okanye ulwabelwano;
- (d) iinkcukacha, kuquka idilesi, yayo nayiphi na indawo yokuhlala yabucala;
- (e) ixabiso lawo nawuphi na umhlalaphantsi;
- (f) iinkcukacha zazo zonke izinto ezidibene neemali zosapho lweLungu; kunye
- (g) nezo zinto kufuneka zihlawulelwe liLungu.

(4) Ukuba kukho amathandabuzo akhoyo okuba ingaba imali ethile elinayo ilungu kufuneka ixeliwe, iLungu elibandakanyekayo malibonane noMcini-zincwadi.

(5) Nangona kukho umhlathana (1), iKomiti yokuziPhatha ingathi ngesizathu esihle esibonakalisiweyo, iyalele uMcini-zincwadi ukuba abhale naziphi na iinkcukacha zezinto iLungu elinazo ezifanele ukubhaliswa kwicandelo lemfihlo kwiRejista.

11. Ukuxelwa kwezinto zelungu ezifanele ukubhaliswa

(1) ILungu malixele kuMcini-zincwadi, ngefomu eyenzelwe esi sizathu yiKomiti yokuziPhatha, iinkcukacha zazo zonke izinto zelungu ezibhalisekayo.

(2) Inkcazo mayenzeke zingadlulanga iintsuku ezi 60 emva kwexesha kokuhlala kweNdlu okokuqala okanye kolonyulo lweLungu.

(3) Emva koko, aMalungu makaxele iinkcukacha zezinto ezifanelwe ukubhaliswa ngowa okanye phambi kowa 30 Epreli kunyaka ngamnye.

(4) Ukuba iLungu alinazinto ezfanelwe ukubhaliswa kuquka ukhutshelo lwezinto zalo malibonise oko kwifomu ethunyelweyo ku (1) ngasentla.

12. Ubunjani neenkukacha zezinto ekufuneka zibhalisiwe

ILungu malixele ezi zinto zalo zilandelayo ezifanele ukubhaliswa kwaneenkukacha:

(1) **Izabelo neemali zelungu ezikwiinkampani kwanezinye izinto eziku-maqumrhu**

- (a) Inani, ubunjani nexabiso lenani lezabelo naziphi na ezikurhulumente okanye kwinkampani yabucala;
- (b) igama lenkampani leyo; kunye
- (c) nobunjani nexabiso layo nayiphi na imali ebanjwe kuyo nayiphi na inkampani okanye iqumrhu.

(2) **Ubunini kunye nayiphi na enye into engumhlaba okanye eyipropati phakathi okanye ngaphandle koMzantsi Afrika**

- (a) Inkcazo kwanobunjani bomhlaba okanye ipropati;
- (b) Indawo apho umhlaba ukuyo; kunye
- (c) Nobunjani nexabiso lengeniso kumhlaba okanye ipropati.

(3) **IMihlalaphantsi**

- (a) Umthombo wawo nawuphi na umhlalaphantsi; kunye
- (b) nexabiso lomhlalaphantsi.

(4) **Ingqesho ehlawulwayo ngaphandle kwePalamente yePhondo**

- (a) Uhlobo lwengqesho;
- (b) igama nohlobo lweshishini lomqeshi; kunye
- (c) nesixamali sentlawulo efunyanelwa ingqesho enjalo.

(5) **Iinkampani zengcali**

- (a) Ubume benkampani yengcali okanye ukuqeshwa ngezimali kwalo naluphi na uhlobo;
 - (b) igama nohlobo lweshishini lomntu oncedwayo obandakanyekayo; kunye
 - (c) nesixamali sayo nayiphi na intlawulo okanye ezinye iinzuzo ezifunyanelwa inkampani yengcali enjalo okanye ukuqeshwa ngezimali.
- (6) **ULawulo nobuhlakani**
- (a) Igama nohlobo lomsebenzi owenziwa kwishishini lequmrhu okanye lobuhlakani; kunye
 - (b) Nesixamali sayo nayiphina intlawulo efunyanelwa ulawulo olunjalo okanye ulwabelwano.
- (7) **Inkxasomali**
- (a) Umthombo nenkcazelo yenkxaso-mali eza ngqo okanye uncedo olusuka nakuwuphi na umthombo ngaphandle kweqela leLungu elizuzisa iLungu kwisikhundla salo nesabucala; kunye
 - (b) nesixamali okanye ixabiso lenkxasomali okanye uncedo.
- (8) **Izipho nobubele obufunyanwa liLungu kumthombo ongelolungu losapho**
Inkcazelo, kuquka ixabiso nomthombo
- (a) waso nasiphina isipho esingaphaya kwama-R1500.00;
 - (b) izipho ezifunyanwa kumthombo omnye ezigqithayo kuma- R1500.00 kunyaka wonke;
 - (c) ububele obenziwe njengesipho kwilungu obuxabise ngaphaya kwama-R1500.00; kunye
 - (d) nobubele obenziwe ngenjongo yokuba bube sisipho obusuka kumthombo omnye, obugqitha kuma-R1500 ngonyaka.
- (9) **Uhambelo lwangaphandle** (ngaphandle kotypelelo lomntu oluhlalulelwa liLungu, utyelelo lwemicimbi enganxulumene nendima yeLungu njengommeli woluntu kwanegosa kunye notyelelo lwaseburhulumenteni oluhlalulelwa ngurhulumente okanye iqela leLungu)
- (a) Inkcazelo emfutshane yohambo lwamazwe angaphandle; kunye
 - (b) neenkukacha zesipho.
- (10) **Enye inzuzo ebonakalayo nephathekayo**
- (a) Imeko nomthombo wayo nayiphi na inzuzo ebonakalayo nephathekayo; kunye
 - (b) nexabiso laloo nzuzo.

13. Ukuchazwa kweRejista yokuBhala iZinto aMalungu anazo

(1) Nawuphi na umntu angalufunda ulwazi olukwicandelo loluntu leRejista yeZinto zaMalungu ngeentsuku zokusebenza kwepalamente kwanamaxesha achazwe nguSomlomo.

(2) Kuphela yiKomiti yokuziPhatha, uMkhuseli woLuntu, uMgcini-zincwadi nesitafu sakhe abanelungelo lokufikelela kwicandelo lemfihle leNcwadi yokuBhala.

(3) Akukho mntu ufikelelayo kwicandelo lemfihle leRejista yeZinto zaMalungu unokuxela iinkukacha zayo nayiphi na into ekhoyo kula ndawo nakubani ngaphandle kweLungu elichaphazelekayo okanye onye umntu ofikelelayo ngokunjalo, ngaphandle kokuba inkundla okanye uMkhuseli woLuntu uyalela njalo.

(4) Ilungu leKomiti yokuziPhatha elophula umhlathi 13(3) lophula uMgaqo kwaye liza:

- (a) kuyeka ukuqhuba njengelungu leKomiti yokuziPhatha; kwaye
- (b) liza kuba sesichengeni sokucuthelwa umvuzo weentsuku ezingama-30.

(5) Umsebenzi wasepalamente owophula umhlathi 13(3) wophula uMgaqo kwaye uza kubekwa phantsi koluleko olusebenza kubasebenzi basepalamente, kuquka nokugxothwa.

ICANDELO V — IKOMITI YOKUZIPHATHA

14. Amagunya neMisebenzi

(1) IKomiti yokuziPhatha emiselwe ngokwemigaqo yeMithetho eSisigxina yePalamente yeNtshona Koloni inikwe amagunya okwenza imisebenzi eyimfuneko kuyo phantsi koMgaqo.

(2) IKomiti yokuziPhatha iza:

- (a) kumisela uMgaqo wokuziPhatha;

- (b) kuphuhlisa imigangatho yokuziphatha;
- (c) kujonga kwakhona rhoqo uMgaqo ize yenze izindululo zolungiso lwawo;
- (d) kwenza eminye imisebenzi ize isebenzise amanye amagunya anikwe iKomiti ngendlela eyiyo nguMgaqo kwanangemigaqo yezigqibo eziphehlelelweyo; kwaye
- (e) kunika ingxelo kwiNdlu ubuncinane ngonyaka nemisebenzi yayo kwanokusebenza koMgaqo.

15. IiNtlanganiso

(1) Zonke iintlanganiso zeKomiti yokuziPhatha zivulelekile, de uMgcini zincwadi andlale ingxelo yabo. IiNkqubo ngoko ke ziyakuvalwa kuluntu namalungu angangowekomiti xa kusandlalwa ingxelo nguMgcini zincwadi kwanokuqwalaselwa kwengxelo yiKomiti njengoko kubekiwe kwiCandelo 25 (6)-(9) loMgaqo wokuziPhatha. Emva koko ziyakuvulwa iinkqubo.

(2) Xa iKomiti yokuziPhatha iwuthabatha umba njengoyimfihlo, zonke iingxelo nemizuzu yeKomiti yokuziPhatha kufuneka zigcinwe ziyimfihlo.

(3) Amaxwebhu achongwe njengayimfihlo yiKomiti yokuziPhatha ayakuhanjiswe kumalungu eKomiti yokuziPhatha aza kugcinwa eyimfihlo.

16. IKhoramu

IMithetho eSisigxina esebenza kwikhoramu iyasebenza ngokunjalo (*mutatis mutandis*) kwintlanganiso yeKomiti yokuziPhatha.

17. Izigqibo

IMithetho eSisigxina esebenza kwizigqibo ezenziwe yikomiti isebenza ngokunjalo *mutatis mutandis nakwizigqibo ezithathwe yiKomiti yokuziPhatha*.

18. Ukurhoxa kwelungu

Ukuba naliphi na ilungu leKomiti yokuziPhatha liphandelwa ukuziphatha, elo lungu kufuneka lizirhoxise kwizindululo zekomiti kolo phando.

19. Imfihlo nokuNgqinisiswa kwamalungu eKomiti yokuziPhatha

(1) Ilungu ngalinye leKomiti yokuziPhatha malifunge okanye lingqine phambi koSomlomo ukuba liya kuzithobela iimfuno zemfihlo.

(2) UMgcini-zincwadi oqeshwe ngokwemigaqo yoMgaqo kunye nelungu ngalinye lesitafu eliyalelwe ukuba lisebenzele iKomiti yokuziPhatha malifunge okanye lingqine, phambi koSomlomo ukuba liza kuzithobela iimfuno zemfihlo.

ICANDELO VI — UBHALISO LWEMIDLA AMALUNGU ANAYO

20. Ukuqeshwa koMgcini-zincwadi

(1) Inggesho

- (a) UMgcini zincwadi uzakuqeshwa ngokwemigaqo yecandelo 3 loMthetho weMigaqo yokuziPhatha kwMalungu ePalamente yePhondo leNtshona Koloni, 2002 (uMthetho 3 ka 2002)
- (b) UMgcini-zincwadi uza kuncediswa lilungu lesitafu, eliyalelwe nguNobhala, ukulungiselela umsebenzi weKomiti yokuziPhatha.
- (c) USomlomo angathi agqibe ngentlawulo eyongezelelweyo neemeko zenkonzo, ukuba zikho, zoMgcini-zincwadi.

(2) IMisebenzi yoMgcini zincwadi

UMgcini zincwadi uza —

- (a) kuvula agcine irejista ngeenjongo zalo Mgaqo, ezibizwa ngokuba yiMidla aMalungu anayo;
- (b) kurekhoda kwirejista iinkcukacha zemidla yaMalungu ezinokubhaliswa;
- (c) kulungisa nawaphi amangenelo kwiRejista xa kufuneka njalo;
- (d) kwenza neminye imisebenzi enxulumene nokuphunyezwa koMgaqo njengoko kufunwa yiKomiti yokuziPhatha;

- (e) kwenza imisebenzi yeofisi ngokuhambelana nemiyalelo yeKomiti yokuziPhatha; nokuba
 - (f) kusebenza ngokungakhethi cala.
- (3) **Ingcobiso nokunceda aMalungu**
- (a) ILungu lingaya kuMgcini-zincwadi ukuze lifumane ingcebiso ngomba walo kunye noncedo, ukuba lirhanela ukuba lophule umthetho.
 - (b) Zonke iiseshoni zengcebiso noncedo phakathi koMgcini-zincwadi neLungu ziza kuba yimfihlo.
 - (c) Ukuba uMgcini-zincwadi uyabona ukuba iLungu lophule umthetho ngexesha leseshoni yengcebiso noncedo, uya kuligcina ilungelo lokuwugcina umba uyimfihlo, ukuba ulwaphulo lomthetho lulungisiwe ngexesha ekuvunyelwene ngalo.
 - (d) UMgcini-zincwadi uza kunika ingxelo kwiKomiti yokuziPhatha inani lamaxesha athe wabamba iiseshoni zengcebiso noncedo ngexesha elibekiweyo ngaphandle kokuxela ukuba ngubani elo Lungu libandakanyekayo.

ICANDELO VII — UKOPHULWA KOMGAQO

21. UKophulwa koMgaqo liLungu

ILungu laphula umgaqo ukuba—

- (1) lichasene okanye liyasilela ukuthobela izibonelelo zalo Mgaqo; okanye
- (2) ngokuzithandela unikezela uMgcini zincwadi ulwazi olungachanekanga okanye iinkcukacha ezilahlekisayo, xa ediza imidla enokubhaliswa

ICANDELO VIII — INKQUBO YEZIKHALAZO

22. UKungeniswa kwesikhalazo

- (1) Nawuphi umntu okanye iqumrhu elikholelwa ngokufanelekilyo ukuba iLungu lePalamente yePhondo laphule uMgaqo lingafaka isikhalazongokuthi lingenise ingxelo efungelweyo echaza izizathu zesikhalazo kuMgcini zincwadi.
- (2) ISikhalazo sizakuqulatha olu lwazi lulandelayo —
 - (a) Igama nedilesi yomkhalazi;
 - (b) IiNkcukacha ezipheleleyo zesityholo sokuziphatha kweLungu; kunye
 - (c) nolunye ulwazi olunokuthi lufunwe ngumgcini zincwadi.
- (3) UMgcini zincwadi uyakunceda naye nawuphi na umntu onqwenela ukuxela ulwaphulo lomgaqo kwaye efuna uncedo ukwenza njalo.
- (4) UMgcini zincwadi uzakubhala phantsi zonke izikhalazo azifumeneyo.

23. Uphando kunye nengxelo yoMgcini zincwadi

- (1) UMgcini zincwadi uzakuqhubeka nophando kumba lowo, ngokuhambelana neenkqubo ezibekwe kwiCandelo IX, emva koubhaliswa kwesikhalazo.
- (2) ILungu elibandakanyeke kulwaphulo-mthetho olwenziwayo liza kuzenza ukuba lifikelele kuMgcini zincwadi ngenjongo yophando.
- (3) UMgcini zincwadi uyakuba negunya lokufuna uxwebhu kwiLungu, umsebenzi karhulumente, icandelo likarhulumente lephondo okanye ilungu loluntu ngenjongoyokuqhuba uphando.
- (4) Umgcini zincwadi, zingaphelanga iintsuku ezi 30 zokufumana izikhalazo uza, kuvelisa ingxelo malunga neziphumo, ecacisa zombini imfanelo kunye nokusilela kwetyala elivelisiweyo nje ukuba uphando lugqityezelwe. INgxelo iyakuquka iingcebiso ezicukuceziweyo kulo mba kwaye ziza kufakwa kwiKomit yokuziPhatha ukuze iziqwalese.

ICANDELO IX — INKQUBO YOPHANDO LWEZIKHALAZO

24. Jikelele

Le nkqubo isekelezwe kwaye inenjongo yokukhokelwa, yimigaqo ye*audi alteram partem*, ukukhawuleza, ubulungisa kunye nokungaguququki..

25. IiNkqubo

(1) UMgcini zincwadi uyakuthi zingadlulanga iintsuku ezisixhenxe zokufumana isikhalazo azise amalungu angqamene noko ngomba wesikhalazo eso.

(2) Amalungu aya kuthi aphenjule kuMgcini zincwadi zingadlulanga iintsuku ezilishumi elinesine zokuxelelwa ngesikhalazo.

(3) UMgcini zincwadi uyakuyithathela ingqalelo impendulo yeLungu okanye xa iLungu lingaphenduli, uMgcini zincwadi angaqalisa ngophando lokuqala lokufumana inyani. Ilungu liyakwaziswa nalo mba ngembalelwano zingadlulanga iintsuku ezintathu..

(4) Umgcini zincwadi usenokugqiba ukuba angathathi manyathelo ukuba ngaba usithatha isikhalazo njengemfeketho, nescaphukisayo okanye esingenasihlahla. ISigqibo soMgcini zincwadi singangqinwa yiKomiti yokuziPhatha.

(5) Ukuba yimfuneko engxamisekileyo, uMgcini zincwadi ngokubonisana nosihlalo weKomiti yokuziPhatha bangabiza intlanganiso eyodwa yeKomiti yokuziPhatha.

(6) UMgcini zincwadi uzakunika iKomiti yokuziPhatha isishwankathetho sophando lwakuqala, kuquka nohlolo kwimfuno yokuba imanyelwe.

(7) IKomiti yokuziPhatha iyakuyiqwalasela ingxelo enikwe nguMgcini zincwadi kwaye ingabiza obunye ubungqinannakuye nawuphi na umntu onxulumene neli tyala.

(8) IKomiti yokuziPhatha

(a) ingayamkela ingxelo yoMgcini zincwadi;

(b) ingayikhaba ingxelo yoMgcini zincwadi ze iyibuyisele kuMgcini zincwadi nemiyalelo engeminye namaxesha afanelekileyo acacileyo okufaka kwakhona ingxelo;

(c) ingayikhaba ingxelo yoMgcini zincwadi; okanye

(d) ingabiza obunye ubungqina.

(9) IKomiti yokuziPhatha kufuneka ivumelane nenkqubo yophando olongeziweyo.

(10) Ukuba uphando olongeziweyo luyafuneka, uMgcini zincwadi kufuneka aqhubeke ngokwesiseko somyalelo weKomiti.

26. IiNgxoxo

(1) Iingxoxo kufuneka zibanjwe xa iinkcukacha zingquzulana. IKomiti yokuZiphatha isenokugqiba ukuba ibize ingxoxo ukuba uphando loMgcini zincwadi alugqibelelanga okanye ukuba uMgcini zincwadi akakwazi ukukhupha isincomo okanye ukuba iKomiti yokuZiphatha igqiba ekubeni kufuneka kuqhutywe ingxoxo.

(2) Ingxoxo iya kusekelwa ekuhlonyweni imibuzo yaye kusenokubizwa amangqina.

(3) Ilungu, ummangali nabani na onokuba lingqina baya kuthi banikwe ubuncinane iintsuku ezili 10 zezaziso ezibhaliweyo zomhla wengxoxo

(4) Kwimeko nganye iKomiti yokuZiphatha inokuzikhethela malunga nokubaluleka okunokwayanyaniswa neendidi ezahlukeneyo zobungqina nobungakanani bokugocagoca amangqina ngemibuzo.

(5) Ilungu liya kuthi laziswe ngelungelo lalo lokumelwa lelinye iLungu, ukubiza amangqina abalulekileyo nokuba netoliki

(6) USihlalo weKomiti yokuZiphatha uchophela le ngxoxo

(7) UMgcini zincwadi wandlala ubungqina kwiKomiti yokuZiphatha

(8) UMgcini zincwadi usenokubiza amangqina.

(9) Iingxoxo kufuneka zishicilelwe.

(10) IKomiti yokuZiphatha iya kuthatha isigqibo kwimeko nganye ngemiba emalunga neendleko zamangqina nabamangali.

(11) IKomiti yokuZiphatha iya kuthi yenze isigqibo esipheleleyo nesiqiqiweyo esixhaswa zizizathu zokufaneleka kwaso nasiphi na isikhalazo ekupheleni kophando lwayo, nekufuneka ilwazise esidlangalaleni, naso nasiphi na isohlwayo esiwisiweyo, yaye kufuneka ibonelele ngesishwankathelo esigqibeleleyo seenkcukacha.

(12) Izigqibo zeKomiti yokuZiphatha kufuneka zixelwe kule Ndlu kwisithuba seentsuku ezisixhenxe zokugqitywa kwengxoxo okanye, ukuba iNdlu isanqumamile, kwiintsuku ezisixhenxe ukususela kumhla eqala ngawo umsebenzi.

(13) Ekuqhubeni iingxoxo, iKomiti yokuZiphatha isenokulandela naziphi na iinkqubo ebona zifanelekile, zinobulungisa zingakhethi cala.

27. Ukusabela kwiingxelo zamajelo eendaba

(1) UMgcini zincwadi ngokunokwalo, ngokuvunyelwa yiKomiti yokuZiphatha, usenokuqala uphando lwethutyana ukuthelekelela ubunyani bezityholo ezenziwa kwiingxelo zamajelo eendaba.

(2) Ilungu elichazwe kumajelo eendaba liya kuthi lixelelwe kwangoko ngezo zityholo nangophando lwethutyana oluqhutywayo.

(3) Ukuba imeko itsho, iKomiti yokuZiphatha isenokugunyazisa uphando olupheleleyo. Ukuba kuqhutywa uphando olupheleleyo inkqubo eya kulandelwa yileyo yandlalwe kuMgaqo

28. Izigqibo zeKomiti yokuZiphatha

(1) Ekupheleni kophando lwayo, iKomiti yokuZiphatha iya kuthi yenze isigqibo, esixhaswa zizizathu, ngesityholo sokutyeshelwa koMgaqo.

(2) Isigqibo nezizathu zesigqibo kufuneka zibhengezwe kwi “Zaziso, iMicimbi eza kwaNdlalwa neeNgxelo zeeKomiti”.

(3) Ukuba ingxoxo ibikwisheshoni evalelekileyo (*ekhusini*) kufuneka kwaziswe ngesishwankathelo seenkcukacha kwi “Zaziso, iMicimbi eza kwaNdlalwa neeNgxelo zeeKomiti”.

29. Ilungelo lokubhena

Ilungu elifunyaniswe linetyala yiKomiti yokuZiphatha lokophula uMgaqo lisenokubhena kwiKomiti yeZibheno.

30. IKomiti yeZibheno

(1) Ngoku kusekwa iKomiti yeZibheno yaye iza kuba naba bantu balandelayo:

(a) USomlomo (USihlalo);

(b) USekela Somlomo;

(c) UMbheshi oyiNtloko(aba) weqela elilawulayo okanye iLungu lelinye;

(d) ILungu elinye leqela eliphikisa ngokusemthethweni kunye

(e) nelungu elinye leqela ngalinye elimelwanga nanjani na.

(2) Akukho Lungu lisebenza kwiKomiti yokuZiphatha linokusebenza kwiKomiti yeZibheno.

31. Inkqubo yokuBhena

(1) Ilungu elichaphazelekayo nelinganelisekanga sisigqibo esenziwe yiKomiti yokuZiphatha, lisenokuthi, kwisithuba seentsuku ezili 14 emva kokungeniswa kwengxelo yeKomiti yokuZiphatha, linike isaziso sokuya kubhena kwiKomiti yeZibheno.

(2) Ilungu elichaphazelekayo liya kuthi, kwisithuba seentsuku ezingama 30 emva koko, lingenise isingeniso esibhaliweyo sesibheno kuSomlomo licacisa amabakala nezizathu zesibheno.

(3) Yakube ive ubungqina, iKomiti yeZibheno isenokuthi kwisithuba seentsuku ezingama 30 ifumene isingeniso esibhaliweyo sesibheno, icele uMgcini zincwadi nalowo ubhenayo ukuba banike ubungqina, emva kokunika ubuncinane beentsuku ezili 10 zesaziso esibhaliweyo kuMgcini zincwadi nombheni.

(4) Imiqathango yemihlathi 15,16,17,18 ne 19 neenguqu eziyimfuneko iyasebenza kwiingxoxo zeKomiti yeZibheno.

(5) IKomiti yeZibheno iya kuthi zingegqithanga iintsuku ezingama 30 emva kokuvalwa kwengxoxo ekhankanywe kumhlathi 31(3) ingqine, ilungise okanye irhoxise isigqibo seKomiti yokuZiphatha, ingegqithanga inyanga enye emva kokuvalwa kwengxoxo ekhankanywe kumhlathana 24(c)].

(6) Isigqibo seKomiti yeZibheno kufuneka siqulethwe kwengxelo yaye siya kuthi sibhengezwe kwi “Zaziso, iMicimbi eza kwaNdlalwa neeNgxelo zeeKomiti”.

32. Izohlwayo

(1) Ukuba kufunyaniswe ukuba iLungu lophule uMgaqo, malinikwe ithuba lenze intetho ebhaliweyo kwaye libonelele ngezizathu ezincitshisiweyo phambi kokuba iKomiti icebise ukunyanzelwa kwesohlwayo esinye okanye nangaphezulu.

(2) IKomiti yokuziPhatha mayindulule ukuwisa kwesinye okanye ngaphezulu kwezi zohlwayo zilandelayo xa ifumanise ukuba iLungu lophule isibonelelo soMgaqo —

- (a) ukunqandwa;
- (b) umdliwo ongegqithanga kwixabiso lomvuzo weentsuku ezingama 30; okanye
- (c) ukurhoxiswa kwamaqithiqithi okanye ilungelo leLungu lesihlalo kwiingxoxo zepalamente okanye zeekomiti ixesha elingegqithanga kwiintsuku ezili 15.

33. IKomiti yokuZiphatha kunye/okanye yeZibheno inika ingxelo kwiNdlu

(1) IKomiti yokuZiphatha okanye iKomiti yeZibheno, njengoko kuya kube kunjalo, iya kuthi inike ingxelo ngezizathu nezizathu nezizathu zayo malunga nezohlwayo, ukuba zikho, kwiNdlu.

(2) Ukuba iKomiti yokuZiphatha kunye/okanye iKomiti yeZibheno iphakamisa isohlwayo, iNdlu iya kuthi mhlawumbi —

- (a) yamkele okanye ikhabe isincomo; okanye
- (b) iphindisele lo mba kwiKomiti nezizathu ukuze uqwalaselwe kwakhona.

(3) Ukuba iNdlu iyasamkela isincomo seKomiti yokuZiphatha kunye/okanye iKomiti yeZibheno, uSomlomo uya kuthi athathe amanyathelo ngeso sigqibo ngaphandle kokulibazisa.

34. Ukufikelela kulwazi

Ilungu okanye amalungu oluntu aya kuthi abe nokufikelela kulwazi ngemiba esele kugqityiwe ngayo yiKomiti yokuZiphatha okanye njengoo kumiselwe nguMgaqo-siseko weRiphabliki yoMzantsi Afrika, 1996, uMthetho wokuKhuthazwa kokuFikelela kuLwazi (uMthetho 2 ka 2000), okanye njengoko kuyalelwe nguwo nawuphi na omnye umthetho.

35. Jikelele

(1) Lo Mgaqo usenokulungiswa okanye kufakwe omnye endaweni yawo, namanani achazwe kuMgaqo ahlangahlengiswe, kumatyeli ngamatyeli ngokupapashwa kwiZaziso, *iMicimbi eza kwaNdlalwa neeNgxelo zeeKomiti* kwaye nokwamkelwa kopapasho ngesigqibo seNdlu.

(2) Lo Mgaqo ubizwa ngokuthi nguMgaqo wokuZiphatha waMalungu ePalamente yePhondo leNtshona Koloni, 2020 yaye uqala ukusebenza ngomhla ogqitywe kwisaziso kwiGazethi yePhondo.