

**REPUBLIC OF SOUTH AFRICA
REPUBLIEK VAN SUID-AFRIKA**

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THE PRESIDENCY

No. 178 19 February 2009

It is hereby notified that the President has assented to the following Act, which is hereby published for general information:—

No. 52 of 2008: Mandating Procedures of Provinces Act, 2008.

OFISI YA MOPRESIDENTE

No. 178 19 February 2009

Mona ho tsebiswa hore Mopresidente o amohetse Molao ona o latelang, o phatlalatswang mona bakeng sa tsebisiso ya setjhaba ka bophara:—

No. 52 ya 2008: Molao wa ho Fana ka Matlataelo a Mekgwatsamaiso ya Diprofense, 2008.

*(English text signed by the President.)
(Assented to 18 February 2009.)*

ACT

To provide for a uniform procedure in terms of which provincial legislatures confer authority on their delegations to cast votes on their behalf, as required by section 65(2) of the Constitution; and to provide for matters incidental thereto.

PREAMBLE

WHEREAS Parliament and the provincial legislatures of the Republic of South Africa recognise the need for uniformity amongst the provinces in respect of the procedure for the conferring of authority by a provincial legislature on its delegation to the National Council of Provinces to cast a vote on behalf of that legislature;

AND RECOGNISING the need to enact the legislation envisaged by section 65(2) of the Constitution,

BE IT THEREFORE ENACTED by the Parliament of the Republic of South Africa, as follows:—

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*(English text signed by the President.)
(Assented to 18 February 2009.)*

MOLAO

Ho nehelana ka mokgwatsamaiso o tshwanang ho ya ka moo makgotla a ketsamelao a diprovense a fanang ka matla ho moifo wa ona ho vouta lebitsong la ona, jwalo ka ha ho hlokeha ho karolo 65(2) ya Molaotheo; le ho lokisetsa mabaka a tshohanyetso.

SELELEKELA

LE HA Palamente le makgotla a ketsamelao a diprovense a Rephaboliki ya Afrika Borwa a ela hloko tlhokeho ya tshwano mahareng a diprovense mabapi le mekgwatsamaiso ya ho fana ka matla ke makgotla a ketsamelao a diprovense ho hoemedi ba ona Lekgotleng la Naha la Diprovense ho vouta lebitsong la lekgotla leo la ketsamolao;

LE HO ELELLWA tlhokeho ya ho etsa molao o lebellletsweng ho ya ka karolo 65(2) ya Molaotheo,

HA E SE E ENTSWE MOLAO ke Palamente ya Afrika Borwa, ka mokgawa o latelang:—

DIKAHARE TSA MOLAO

KGAOLO 1

DITLHALOSO LE TSHEBEDISO

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1. Ditlhaloso
2. Tshebediso

KGAOLO 2

DITLHOKO MABAPI LE MATLATAELO A BOFELO LE HO VOUTA LEBITSONG LA LEKGOTLA LA KETSAMELAO LA PROVENSE

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5. Matlataelo a ditherisano
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SCHEDULE 2**FORMAT FOR FINAL MANDATE****CHAPTER 1****DEFINITIONS AND APPLICATION****Definitions** 10

1. In this Act, unless the context otherwise indicates—
- “**Constitution**” means the Constitution of the Republic of South Africa, 1996;
- “**final mandate**” means the conferral of authority by a provincial legislature on its provincial delegation to the NCOP to cast a vote when the relevant NCOP select committee considers a Bill or prior to voting thereon in an NCOP Plenary; 15
- “**head of the delegation**” means a person referred to in section 60(3) of the Constitution;
- “**legislative mandate**” means the conferral of authority by a provincial legislature on its provincial delegation to the NCOP to cast a vote on a question contemplated in— 20
- (a) section 64 of the Constitution;
- (b) section 74 of the Constitution;
- (c) section 76 of the Constitution; or
- (d) section 78 of the Constitution;
- “**mandate**” means the conferral of authority by a provincial legislature on its provincial delegation to the NCOP to cast a vote in compliance with the requirements under section 3; 25
- “**NCOP**” means the National Council of Provinces referred to in section 42(1)(b) of the Constitution;
- “**NCOP plenary**” means an ordinary sitting of the NCOP; 30
- “**NCOP select committee**” means a select committee established in terms of Rule 151(1) of the Rules of the NCOP;
- “**negotiating mandate**” means the conferral of authority by a committee designated by a provincial legislature on its provincial delegation to the NCOP of parameters for negotiation when the relevant NCOP select committee considers a Bill after tabling and before consideration of final mandates, and may include proposed amendments to the Bill; 35
- “**provincial delegation to the NCOP**” means a delegation referred to in section 60(1) of the Constitution;
- “**provincial legislature**” means a provincial legislature contemplated in section 104 of the Constitution; 40
- “**voting mandate**” means the conferral of authority by a provincial legislature on the head of its provincial delegation to the NCOP to cast a vote on a Bill in an NCOP plenary.

Application 45

2. This Act applies to all provincial legislatures and the NCOP.

KGAOLO 4**KAKARETSO**

9. Sehlooho se sekgutshwanyane le tshimollo

LENANETSHEBETSO 1**MOKGWA WA MATLATAELO A DITHERISANO**

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LENANETSHEBETSO 2**MOKGWA WA MATLATAELO A HO QETELA****KGAOLO 1****DITLHALOSO LE TSHEBEDISO****Ditlhaloso**

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- I. Molaong ona, ntle feela ebang moelelo o hlalosa ka tsela e nngwe—
- “**Molaotheo**” o bolela Molaotheo wa Rephaboliki ya Afrika Borwa, 1996;
- “**matlataelo a ho qetela**” a bolela ho fuwa matla ke lekgotla la ketsamelao la provense ho boemedi ba lona Lekgotleng la Naha la Diprovence ho vouta ha komiti ya tshebetso e lokelang ya NCOP e lototha Bili kapa pele ho voutwa Sebokeng sa NCOP; 15
- “**hlooho ya boemedi**” e bolela motho eo ho buuwang ka yena ho karolo 60(3) ya Molaotheo;
- “**matlataelo a lekgotla la ketsamelao**” a bolela ho fuwa matla ke lekgotla la ketsamelao la provense ho boemedi ba lona ho NCOP ho vouta potsong e ntseng e tshohlwa ho ya ka— 20
- (a) karolo ya 64 ya Molaotheo;
- (b) karolo ya 74 ya Molaotheo;
- (c) karolo ya 76 ya Molaotheo;
- (d) karolo ya 78 ya Molaotheo; kapa 25
- “**matlataelo**” e bolela ho fana ka matla ke lekgotla la ketsamolao la provense ho boemedi ba lona ba provense ho NCOP ho vouta e le ho tsamaisana le ditlhoko tse ka tlasa karolo 3.
- “**NCOP**” e bolela Lekgotla la Naha la Diprovence le hlalotswang ho karolo 42(1)(b) ya Molaotheo; 30
- “**Kopano ya NCOP**” e bolela kopano e tlwaelehileng ya NCOP;
- “**Komiti ya tshebetso ya NCOP**” e bolela komiti e kgethilweng e thehilweng le ho thehwa ho ya ka Molawana 151(1) wa Molaotheo ya NCOP;
- “**matlataelo a ditherisano**” e bolela ho fuwa matla ke komiti e hlophilweng ke lekgotla la ketsamolao la provense ho boemedi ba provense ho NCOP ka meedi eo e sa lokelang ho e tlola ya ditherisano nakong eo komiti ya tshebetso e amehang ya NCOP e sekasekang Bili kamora hore e hlalotsweng le pele ho tekodiso ya matlataelo a ho qetela, ebile e ka nna ya kenyelletsa ditokiso tse sisintsweng ho Bili; 35
- “**Boemedi ba provense ho NCOP**” e bolela boemedi ho hlalotswang ho karolo 60(1) ya Molaotheo; 40
- “**lekgotla la ketsamelao la provense**” e bolela ntle ya lekgotla la ketsamolao la provense e hlalotswang ho karolo 104 ya Molaotheo;
- “**matlataelo a ho vouta**” e bolela ho fuwa matla ke lekgotla la ketsamolao la provense ho moetsapele wa boemedi ba yona ba provense ho NCOP ho voutela Bili kopanong ya NCOP. 45

Tshebediso

2. Molao ona o sebetsa ho makgotla ohle a ketsamelao a diprovence le ho NCOP.

CHAPTER 2**REQUIREMENTS IN RESPECT OF FINAL MANDATES AND VOTING ON BEHALF OF PROVINCIAL LEGISLATURE****Requirements in respect of final mandates**

3. Every final mandate required in terms of this Act must be on the letterhead of the provincial legislature and must— 5
- (a) indicate the name and number of the Bill being voted on;
 - (b) indicate whether the provincial legislature votes in favour of or against, or abstains from voting on, the Bill;
 - (c) contain the signature of the Speaker or of a person designated by the Speaker to preside over that specific Bill; 10
 - (d) be addressed to the Chairperson of the NCOP or a person designated by the Chairperson of the NCOP; and
 - (e) follow the format prescribed in Schedule 2.

Voting on behalf of provincial legislature 15

4. A Premier of a province, or a delegate of a provincial delegation to the NCOP designated by the Premier, must cast a vote on behalf of a provincial legislature.

CHAPTER 3**PROCEDURES IN RESPECT OF MANDATES****Negotiating mandates** 20

5. A committee designated by a provincial legislature must in accordance with the format prescribed in Schedule 1 confer authority on its provincial delegation to the NCOP of parameters for negotiation when the relevant NCOP select committee considers a Bill after tabling and before consideration of final mandates, and may include proposed amendments to the Bill. 25

Final mandates

6. A provincial legislature must confer authority on its provincial delegation to the NCOP to cast a vote when the relevant NCOP select committee considers a Bill prior to voting thereon in an NCOP plenary.

Legislative mandates requiring both negotiating and final mandates 30

7. Legislative (negotiating and final) mandates are required in respect of a Bill referred to—
- (a) in section 74(1)(b), (2)(b), (3)(b) and (8) of the Constitution; and
 - (b) in section 76 of the Constitution.

Voting mandates 35

8. (1) A provincial legislature must confer the authority on the head of the provincial delegation to the NCOP, or a delegate designated by the head of the delegation, to cast a vote in an NCOP plenary.
- (2) If no matter arises from the deliberations of the NCOP select committee when considering final mandates which may necessitate consideration by a provincial legislature, the provincial delegation to the NCOP must table its province's final mandate in the NCOP plenary as that province's voting mandate. 40

KGAOLO 2**DITLHOKO MABAPI LE MATLATAELO A HO QETELA LE HO VOUTA
LEBITSONG LA LEKGOTLA LA KETSAMELAO LA PROVENSE****Ditlhoko mabapi le matlataelo a ho qetela**

3. Matla afe le afe a hlokehang ho ya ka Molao ona a tlameha ho ngolwa ho pampiring e nang le letshwao la boitsebahatso la lekgotla la ketsamolao la provense mme a tlameha ho— 5
- (a) hontsha lebitso le nomoro ya Bili e voutelwang;
 - (b) hontsha hore ekaba lekgotla la ketsamolao la provense le voutela kapa le kgahlanong, kapa le a ikgula ho voutela Bili; 10
 - (c) e na le motekeno wa Sepikara kapa motho ya hlophilweng ke Sepikara ho laola kopano ya Bili eo;
 - (d) e lebisa ho Modulasetulo wa NCOP kapa motho ya hlophilweng ke Modulasetulo wa NCOP; le
 - (e) latela mokgwa o hlahositsweng ho Lenanetshebetso 2. 15

Ho vouta lebitsong la lekgotla la ketsamelao la provense

4. Tonakgolo ya provense, kapa moemedi wa provense ho NCOP ya hlophilweng ke Tonakgolo, o tlamehile ho vouta lebitsong la lekgotla la ketsamelao.

KAROLO 3**MEKGWATSAMAISO MABAPI LE MATLATAELO 20****Matlataelo a ditherisano**

5. Komiti e hlophilweng ke lekgotla la ketsamelao la provense e tlamehile hore ho ya ka mokgwa o hlahositsweng ho Lenanetshebetso 1, e fane ka matla ho boemedi ha yona ba provense ho NCOP ka meedi ya ditherisano ha komiti ya tshebetso ya NCOP e amehang e sekaseka Bili kamora hore e hlahiswe le pele ho rerisanwa ka matlataelo a ho qetela, mme ho ka kenyelletswa ditlahiso tsa ditokiso tsa Bili. 25

Matlataelo a bofelo

6. Lekgotla la ketsamelao la provense le tlamehile ho fana ka matlataelo ho boemedi ba yona ba provense ho NCOP ho vouta ha komiti ya tshebetso ya NCOP e sekaseka Bili pele e voutelwa sebokeng sa NCOP. 30

Matlataelo a makgotla a ketsamelao a hlokang matlataelo a ditherisano le a ho qetela

7. Matlataelo a makgotla a ketsamelao (a ditherisano le a ho qetela) a hlokeha mabapi le Bili e boletsweng— 35
- (a) dikarolong tsa 74(1)(b), (2)(b), (3)(b) le (8) tsa Molaotheo; le
 - (b) karolong 76 ya Molaotheo.

Matlataelo a ho vouta

8. (1) Lekgotla la ketsamelao la provense le tlamehile ho fana ka matla ho hlooho ya boemedi ba provense ho NCOP, kapa moemedi ya beilweng ke hlooho ya moifo ho vouta kopanong ya NCOP. 40

(2) Ebang ho se na ditaba tse hlahellang dipuisanong ha komiti ya tshebetso ya NCOP e sekaseka matlataelo a ho qetela a ka hlokang tshkatsheko ke lekgotla la ketsamelao la provense, boemedi ba provense ho NCOP o tlamehile o hlahise matlataelo a bofelo a provense sebokeng sa merero sa NCOP jwalo ka ha e le matlataelo ao e a fuweng a ho vouta. 45

CHAPTER 4**GENERAL****Short title and commencement**

9. This Act is called the Mandating Procedures of Provinces Act, 2008, and comes into operation on a date fixed by the President by proclamation in the *Gazette*. 5

KGAOLO 4**KAKARETSO****Sehlooho se segutshwanyane le qalo**

9. Molao ona o bitswa Molao wa ho Fana ka Matlataelo a Mekgwatsamaiso ya Diprofense, 2008, mme e kena tshehetsong ka letsatsi le behilweng ke Mopresidente ka ho o phatlalatsa koranteng ya mmuso e bitswang *Gazette*. 5

SCHEDULE 1

FORMAT FOR NEGOTIATING MANDATE

[Section 5]

OFFICIAL LETTERHEAD OF THE PROVINCIAL LEGISLATURE	5	
To: <u>[The Chairperson of the Select Committee]</u>		
Name of Bill: _____		
Number of Bill: _____	10	
Date of deliberation: _____		
Vote of legislature: _____	15	
[Indicate whether the committee designated by the provincial legislature votes in favour, against or abstains from voting on the Bill, and amendments, if any]		
_____ Signature	_____ Date	20
<u>[Signature of the chairperson of the committee designated by the provincial legislature]</u>		

MOLAO WA HO FANA KA MATLATAELO A
MEKGWATSAMAISO YA DIPROFENSE, 2008

Act No. 52, 2008

LENANETSHEBETSO 1

MOFUTA WA MATLATAELO A DITHERISANO

[Karolo 5]

**PAMPIRI YA SEMMUSO E NANG LE LETSHWAO LA
BOITSEBAHATSO YA LEKGOTLA LA KETSAMELAO LA PROVENSE**

5

Ho: [Modulasetulo wa Komiti e Tshebetso]

Lebitso la Bili/potso: _____

Nomoro ya Bili/potso: _____

Letsatsi la tshekatsheko: _____

Voutu ya lekgotla la ketsamelao: _____
[Bontsha hore komiti e hlophilweng ke lekgotla la ketsamelao la provense e
voutela. e kgahlanong kapa e ikgula ho voutela Bili, le ditokiso, ebang di le
teng/potso]

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Motekeno

Mohla

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[Motekeno wa modulasetulo wa komiti e hlophuweng ke lekgotla la ket-
samelao la provense]

SCHEDULE 2

FORMAT FOR FINAL MANDATE

[Section 3]

OFFICIAL LETTERHEAD OF THE PROVINCIAL LEGISLATURE	5
To: <u>[The Chairperson of the NCOP or a person designated by the Chairperson of the NCOP]</u>	
Name of Bill: _____	10
Number of Bill: _____	
Date of deliberation: _____	
Vote of legislature: _____	15
[Indicate whether the provincial legislature votes in favour, against or abstains from voting on the Bill]	
_____	20
Signature	Date
<u>[Signature of Speaker or person designated by Speaker to preside in House on Bill]</u>	

MOLAO WA HO FANA KA MATLATAELO A
MEKGWATSAMAISO YA DIPROFENSE, 2008

Act No. 52, 2008

LENANETSHEBETSO 2

MOFUTA WA MATLATAELO A HO QETELA

[Karolo 3]

**PAMPIRI YA SEMMUSO E NANG LE LETSHWAO LA
BOITSEBAHATSO YA LEKGOTLA LA KETSAMELAO LA PROVENSE**

5

Ho: [Modulasetulo wa Komiti ya NCOP kapa motho ya hlophilweng ke
Modulasetulo wa NCOP]

Lebitso la Bili/potso: _____

Nomoro ya Bili/potso: _____

Letsatsi la tshekatsheko: _____

10

Voutu ya ketsamelao: _____

[Bontsha hore ebe lekgotla la ketsamelao la profense le voutela, le kgahlanong
kapa le ikgula ho voutela Bili/potso.]

Motekeno

Mohla

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[Motekeno wa Spikara kapa motho ya hlophilweng ke Spikara ho ba modu-
lasetulo ka Ntlong tshekatshekong ya Bili/potso]