

Free State, South Africa

Powers, Privileges and Immunities of the Free State Provincial Legislature Act, 2009

Act 7 of 2009

Legislation as at 16 October 2009

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Powers, Privileges and Immunities of the Free State Provincial Legislature Act, 2009

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Free State South Africa

Powers, Privileges and Immunities of the Free State Provincial Legislature Act, 2009 Act 7 of 2009

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includes any amendments published up to 25 March 2024.]*

(English text assented to and signed by the Premier.)

ACT

To define and declare certain powers, privileges and immunities of the Provincial Legislature and members of the Provincial Legislature; to repeal certain obsolete legislation; and to provide for incidental matters.

BE IT ENACTED by the Provincial Legislature of the Free State, as follows:-

1. Definitions

In this Act, unless the context indicates otherwise -

“**committee**” means a committee or subcommittee consisting of members and established by the standing rules or in terms of the standing rules or legislation;

“**House**” means the legislature meeting in a plenary sitting;

“**member**” means a woman or a man elected as a member of the Provincial Legislature in terms of section 105 of the [Constitution](#);

“**Free State Provincial Legislature**” means the legislature referred to in section 104 of the [Constitution](#);

“**Secretary**” means the Secretary to the Provincial Legislature;

“**sitting**” means the period when the House meets in plenary;

“**Speaker**” means the Speaker of the Provincial Legislature;

“**standing rules**” means the rules made by the Provincial Legislature;

“**the Constitution**” means the [Constitution of the Republic of South Africa, 1996](#).

2. Summoning of witnesses

(1) A committee may -

- (a) summons any person to appear before it to give evidence on oath or affirmation, or to produce documents; or
- (b) requite any person or provincial institution to report to it.

- (2) A summons in terms of subsection (1) or section 115(a) of the [Constitution](#), to appear before the House or committee to give evidence or to produce documents must be issued by the Secretary on the instructions of -
 - (a) the Speaker; or
 - (b) the chairperson of the committee concerned, acting in accordance with a resolution of the committee and with the concurrence of the Speaker.
- (3) The summons must state -
 - (a) the name of the person summonsed;
 - (b) the name or designation of the person who must serve the summons;
 - (c) the time, place and venue at which the person summonsed is required to appear;
 - (d) the subject of the enquiry;
 - (e) the purpose for which the evidence of that person is required; and
 - (f) a description of the document, if any, which that person is required to produce.
- (4) The summons must be served by the sheriff, or by a person designated by the Secretary, by delivering a copy of the summons -
 - (a) to the person mentioned in the summons; or
 - (b) at that person's usual or last known place of residence or of employment or business, to a person apparently over the age of 18 years and apparently residing or employed there.
- (5) A return by the person who served the summons that service thereof has been effected in accordance with subsection (4) is *prima facie* proof of that service.
- (6) A person summonsed in terms of this section or requested by the House or committee to attend a meeting of the House or committee, is entitled to be paid an amount for his or her expenses, as approved by the Speaker in accordance with the standing rules.

3. Examination of witnesses

When the House or committee requires that anything be verified or otherwise ascertained by the oral examination of a witness, the person presiding at the enquiry may -

- (a) call upon and administer an oath to, or accept an affirmation from, any person present at the enquiry who was or could have been summoned in terms of [section 2](#); and
- (b) examine that person, or request the person to produce any document in the person's possession or custody or under his or her control which may have a bearing on the subject of the enquiry, subject to any limitation provided for in the standing rules with regard to the type of subject matter about which a witness may be questioned or the type of document that a witness may be requested to produce.

4. Privilege of witnesses

- (1) Subject to subsection (2), the law regarding privilege as applicable to a witness summonsed to give evidence or to produce a document before the High Court of South Africa applies to the examination of a person in terms of [section 3](#).
- (2) A person who is being examined under oath or affirmation in terms of [section 3](#) may be required to answer any question put to him or her in connection with the subject of the enquiry, and to produce any document that he or she is requested to produce under that section, despite the fact that the answer or the document would incriminate him or her or would tend to expose him or her to criminal or civil proceedings, or damages.

- (3) Evidence given under oath or affirmation by a person before the House or committee may not be used against that person in any court or place outside the Provincial Legislature, except in a charge contemplated in section 5(1)(c) or 5(2)(d) or (e).

5. Offences relating to witnesses

- (1) A person who -
- (a) has been duly summonsed in terms of [section 2](#) and who fails, without sufficient cause -
 - (i) to attend at the time and place specified in the summons; or
 - (ii) to remain in attendance until excused from further attendance by the person presiding at the enquiry;
 - (b) when called upon under [section 3\(a\)](#), refuses to be sworn in or to make an affirmation as a witness; or
 - (c) fails, without sufficient cause -
 - (i) to answer fully and satisfactorily all questions lawfully put to him or her under [section 3\(b\)](#); or
 - (ii) to produce any document in his or her possession or custody or under his or her control which he or she has been required to produce under [section 3\(b\)](#),

commits an offence and is liable to a fine or to imprisonment for a period not exceeding 12 months or to both the fine and the imprisonment.

- (2) A person who -
- (a) threatens or obstructs another person in respect of evidence to be given before the House or committee;
 - (b) induces another person-
 - (i) to refrain from giving evidence to or producing a document before the House or committee; or
 - (ii) to give false evidence before the House or committee;
 - (c) assaults or penalizes or threatens another person, or deprives that person of any benefit, on account of the giving or proposed giving of evidence before a House or committee;
 - (d) with intent to deceive the House or committee, produces to the House or committee any false, untrue, fabricated or falsified document; or
 - (e) whether or not during examination under [section 3](#), willfully furnishes the House or committee with information, or makes a statement before it, which is false or misleading,

commits an offence and is liable to a fine or to imprisonment for a period not exceeding two years or to both the fine and imprisonment.

- (3) Subject to section 13(b) of the Powers, Privileges and Immunities of Parliament and Provincial Legislatures Act, 2004 ([Act No. 4 of 2004](#)), subsections (1) and (2) do not apply to a member.

6. Repeal of laws

The laws mentioned in the Schedule are repealed to the extent specified in the third column.

7. Short title

This Act is called the Powers, Privileges and Immunities of the Free State Provincial Legislature Act, 2009.

Schedule**Laws repealed (Section 6)**

No. and year of law	Short title	Extend of repeal
Act No. 3 of 1996	Powers, Privileges and Immunities of the Provincial Legislature Act, 1996	The whole
Act No. 7 of 1996	Powers, Privileges and Immunities of the Provincial Legislature Amendment Act, 1996	The whole