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No. 8

**GENERAL NOTICES · ALGEMENE KENNISGEWINGS**

**NOTICE 356 OF 1995**

**PAYMENT OF MEMBERS OF THE PROVINCIAL LEGISLATURE BILL, 1994**

In terms of rule 130 (1) of the Standing Rules of the Provincial Legislature, the Payment of Members of the Provincial Legislature Bill, 1994, as well as a memorandum in terms of rule 132, is hereby published for general information.

Any person or organisation wishing to comment on the said Bill may lodge his, her or its written comment with me before 13 February 1995—

(a) *by posting it to the following address:*

The Secretary  
Gauteng Legislature  
Private Bag X52  
JOHANNESBURG, 2000; or

(b) *by handing it in at:*

Reception Gate: City Hall  
Gauteng Legislature  
JOHANNESBURG  
(Ask for the Secretary of the Legislature)

**S. NKOSI,**

Secretary: Gauteng Legislature.

**KENNISGEWING 356 VAN 1995**

**WETSONTWERP OP DIE BETALING VAN LEDE VAN DIE PROVINSIALE WETGEWER, 1994**

Kragtens reël 130 (1) van die Staande Reëls van die Provinciale Wetgewer, word die Wetsontwerp op die Betaling van Lede van die Provinciale Wetgewer, 1994, asook 'n memorandum kragtens reël 132, hierby vir algemene inligting gepubliseer.

Enige persoon of organisasie wat wil kommentaar lewer op genoemde Wetsontwerp kan sy of haar geskrewe kommentaar by my indien voor 13 Februarie 1995—

(a) *deur dit aan die volgende adres te pos:*

Die Sekretaris  
Gauteng Wetgewer  
Privaatsak X52  
JOHANNESBURG, 2000; of

(b) *deur dit in te handig by:*

Ontvangsingang: Stadsaal  
Gauteng Wetgewer  
JOHANNESBURG  
(Vra vir die Sekretaris van die Wetgewer)

**S. NKOSI,**

Sekretaris: Gauteng Wetgewer.

**BILL****To provide for the payment of remuneration and allowances to members of the Provincial Legislature and for matters connected therewith.**

BE IT ENACTED by the Provincial Legislature of the Province of Pretoria-Witwatersrand-Vereeniging, as follows:

**Definitions**

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

“committee” means a committee consisting of members of the Provincial Legislature;

“Constitution” means the Constitution of the Republic of South Africa, 1993 (Act No. 200 of 1993);

“office bearer” means an office-bearer of the Provincial Legislature determined by the Premier under section 2 (1), and “office” has a corresponding meaning;

“Premier” means the Premier of the Province acting in terms of section 147 (2) of the Constitution;

“Province” means the Province of Pretoria-Witwatersrand-Vereeniging;

“Provincial Legislature” means the Provincial Legislature of the Province;

“Secretary” means the Secretary or provisional secretary of the Provincial Legislature appointed in terms of section 143 of the Constitution;

“Speaker” means the Speaker of the Provincial Legislature elected in terms of section 131 (1) of the Constitution.

**Remuneration and allowances of members and office-bearers**

2. (1) (a) Members of the Provincial Legislature and such office-bearers as may be determined by the Premier by proclamation in the *Provincial Gazette*, shall be paid such remuneration and allowances as may, in respect of such members and each such office-bearer, be so prescribed by the Premier, subject to the recommendations of the Commission on Remuneration of Representatives contemplated in section 207 of the Constitution.

(b) A proclamation contemplated in paragraph (a) may be issued with retrospective effect from the date intended in the recommendation contemplated in that paragraph.

(2) Notwithstanding subsection (1)—

(a) an office-bearer who holds different offices at the same time shall be entitled to the prescribed remuneration and allowances in respect of one such offices only; and

(b) no remuneration or allowance shall be payable or due by virtue of this Act to any member of the Provincial Legislature or office-bearer who is a member of the Executive Council of the Province.

(3) (a) Paragraph (d) of section 8 (1) of the Income Tax Act, 1962 (Act No. 58 of 1962), shall apply to such portion of the remuneration of a member of the Provincial Legislature or an office-bearer as the Premier may determine in the proclamation contemplated in subsection (1), as if that portion were an allowance granted to the member or office-bearer as contemplated in that paragraph.

(b) Different portions may be determined under paragraph (a) in respect of different amounts of remuneration.

## WETSONTWERP

### **Om voorsiening te maak vir die betaling van besoldiging en toelaes aan lede van die Provinciale Wetgewer en vir aangeleenthede wat daarmee in verband staan.**

DAAR WORD BEPAAL deur die Provinciale Wetgewer van die provinsie Pretoria-Witwatersrand-Vereeniging, soos volg:

#### **Woordomskrywing**

1. In hierdie Wet, tensy uit die samehang anders blyk, beteken—

“ampsdraer” 'n ampsdraer van die Provinciale Wetgewer deur die Premier bepaal kragtens artikel 2 (1), en het “amp” 'n ooreenstemmende betekenis;

“Grondwet” die Grondwet van die Republiek van Suid-Afrika, 1993 (Wet No. 200 van 1993);

“komitee” 'n komitee wat uit lede van die Provinciale Wetgewer bestaan;

“Premier” die Premier van die Provincie handelende ingevolge artikel 147 (2) van die Grondwet;

“Provinsie” die provinsie Pretoria-Witwatersrand-Vereeniging;

“Provinciale Wetgewer” die Provinciale Wetgewer van die Provinsie;

“Sekretaris” die Sekretaris of tussentydse sekretaris van die Provinciale Wetgewer aangestel ingevolge artikel 143 van die Grondwet;

“Speaker” die Speaker van die Provinciale Wetgewer verkies ingevolge artikel 131 (1) van die Grondwet.

#### **Besoldiging en toelaes van lede en ampsdraers**

2. (1) (a) Lede van die Provinciale Wetgewer en die ampsdraers wat die Premier by proklamasie in die *Provinciale Koerant* bepaal, word dié besoldiging en toelaes betaal wat aldus ten opsigte van sodanige lede en elke sodanige ampsdraer deur die Premier voorgeskryf word, onderworpe aan die aanbevelings van die Kommissie op Besoldiging van Verteenwoordigers beoog in artikel 207 van die Grondwet.

(b) 'n Proklamasie beoog in paragraaf (a) kan met terugwerkende krag vanaf die datum bedoel in die aanbeveling beoog in daardie paragraaf uitgevaardig word.

(2) Ondanks subartikel (1)—

(a) is 'n ampsdraer wat verskillende ampte gelyktydig beklee, geregtig op die voorgeskrewe besoldiging en toelaes ten opsigte van slegs een van daardie ampte; en

(b) is geen besoldiging of toelaes uit hoofde van hierdie Wet betaalbaar of verskuldig aan 'n lid van die Provinciale Wetgewer of 'n ampsdraer wat 'n lid van die Uitvoerende Raad van die Provinsie is nie.

(3) (a) Paragraaf (d) van artikel 8 (1) van die Inkomstebelastingwet, 1962 (Wet No. 58 van 1962), is op dié gedeelte van die besoldiging van 'n lid van die Provinciale Wetgewer of 'n ampsdraer wat die Premier in die proklamasie beoog in subartikel (1) bepaal van toepassing, asof daardie gedeelte 'n toelae was wat aan die lid of ampsdraer toegeken is soos in daardie paragraaf beoog.

(b) Verskillende gedeeltes kan kragtens paragraaf (a) ten opsigte van verskillende bedrae van besoldiging bepaal word.

**Deductions on account of absence**

3. (1) Subject to subsections (2) and (3), there shall be deducted from the amount payable by virtue of this Act to a member of the Provincial Legislature or office-bearer (excluding the Speaker), an amount of R100 for every day on which he or she has failed to attend a meeting—

- (a) of the Provincial Legislature; or
- (b) of a committee of which he or she is a member,

unless he or she during the course of that meeting has attended another meeting referred to in paragraph (a) or (b).

(2) For the purposes of subsection (1), a member of the Provincial Legislature or office-bearer shall not be regarded as having attended a meeting of a committee unless he or she reported at the meeting and remained in attendance until the adjournment of the meeting or was excused from further attendance by the chairperson of the committee before the adjournment.

(3) No deduction shall be made in terms of subsection (1) on account of the failure of a member of the Provincial Legislature or office bearer to attend any meeting referred to in that subsection, if his or her absence is due to—

- (a) his or her illness or court attendance in terms of a summons or subpoena of a competent court (except a summons to appear on a criminal charge upon which he or she is convicted);
- (b) the death or serious illness of his or her spouse or child, or any other good cause shown, and such absence is condoned by the Speaker;
- (c) his or her service in the National Defence Force, or in any other force or service established by or under a law, during a state of national defence; or
- (d) his or her leave approved in accordance with the rules and orders of the Provincial Legislature;

**Payment of remuneration and allowances**

4. (1) The Secretary shall pay to every member of the Provincial Legislature and office-bearer the remuneration and allowances to which he or she is entitled by virtue of this Act, after deduction of any amounts contemplated in section 3 and other authorized deductions, in monthly instalments, the first month to be reckoned—

- (a) in the case of a member designated in terms of item 16 of Schedule 2 to the Constitution, from the date of the publication of the list of names of representatives as contemplated in subitem (3) of the said item;
- (b) in the case of a member nominated in terms of section 133 (2), read with section 44 (2), of the Constitution to fill a vacancy, from the date on which the previous member vacated his or her seat in the Provincial Legislature or the date of receipt of the nomination by the Speaker, whichever is the later date; and
- (c) in the case of an office bearer, from the date on which he holds the office concerned.

### Aftrekkings weens afwesigheid

3. (1) Behoudens subartikels (2) en (3) word daar van die bedrag wat uit hoofde van hierdie Wet aan 'n lid van die Provinciale Wetgewer of 'n ampsdraer (uitgesonderd die Speaker) betaalbaar is, 'n bedrag van R100 afgetrek vir elke dag waarop hy of sy versuim het om 'n vergadering by te woon van—

- (a) die Provinciale Wetgewer; of
- (b) 'n komitee waarvan hy of sy 'n lid is,

tensy hy of sy gedurende die verloop van daardie vergadering 'n ander vergadering bedoel in paragraaf (a) of (b) bygewoon het.

(2) By die toepassing van subartikel (1) word 'n lid van die Provinciale Wetgewer of 'n ampsdraer nie beskou 'n vergadering van 'n komitee by te gewoon het nie, tensy hy of sy by die vergadering aangemeld het en tot die verdaging van die vergadering aanwesig gebly het of voor die verdaging deur die voorsitter van die komitee van verdere bywoning verskoon is.

(3) Geen aftrekking word ingevolge subartikel (1) gedoen nie weens die versuim van 'n lid van die Provinciale Wetgewer of 'n ampsdraer om enige vergadering bedoel in daardie subartikel by te woon, indien sy of haar afwesigheid te wye is aan—

- (a) sy of haar siekte of hof-bywoning ingevolge 'n dagvaarding of getuiedagvaarding van 'n bevoegde hof (behalwe 'n dagvaarding om te verskyn op 'n kriminiele aanklag waarop hy of sy skuldig bevind word);
- (b) die dood of ernstige siekte van sy of haar gade of kind, of enige ander goeie rede aangevoer, en sodanige afwesigheid deur die Speaker verskoon word;
- (c) sy of haar diens in die Nasionale Weermag, of in enige ander mag of diens by of kragtens 'n wet ingestel, gedurende 'n staat van nasionale verdediging; of
- (d) sy of haar verlof wat ooreenkomsdig die reëls en orders van die Provinciale Wetgewer goedgekeur is;

### Betaling van besoldiging en toelaes

4. (1) Die Sekretaris betaal aan elke lid van die Provinciale Wetgewer en ampsdraer die besoldiging en toelaes waarop hy of sy uit hoofde van hierdie Wet geregtig is, na aftrekking van enige bedrae beoog in artikel 3 en ander gemagtigde aftrekkings, in maandelikse paaiememente, en die eerste maand word gereken—

- (a) in die geval van 'n lid aangewys ingevolge item 16 van Bylae 2 by die Grondwet, vanaf die datum van die publikasie van die lys van name van verteenwoordigers soos beoog in subitem (3) van genoemde item;
- (b) in die geval van 'n lid genomineer ingevolge artikel 133 (2), gelees met artikel 44 (2) van die Grondwet om 'n vakature aan te vul, vanaf die datum waarop die vorige lid sy of haar setel in die Provinciale Wetgewer ontruim het of die datum van ontvangs deur die Speaker van die nominasie, watter datum ook al die laatste is; en
- (c) in die geval van 'n ampsdraer, vanaf die datum waarop hy die betrokke amp beklee.

(2) Notwithstanding subsection (1) (a), the first members of the Provincial Legislature designated in terms of item 16 of Schedule 2 to the Constitution in pursuance of the election on 27 April 1994, shall be entitled to the payment of the remuneration and allowances contemplated in this Act with effect from the said date.

### **Charge to Provincial Revenue Fund**

5. The amount payable in respect of remuneration and allowances by virtue of this Act shall be charged annually to the Provincial Revenue Fund, and the provisions of this section shall be deemed to be an appropriation of every such amount.

### **Transitional provisions**

6. (1) All amounts already paid by the Secretary to members of the Provincial Legislature and office bearers, as being remuneration and allowances contemplated in section 135 (4) of the Constitution, are hereby deemed to have been paid in accordance with this Act.

(2) Until such time as a proclamation is issued under section 2 (1), the remuneration and allowances according to which members of the Provincial Legislature and office bearers had been paid immediately before the commencement of this Act shall be deemed to be the remuneration and allowances payable to such members and office bearers by virtue of that section.

### **Short title and commencement**

7. This Act shall be called the **Payment of Members of the Provincial Legislature Act, 1994**, and shall be deemed to have come into operation on 27 April 1994.

## **MEMORANDUM IN TERMS OF RULE 132 ON THE PAYMENT OF MEMBERS OF THE PROVINCIAL LEGISLATURE BILL, 1994**

### **(i) Reasons for the Bill**

In terms of section 135 (4) of the Constitution of the Republic of South Africa, 1993 (Act No. 200 of 1993), such remuneration and allowances shall be paid to a member of the provincial legislature as may be prescribed by a law of the provincial legislature or determined under such a law. The reason for the Bill is therefore to regulate the remuneration and allowances of members of the provincial legislature.

### **(ii) Effects of the Bill**

It is not clear what the social impact of the Bill would be.

### **(iii) Environmental impact**

None.

### **(iv) Financial implications**

It will depend on the amounts determined by the Premier as remuneration and allowances.

### **(v) Comments**

The Bill has not been published for comments.

### **(vi) Clause-by-clause explanation**

The Bill is mainly based on the Payment of Members of Parliament Act, 1994 (Act No. 6 of 1994), and contains *inter alia* the following provisions:

(a) In clause 1 certain words are defined.

(2) Ondanks subartikel (1) (a), is die eerste lede van die Provinciale Wetgewer wat in opvolging van die verkiesing op 27 April 1994 ingevolge item 16 van Bylae 2 by die Grondwet aangewys is, sowel as die eerste ampsdraers, met ingang van genoemde datum geregtig op die betaling van die besoldiging en toelaes beoog in hierdie Wet.

### **Las teen Provinsiale Inkomstefonds**

5. Die bedrag wat ten opsigte van besoldiging en toelaes uit hoofde van hierdie Wet betaalbaar is, maak 'n jaarlikse las teen die Provinsiale Inkomstefonds uit, en die bepальings van hierdie artikel word geag 'n bewilliging van elke sodanige bedrag te wees.

### **Oorgangsbeplannings**

6. (1) Alle bedrae wat reeds deur die Sekretaris aan lede van die Provinciale Wetgewer en ampsdraers betaal is, as synde besoldiging en toelaes beoog in artikel 135 (4) van die Grondwet, word hierby geag ooreenkomsdig hierdie Wet betaal te wees.

(2) Tot tyd en wyl 'n proklamasie kragtens artikel 2 (1) uitgevaardig word, word die besoldiging en toelaes waarvolgens lede van die Provinciale Wetgewer en ampsdraers onmiddellik voor die inwerkingtreding van hierdie Wet betaal is, geag die besoldiging en toelaes te wees wat uit hoofde van daardie artikel aan sodanige lede en ampsdraers betaalbaar is.

### **Kort titel en inwerkingtreding**

7. Hierdie Wet heet die **Wet op die Betaling van Lede van die Provinciale Wetgewer, 1994**, en word geag op 27 April 1994 in werking te getree het.

## **MEMORANDUM INGEVOLGE REËL 132 OOR DIE WETSONTWERP OP DIE BETALING VAN LEDE VAN DIE PROVINSIALE WETGEWER, 1994**

### **(i) Redes vir die Wetsontwerp**

Ingevolge artikel 135 (4) van die Grondwet van die Republiek van Suid-Afrika, 1993 (Wet No. 200 van 1993), word aan 'n lid van die provinsiale wetgewer die besoldiging en toelaes betaal wat by 'n wet van die provinsiale wetgewer voorgeskryf, of kragtens so 'n wet bepaal, mag word. Die rede vir die Wetsontwerp is dus om die besoldiging en toelaes van lede van die provinsiale wetgewer te reël.

### **(ii) Effek van die Wetsontwerp**

Dit is nie duidelik wat die sosiale inslag van die Wetsontwerp sal wees nie.

### **(iii) Uitwerking op omgewing**

Geen.

### **(iv) Finansiële implikasies**

Dit sal afhang van die bedrae wat die Premier as besoldiging en toelaes bepaal.

### **(v) Kommentaar**

Die Wetsontwerp is nog nie vir kommentaar gepubliseer nie.

### **(vi) Klousule-vir-klousule-verduideliking**

Die Wetsontwerp is hoofsaaklik gebaseer op die Wet op die Betaling van Parlementslede, 1994 (Wet No. 6 van 1994), en bevat onder andere die volgende beplannings:

(a) In klousule 1 word sekere woorde omskryf.

- (b) Clause 2 provides that the Premier may, subject to the recommendations of the Commission on Remuneration of Representatives contemplated in section 207 of the Constitution, by Proclamation in the *Provincial Gazette* determine certain office-bearers, and prescribe the remuneration and allowances payable to such an office-bearer and another member of the provincial legislature.
  - (c) Clause 3 provides that there shall be deducted from the amount payable to a member or an office-bearer (excluding the Speaker), an amount of R100 for every day on which he or she failed to attend a meeting of the legislature or a committee, except in certain exceptional cases.
  - (d) Clause 4 further regulates the payment of the said remuneration and allowances.
  - (e) According to clause 5 the amounts payable in terms of the Bill, shall be deemed to be appropriated.
  - (f) By clause 6 all payments which have already been made, are deemed to have been made in terms of the Bill. In addition provision is made for the continued payment of the existing remuneration and allowances until such time as a proclamation is issued under section 2 (1).
  - (g) Clause 7 contains the short title and date of commencement.
- (vii) ***Other information deemed necessary by the member in charge of the Bill***

None.

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## NOTICE 357 OF 1995

### PROVINCIAL PUBLIC PROTECTOR BILL, 1994

In terms of rule 130 (1) of the Standing rules of the Provincial Legislature, the Provincial Public Protector Bill, 1994, as well as a memorandum in terms of rule 132 is hereby published for general information.

Any person or organisation wishing to comment on the said Bill may lodge his, her or its written comment with me before 13 February 1995—

(a) *by posting it to the following address:*

The Secretary  
Gauteng Legislature  
Private Bag X52  
JOHANNESBURG  
2000; or

(b) *by handing it in at:*

Reception Gate: City Hall  
Gauteng Legislature  
JOHANNESBURG  
(Ask for the Secretary of the  
Legislature)

**S. NKOSI,**

Secretary: Gauteng Legislature.

- (b) Klousule 2 bepaal dat die Premier, behoudens die aanbevelings van die Kommissie op Besoldiging van Verteenwoordigers beoog in artikel 207 van die Grondwet, by Proklamasie in die *Provinsiale Koerant* sekere ampsdraers kan bepaal, en die besoldiging en toelaes wat aan so 'n ampsdraer en 'n ander lid van die provinsiale wetgewer betaalbaar is, kan voorskryf.
- (c) Klousule 3 bepaal dat van die bedrag betaalbaar aan 'n lid of ampsdraer (uitgesonderd die Speaker) 'n bedrag van R100 afgetrek moet word vir elke dag waarop hy of sy versuim het om 'n vergadering van die wetgewer of 'n komitee by te woon, behalwe in sekere uitsonderingsgevalle.
- (d) Klousule 4 reël verder die uitbetaling van genoemde besoldiging en toelaes.
- (e) Volgens klousule 5 word die bedrae wat ingevolge die Wetsontwerp betaalbaar is, geag bewillig te wees.
- (f) By klousule 6 word alle uitbetalings wat reeds gedoen is, geag ooreenkomsdig die Wetsontwerp gedoen te wees. Daarbenewens word voorsiening gemaak vir die voortgesette betaling van die bestaande besoldiging en toelaes tot tyd en wyl 'n proklamasie kragtens artikel 2(1) uitgevaardig word.
- (g) Klousule 7 bevat die kort titel en datum van inwerkingtreding

**(vii) *Ander inligting wat die lid in bevel van die Wetsontwerp nodig ag***

Geen.

## KENNISGEWING 357 VAN 1995

### WETSONTWERP OP DIE PROVINSIALE OPENBARE BESKERMER, 1994

Kragtens reël 130 (1) van die Staande Reëls van die Provinsiale Wetgewer, word die Wetsontwerp op die Provinsiale Openbare Beskermer, 1994, asook 'n memorandum kragtens reël 132, hierby vir algemene inligting gepubliseer.

Enige persoon of organisasie wat wil kommentaar lewer op genoemde Wetsontwerp kan sy of haar geskrewe kommentaar by my indien voor 13 Februarie 1995—

(a) *deur dit aan die volgende adres te pos:*

Die Sekretaris  
Gauteng Wetgewer  
Privaatsak X52  
JOHANNESBURG  
2000; of

(b) *deur dit in te handig by:*

Ontvangsingang: Stadsaal  
Gauteng Wetgewer  
JOHANNESBURG  
(Vra vir die Sekretaris van die Wetgewer)

**S. NKOSI,**

Sekretaris: Gauteng Wetgewer.

**BILL**

**To establish the office of Provincial Public Protector; to provide for the appointment of a person to that office; to determine the functions and powers of the Provincial Public Protector; and to provide for matters connected therewith.**

BE IT ENACTED by the provincial legislature of the Province of Pretoria-Witwatersrand-Vereeniging, as follows:

**Definitions**

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

“Constitution” means the Constitution of the Republic of South Africa, 1993 (Act No. 200 of 1993);

“investigation” means an investigation contemplated in section 4 (1) (a);

“Premier” means the Premier of the Province acting in terms of section 147 (2) of the Constitution;

“Province” means the Province of Pretoria-Witwatersrand-Vereeniging;

“provincial legislature” means the provincial legislature of the Province;

“Provincial Service Commission” means the Provincial Service Commission for the Province contemplated in section 213 of the Constitution;

“public money” means—

- (a) Provincial money as defined in section 1 (1) of the Provincial Exchequer Act, 1994, received or held by an accounting officer for or on account of the Province;
- (b) revenue accruing to any statutory body as defined in section 1 (1) of the Provincial Exchequer Act, 1994, or body deemed to be a statutory body in terms of section 5 (3) of the Auditor-General Act, 1989 (Act No. 52 of 1989), which has been established or constituted by or under an Act of the Province, or any other law of which the administration has been assigned to the government of the Province in terms of section 235 (8) of the Constitution; and
- (c) all other moneys whatever received or held for, or on account of, a statutory body referred to in paragraph (b);

“Public Protector” means the Public Protector for the Republic contemplated in section 110 of the Constitution.

**Establishment and appointment**

2. (1) There shall be a Provincial Public Protector for the Province.
  - (2) The Provincial Public Protector shall be appointed in accordance with section 114 (3) of the Constitution.
  - (3) The Provincial Public Protector shall be a South African citizen who is a fit and proper person to hold such office, and who—
    - (a) is a Judge of the Supreme Court of South Africa; or
    - (b) is qualified to be admitted as an advocate and has, for a cumulative period of at least 10 years after having so qualified—
      - (i) practised as an advocate or an attorney; or

## WETSONTWERP

**Om die amp van Provinciale Openbare Beskermer in te stel; voorsiening te maak vir die aanstelling van iemand in daardie amp; die werksaamhede en bevoegdhede van die Provinciale Openbare Beskermer te bepaal; en voorsiening te maak vir aangeleenthede wat daarvan in verband staan.**

DAAR WORD BEPAAL deur die provinsiale wetgewer van die provinsie Pretoria-Witwatersrand-Vereeniging, soos volg:

### **Woordomskrywing**

1. In hierdie Wet, tensy uit die samehang anders blyk, beteken—

“**Grondwet**” die Grondwet van die Republiek van Suid-Afrika, 1993 (Wet No. 200 van 1993);

“**ondersoek**” ’n ondersoek beoog in artikel 4 (1) (a);

“**Openbare Beskermer**” die Openbare Beskermer vir die Republiek beoog in artikel 110 van die Grondwet;

“**openbare fondse**”—

(a) Provinciale geld soos omskryf in artikel 1 (1) van die Provinciale Skatkiswet, 1994, ontvang of gehou deur ’n rekenpligtige beampete vir of op rekening van die Provincie;

(b) inkomste wat enige statutêre liggam soos omskryf in artikel 1 (1) van die Provinciale Skatkiswet, 1994, of liggam wat geag word ’n statutêre liggam te wees ingevolge artikel 5 (3) van die Wet op die Ouditeur-generaal, 1989 (Wet No. 52 van 1989), wat ingestel is of saamgestel is by of kragtens ’n Wet van die Provincie of enige ander wet waarvan die uitvoering ingevolge artikel 235 (8) van die Grondwet aan die regering van die Provincie opgedra is, toeval; en

(c) alle ander gelde hoegenaamd wat vir of op rekening van ’n statutêre liggam bedoel in paragraaf (b), ontvang is of gehou word;

“**Premier**” die Premier van die Provincie handelende ingevolge artikel 147 (2) van die Grondwet;

“**Provincie**” die Provincie Pretoria-Witwatersrand-Vereeniging;

“**Provinciale Dienskommissie**” die Provinciale Dienskommissie van die Provincie beoog in artikel 213 van die Grondwet;

“**provinciale wetgewer**” die provinciale wetgewer van die Provincie.

### **Instelling en aanstelling**

2. (1) Daar is ’n Provinciale Openbare Beskermer vir die Provincie.

(2) Die Provinciale Openbare Beskermer word ooreenkomsdig artikel 114 (3) van die Grondwet aangestel.

(3) Die Provinciale Openbare Beskermer moet ’n Suid-Afrikaanse burger wees wat ’n gepaste en gesikte persoon is om so ’n amp te beklee, en wat—

(a) ’n Regter van die Hooggereghof van Suid-Afrika is;

(b) gekwalifiseerd is om as ’n advokaat toegelaat te word en wat, vir ’n same洛pende tydperk van minstens 10 jaar nadat hy of sy aldus gekwalifiseer het—

(i) as ’n advokaat of prokureur gepraktiseer het; of

- (ii) lectured in law at a university; or
  - (c) has specialised knowledge of, or experience for a period of at least 10 years in the administration of justice, public administration or public finance.
- (4) Unless the new constitutional text as defined in section 233 of the Constitution provides otherwise, the Provincial Public Protector shall hold office for a period of seven years.
- (5) (a) The remuneration and other terms and conditions of employment of the Provincial Public Protector shall be as determined by the Premier in consultation with the Provincial Service Commission, and such remuneration shall not be reduced, nor shall such terms and conditions be adversely altered, during his or her term of office.
- (b) The remuneration contemplated in paragraph (a) shall not be less than the salary of a Judge of the Supreme Court.
- (6) The Provincial Public Protector shall not perform remunerative work outside his or her official duties.
- (7) The Provincial Public Protector may be removed from office by the Premier, but only on the grounds of misbehaviour, incapacity or incompetence, determined by a committee of the whole House of the provincial legislature, and upon receipt of an address from the provincial legislature requesting such removal.
- (8) A Provincial Public Protector who is the subject of an investigation by a committee in terms of subsection (7), may be suspended by the Premier pending a decision in such investigation.
- (9) The provincial legislature may allow a Provincial Public Protector to vacate his or her office—
- (a) on account of continued ill-health; or
  - (b) on his or her request, which shall be addressed to the legislative at least three calendar months before the date he or she wishes to vacate the office.
- (10) Whenever the Provincial Public Protector is for any reason unable to perform his or her functions, or whenever that office is vacant, the most senior person appointed under section 8 (1) (a) shall act in that office.

### **Independence and impartiality**

3. (1) (a) The Provincial Public Protector and a person appointed, seconded or directed under section 8 shall be independent and impartial and shall exercise and perform his or her powers and functions in good faith and without fear, favour or bias, and subject only to the Constitution and the law.
- (b) (i) If the Provincial Public Protector or a person appointed, seconded or directed under section 8 has any financial interest, or any other interest which might preclude him or her from performing his or her functions in a fair, impartial or proper manner, in a matter being investigated under section 4 (1) (a), he or she shall disclose that interest and recuse him or her from the investigation.
- (ii) Any person who contravenes a provision of subparagraph (i) shall be guilty of an offence.
- (2) The Provincial Public Protector and the persons appointed, seconded or directed under section 8 shall have the immunities and privileges assigned to them by or under this Act in order to ensure the independent and impartial exercise and performance of their powers and functions.

- (ii) in die regte aan 'n universiteit gedoseer het; of
- (c) beskik oor gespesialiseerde kennis van, of ondervinding vir 'n tydperk van minstens 10 jaar in, dieregspleging, publieke administrasie of staatsfinansies.

(4) Tensy die nuwe grondwetlike teks soos omskryf in artikel 233 van die Grondwet anders bepaal, beklee die Provinciale Openbare Beskermer die amp vir 'n tydperk van sewe jaar.

(5) (a) Die besoldiging en ander bedinge en voorwaardes van diens van die Provinciale Openbare Beskermer word bepaal deur die Premier in oorelog met die Provinciale Dienskommissie, en sodanige besoldiging word nie verminder en sodanige bedinge en voorwaardes word nie nadelig verander gedurende sy of haar ampstermyne nie.

(b) Die besoldiging beoog in paragraaf (a) mag nie minder as die salaris van 'n Regter van die Hooggereghof wees nie.

(6) Die Provinciale Openbare Beskermer verrig nie besoldigde werk buite sy of haar ampspligte nie.

(7) Die Provinciale Openbare Beskermer kan deur die Premier van sy of haar amp ontheft word, maar slegs op grond van wangedrag, onvermoë of onbekwaamheid wat bepaal word deur 'n komitee van die hele Huis van die provinsiale wetgewer, en by ontvangs van 'n versoekskrif van die provinsiale wetgewer waarin sodanige ontheffing versoek word.

(8) 'n Provinciale Openbare Beskermer wat onderworpe aan 'n ondersoek deur 'n komitee ingevolge subartikel (7) is, kan deur die Premier geskors word hangende 'n beslissing in sodanige ondersoek.

(9) Die provinsiale wetgewer kan 'n Provinciale Openbare Beskermer toelaat om sy of haar amp neer te lê—

- (a) weens voortdurende swak gesondheid; of
- (b) op sy of haar versoek, wat minstens drie kalendermaande voor die datum waarop hy of sy die amp wil neerlê, aan die werkewer gerig moet word.

(10) Wanneer die Provinciale Openbare Beskermer om enige rede nie in staat is om sy of haar werksaamhede te verrig nie, of wanneer daardie amp vakant is, moet die mees senior persoon aangestel kragtens artikel 8 (1) (a) in daardie amp waarneem.

### **Onafhanklikheid en onpartydigheid**

3. (1) (a) Die Provinciale Openbare Beskermer en 'n persoon kragtens artikel 8 aangestel, gesekondeer of gelas is onafhanklik en onpartydig en oefen sy of haar bevoegdhede uit en verrig sy of haar werksaamhede in goeie trou en sonder vrees, guns of vooroordeel, en onderworpe slegs aan die Grondwet en die reg.

(b) (i) Indien die Provinciale Openbare Beskermer of 'n persoon kragtens artikel 8 aangestel, gesekondeer of gelas, in 'n aangeleentheid wat kragtens artikel 4 (1) (a) ondersoek word, 'n finansiële belang het, of 'n ander belang wat hom of haar kan verhinder om sy of haar werksaamhede op 'n billike, onpartydige en behoorlike wyse te verrig, moet hy of sy daardie belang openbaar en hom of haar aan die ondersoek onttrek.

(ii) Iemand wat 'n bepaling van subparagraaf (i) oortree, is skuldig aan 'n misdryf.

(2) Die Provinciale Openbare Beskermer en die persone kragtens artikel 8 aangestel, gesekondeer of gelas, het die immuniteit en voorregte wat aan hulle by of kragtens hierdie Wet verleen word ten einde die onafhanklike en onpartydige uitoefening en verrigting van hul bevoegdhede en werksaamhede te verseker.

(3) (a) No organ of state and no member or employee of an organ of state, nor any other person, shall interfere with the Provincial Public Protector or a person appointed, seconded or directed under section 8 in the exercise and performance of his or her powers and functions.

(b) Any person who contravenes a provision of paragraph (a) shall be guilty of an offence.

(4) All organs of state shall accord such assistance as may be reasonably required for the protection of the independence, impartiality, dignity and effectiveness of the Provincial Public Protector in the exercise and performance of his or her powers and functions.

### **Powers and functions**

**4.** (1) the Provincial Public Protector shall subject to section 114 (4) of the Constitution be competent—

- (a) to investigate, on his or her own initiative or on receipt of a complaint, any alleged—
  - (i) maladministration in connection with the affairs of government at provincial or local level, or in connection with the affairs of any institution in which the Province is the majority or controlling shareholder;
  - (ii) abuse or unjustifiable exercise of power or unfair, capricious, discourteous or other improper conduct or undue delay by a person performing a public function at provincial or local level, or performing a function connected with his or her employment at an institution contemplated in subparagraph (i);
  - (iii) improper or dishonest act, or omission or corruption, with respect to public money as defined in section 1;
  - (iv) improper or unlawful enrichment, or receipt of any improper advantage, or promise of such enrichment or advantage, by a person as a result of an act or omission in the public administration at provincial or local level or in connection with the affairs of government at provincial or local level or the affairs of an institution contemplated in subparagraph (i), or of a person performing a public function at provincial or local level or performing a function at such an institution;
  - (v) act or omission by a person in the employ of government at provincial or local level or an institution contemplated in subparagraph (i), or a person performing a public function at provincial or local level, which results in unlawful or improper prejudice to any other person; or
  - (vi) attempt to do anything referred to in subparagraphs (i) to (v).
- (b) to endeavour, in his or her sole discretion, to resolve any dispute or rectify any act or omission by—
  - (i) mediation, conciliation or negotiation;
  - (ii) advising, where necessary, any complaint regarding appropriate remedies; or
  - (iii) any other means that may be expedient in the circumstances; or

(3) (a) Geen staatsorgaan en geen lid of werknemer van 'n staatsorgaan en geen ander persoon mag die Provinciale Openbare Beskermer of 'n persoon kragtens artikel 8 aangestel, gesekondeer of gelas in die uitvoering en verrigting van sy of haar bevoegdhede en werksaamhede hinder nie.

(b) Iemand wat 'n bepaling van paragraaf (a) oortree, is skuldig aan 'n misdryf.

(4) Alle staatsorgane verleen die bystand wat redelikerwys vereis mag word vir die beskerming van die onafhanklikheid, onpartydigheid, waardigheid en doeltreffendheid van die Provinciale Openbare Beskermer in die uitvoering en verrigting van sy of haar bevoegdhede en werksaamhede.

### **Bevoegdhede en werksaamhede**

4. (1) Die Provinciale Openbare Beskermer is, behoudens artikel 114 (4) van die Grondwet, bevöeg om—

- (a) op eie initiatief of by ontvangs van 'n klagte, onderzoek te doen na enige beweerde—
  - (i) wanadministrasie in verband met regeringsaangeleenthede op provinciale of plaaslike vlak, of in verband met die aangeleenthede van enige instansie waarin die Provinsie die beherende of meerderheidsaandeelhouer is;
  - (ii) misbruik of ongeregverdige uitvoering van mag of onbillike, wispelтурige, onbeleefde of ander onbehoorlike optrede of onverskoonbare vertraging deur 'n persoon wat 'n openbare werksaamheid op provinciale of plaaslike vlak verrig of wat 'n werksaamheid verrig wat verband hou met sy of haar indiensneming by 'n instansie beoog in subparagraaf (i);
  - (iii) onbehoorlike of oneerlike handeling, of late of korupsie, ten opsigte van openbare fondse soos omskryf in artikel 1;
  - (iv) onbehoorlike of onregmatige verryking of ontvangs van enige onbehoorlike voordeel, of belofte van sodanige verryking of voordeel, deur 'n persoon as gevolg van 'n handeling of late in die staatsadministrasie op provinciale of plaaslike vlak of in verband met regeringsaangeleenthede op provinciale of plaaslike vlak of die sake van 'n instansie beoog in subparagraaf (i), of van 'n persoon wat 'n openbare werksaamheid op provinciale of plaaslike vlak verrig of 'n werksaamheid by sodanige instansie verrig;
  - (v) handeling of late deur 'n persoon in diens van die regering op provinciale of plaaslike vlak of 'n instansie beoog in subparagraaf (i), of 'n persoon wat 'n openbare werksaamheid op provinciale of plaaslike vlak verrig wat onregmatige of onbehoorlike benadeling vir enige ander persoon tot gevolg het; of
  - (vi) poging om enigiets te doen wat in subparagrawe (i) tot (v) bedoel word.
- (b) in sy of haar uitsluitlike diskresie te poog om enige disput op te los of enige handeling of late reg te stel—
  - (i) deur bemiddelling, versoening of onderhandeling;
  - (ii) deur enige klaer of klaagster, waar nodig, aangaande toepaslike remedies te adviseer; of
  - (iii) op enige ander wyse wat onder die omstandighede gesik mag wees; of

- (c) at any time prior to, during or after an investigation—
- (i) if he or she is of the opinion that the facts disclose the commission of an offence by any person, to bring the matter to the notice of the relevant authority charged with prosecutions; or
  - (ii) if he or she deems it advisable, to refer any matter which has a bearing on an investigation, to the appropriate public body or authority affected by it or to make an appropriate recommendation regarding the redress of the prejudice resulting therefrom or make any other appropriate recommendation he or she deems expedient to the affected public body or authority.

(2) Nothing in subsection (1) shall be construed as empowering the Provincial Public Protector to investigate the performance of judicial functions by any court of law.

### **Complaints**

5. (1) Any person may lodge a complaint with the Provincial Public Protector on any matter referred to in section 4 (1) (a)—

- (a) by means of an oral or written declaration under oath or after having made an affirmation specifying—
  - (i) the nature of the matter in question;
  - (ii) the grounds on which the complaint is based; and
  - (iii) all other relevant information known to the complainant; or
- (b) by such other means as the Provincial Public Protector may allow with a view to making his or her Office accessible to all persons.

(2) The staff at the Office of the Provincial Public Protector shall render the necessary assistance, free of charge, to any person in order to enable him or her to comply with subsection (1).

(3) The Provincial Public Protector may refuse to investigate a complaint lodged with him under subsection (1) if the person who was allegedly prejudiced—

- (a) is a public servant who has not exhausted all his or her legal remedies in terms of the Public Service Act, 1994 (Proclamation No. 103 of 1994); or
- (b) was so prejudiced as a result of an act or omission contemplated in section 4 (1) (a) (v), and has not exhausted all his or her legal remedies in connection with the matter.

### **Investigations**

6. (1) The Provincial Public Protector shall conduct an investigation under section 4 (1) (a) with due regard to the circumstances of each case, and shall for the purposes of such investigation, but subject to the provisions of the Constitution and the law, be competent to—

- (a) direct any person to submit an affidavit or affirmed declaration, to appear before him or her to give evidence or to produce any document or object in his or her possession or under his or her control which, in the opinion of the Provincial Public Protector, has a bearing on the matter being investigated, and may examine such person for that purpose;

- (c) te eniger tyd voor, gedurende of na 'n ondersoek—
- (i) indien hy of sy van oordeel is dat die feite die pleeg van 'n misdryf deur enige persoon openbaar, die aangeleentheid onder die aandag te bring van die betrokke gesag wat met vervolgings belas is; of
  - (ii) indien hy of sy dit raadsaam ag, 'n aangeleentheid wat op 'n ondersoek betrekking het na die gepaste openbare liggaam of gesag wat daardeur geraak word, te verwys, of om 'n gepaste aanbeveling aangaande die herstel van die nadeel wat daaruit voortvloeи te doen, of enige ander gepaste aanbeveling wat hy of sy doenlik ag aan die betrokke openbare liggaam of gesag te doen.

(2) Niks in subartikel (1) word uitgelê as sou dit die Provinciale Openbare Beskermer magtig om die verrigtinge deur enige gereghof van regspreekende werkshede te ondersoek nie.

### Klagtes

5. (1) Enige persoon kan 'n klagte by die Provinciale Openbare Beskermer indien oor 'n aangeleentheid bedoel in artikel 4 (1) (a)—

- (a) by wyse van 'n mondeline of skriftelike verklaring onder eed of na die doen van 'n bevestiging waarin vermeld word—
  - (i) die aard van die betrokke aangeleentheid;
  - (ii) die gronde waarop die klagte berus; en
  - (iii) alle ander ter sake dienende inligting wat aan die klaer bekend is; of
- (b) op die ander wyse wat die Provinciale Openbare Beskermer toelaat met die oog daarop om sy of haar Kantoor toeganklik te maak vir alle persone..

(2) Die personeel by die Kantoor van die Provinciale Openbare Beskermer verleen kosteloos die nodige bystand aan enige persoon ten einde hom of haar in staat te stel om aan subartikel (1) te voldoen.

(3) Die Provinciale Openbare Beskermer kan weier om 'n klagte wat kragtens subartikel (1) by hom of haar ingedien is, te ondersoek indien die persoon wat na bewering benadeel is—

- (a) 'n staatsamptenaar is wat nog nie al sy of haar regsmiddele ingevolge die Staatsdienswet, 1994 (Proklamasie No. 103 van 1994), uitgeput het nie; of
- (b) aldus benadeel is as gevolg van 'n handeling of late beoog in artikel 4 (1) (a) (v), en nog nie al sy of haar regsmiddele in verband met die saak uitgeput het nie.

### Ondersoeke

6. (1) Die Provinciale Openbare Beskermer doen 'n ondersoek kragtens artikel 4 (1) (a) met behoorlike inagneming van die omstandighede van elke geval, en vir die doeleindes van so 'n ondersoek het hy of sy, maar onderworpe aan die bepalings van die Grondwet en die reg, die bevoegdheid om—

- (a) enige persoon te gelas om 'n beëdigde verklaring of 'n bevestigde verklaring voor te lê, om voor hom of haar te verskyn om getuienis te lewer of om enige dokument of voorwerp in sy of haar besit of onder sy of haar beheer voor te lê wat, na die oordeel van die Provinciale Openbare Beskermer, betrekking het op die aangeleentheid wat ondersoek word, en om so 'n persoon vir daardie doel te ondervra;

- (b) enter, or authorise another person to enter, any building or premises and there to make such inquiry as he or she may deem necessary, and seize anything on those premises which in his or her opinion has a bearing in the purpose of the investigation; and
- (c) request any person whom he or she reasonably suspects of having information which has a bearing on a matter being or to be investigated, to furnish an explanation.

(2) A direction referred to in subsection (1) (a) shall be by way of a subpoena containing particulars of the matter in connection with which the person subpoenaed is required to appear before the Provincial Public Protector and signed by the Provincial Public Protector and served on the person subpoenaed either by a registered letter sent through the post or by delivery by a person authorized by the Provincial Public Protector.

(3) When the Provincial Public Protector considers it necessary, he or she may require any person appearing as a witness before him or her by virtue of subsections (1) and (2) to give evidence under oath or after having made an affirmation, and such person shall enjoy the same privilege against self-incrimination as a witness in a criminal proceeding before the Supreme Court.

(4) The Provincial Public Protector may administer an oath to, or accept an affirmation from, any such person.

(5) Any person appearing before the Provincial Public Protector by virtue of subsections (1) and (2) may be assisted at such investigation by an advocate or attorney and shall be entitled to peruse such documents referred to in subsection (9) (a) as are reasonably necessary to refresh his or her memory.

(6) If it appears to the Provincial Public Protector during the course of an investigation that any person is being implicated in the matter being investigated, the Provincial Public Protector shall afford such person the opportunity to be heard in connection therewith by way of the giving of evidence and the calling of witnesses, and such person or his or her legal representative shall be entitled, through the Provincial Public Protector, to question other witnesses determined by the Provincial Public Protector, who have appeared before the Provincial Public Protector in terms of this section.

(7) Any person who, without a lawful reason, refuses or fails to comply with a direction under subsection (1) (a), refuses to answer any question put to him or her under that paragraph or gives to such question an answer which to his or her knowledge is false, or refuses to take the oath or to make an affirmation at the request of the Provincial Public Protector in terms of subsection (3), shall be guilty of an offence.

(8) The procedure to be followed in conducting an investigation shall be determined by the Provincial Public Protector at his or her discretion with due regard to the circumstances of each case, and the Provincial Public Protector may in his or her discretion direct that any category of persons or all persons whose presence is, in his or her opinion, not necessary or desirable, shall not be present at the proceedings during the investigation or any part thereof.

(9) (a) Subject to subsection (5), no person shall without the permission of the Provincial Public Protector disclose to any other person the contents of any document in the possession of the Provincial Public Protector or a member of his or her staff, or the record of any evidence given during an investigation.

(b) Any person who contravenes a provision of paragraph (a) shall be guilty of an offence.

- (b) enige gebou of perseel te betree, of 'n ander persoon daartoe te magtig, en om daar die navraag te doen wat hy of sy nodig ag, en beslag te lê op enigets op daardie perseel wat na sy of haar mening op die doel van die ondersoek betrekking het; en
- (c) enige persoon wat hy of sy redelikerwys vermoed oor inligting beskik wat verband hou met 'n aangeleentheid wat ondersoek word of gaan word, te versoek om 'n verduideliking te verskaf.

(2) 'n Lasgewing bedoel in subartikel (1) (a) geskied by wyse van 'n dagvaarding bevattende besonderhede van die aangeleentheid in verband waarmee die gedagvaarde verlang word om voor die Provinciale Openbare Beskermer te verskyn en wat deur die Provinciale Openbare Beskermer onderteken is en aan die gedagvaarde bestel word of per aangetekende brief deur die pos versend of deur aflewering deur iemand wat die Provinciale Openbare Beskermer daartoe gemagtig het.

(3) Wanneer die Provinciale Openbare Beskermer dit nodig ag, kan hy of sy van iemand wat uit hoofde van subartikels (1) en (2) voor hom of haar as getuie verskyn, vereis dat hy of sy getuenis onder eed of na die doen van 'n bevestiging aflê, en so iemand geniet dieselfde privilegie teen self-inkriminasie as 'n getuie in 'n strafgeding voor die Hooggeregtshof.

(4) Die Provinciale Openbare Beskermer kan so 'n iemand 'n eed oplê of van hom of haar 'n bevestiging aanneem.

(5) Iemand wat uit hoofde van subartikels (1) en (2) voor die Provinciale Openbare Beskermer verskyn, kan by so 'n ondersoek bygestaan word deur 'n advokaat of prokureur, en is geregtig op insae in daardie stukke bedoel in subartikel (9) (a) wat redelickerwys nodig is om sy of haar geheue te verfris.

(6) Indien dit in die loop van die ondersoek vir die Provinciale Openbare Beskermer voorkom dat iemand betrek word by die aangeleentheid wat ondersoek word, moet die Provinciale Openbare Beskermer aan so iemand die geleentheid bied om in verband daarmee by wyse van die aflê van getuenis en die roep van getuies aangehoor te word, en so iemand of sy of haarregsverteenvwoordiger is daarop geregtig om deur die Provinciale Openbare Beksermer vrae te stel aan ander getuies, deur die Provinciale Openbare Beskermer bepaal, wat ingevolge hierdie artikel voor die Provinciale Openbare Beskermer verskyn het.

(7) Iemand wat sonder 'n wettige rede weier of versuim aan 'n lasgewing kragtens subartikel (1) (a) te voldoen, weier om op 'n vraag aan hom of haar kragtens daardie paragraaf gestel, 'n antwoord te verstrek of op so 'n vraag 'n antwoord verstrek wat na sy of haar wete onjuis is, of weier om op versoek van die Provinciale Openbare Beskermer ingevolge subartikel (3) die eed af te lê of 'n bevestiging te doen, is aan 'n misdryf skuldig.

(8) Die prosedure wat by die hou van 'n ondersoek gevvolg moet word, word deur die Provinciale Openbare Beskermer na goeddunke bepaal met inagneming van die omstandighede van elke geval, en die Provinciale Openbare Beskermer kan na goeddunke gelas dat die een of ander kategorie persone of alle persone wie se teenwoordigheid na sy of haar mening nie nodig of wenslik is nie, nie by die verrigtinge tydens die ondersoek of enige deel daarvan teenwoordig mag wees nie.

(9) (a) Behoudens subartikel (5) mag niemand sonder die toestemming van die Provinciale Openbare Beskermer die inhoud van enige dokument in besit van die Provinciale Openbare Beskermer of van 'n lid van sy of haar personeel, of die notule van enige getuenis wat tydens 'n ondersoek afgelê is, aan iemand anders openbaar maak nie.

(b) Iemand wat 'n bepaling van paragraaf (a) oortree, is aan 'n misdryf skuldig.

### Decisions and reports

7. (1) The Provincial Public Protector shall record all proceedings of an investigation, and shall as soon as may be practicable notify the complainant and any other person implicated thereby of his or her finding, and may thereafter make known to any other person any finding, point of view or recommendation in reaction to the matter investigated.

(2) The Provincial Public Protector or any member of his or her staff shall be competent, but not compellable, to answer questions in any proceedings in or before a court of law or any body or institution established by or under any law, in connection with any information which in the course of his or her investigation has come to his or her knowledge.

(3) The Provincial Public Protector shall at least once every quarter report in writing on his or her activities to the provincial legislature through the agency of the Speaker, but he or she may at any time so report on any particular investigation.

### Staff and delegations

8. (1) (a) The Provincial Public Protector may appoint, on such terms and conditions of service as he or she may determine, in consultation with the member of the Executive Council responsible for financial affairs in the Province and the Provincial Service Commission, such persons as may be necessary for the discharge of the work of the Office of the Provincial Public Protector.

(b) The Provincial Public Protector may, in consultation with the Provincial Service Commission, make use of public servants seconded to his or her Office in terms of the Public Service Act, 1994 (Proclamation No. 103 of 1994), in order to perform his or her functions.

(2) The Provincial Public Protector may on such conditions as he or she may determine—

- (a) delegate any of his or her powers, excluding the power referred to in this subsection, to any person appointed or seconded under subsection (1); and
- (b) authorize any person appointed or seconded under subsection (1) to perform any of his or her functions, excluding the function referred to in section 7 (3).

(3) The Provincial Public Protector may at any time, direct any other person to conduct an investigation or part thereof on behalf of the Provincial Public Protector and to report to him thereon, and for that purpose such person shall have the powers granted to him or her by the Provincial Public Protector.

(4) The Provincial Public Protector may also request any expert to assist him or her with a specific investigation.

(5) A person directed under subsection (3) or requested under subsection (4), and who is not a public servant, shall be entitled to such remuneration and allowances as the Provincial Public Protector, in consultation with the member of the Executive Council responsible for financial matters in the Province, may determine.

### Financial matters

9. (1) The Provincial Public Protector may, if he or she deems it advisable, in consultation with the member of the Executive Council responsible for financial matters in the Province, direct that the expenses or a portion of the expenses incurred by any person in the course of or in connection with an investigation by the Provincial Public Protector be paid from provincial funds to that person.

### Besluite en verslae

7. (1) Die Proviniale Openbare Beskermer moet alle verrigtinge van 'n ondersoek notuleer, en moet so gou doenlik die klaer en enige ander persoon wat daarby betrek is, van sy of haar bevinding in kennis stel, en kan daarna enige bevinding, standpunt of aanbeveling met betrekking tot die aangeleentheid wat ondersoek is aan enige ander persoon bekend maak.

(2) Die Proviniale Openbare Beskermer of enige lid van sy of haar personeel is bevoeg, maar nie verpligbaar nie, om in enige verrigtinge in of voor 'n gereghof of enige liggaam of instelling by of kragtens 'n wet ingestel, vrae in verband met enige inligting wat in die loop van sy of haar ondersoek tot sy of haar kennis gekom het, te beantwoord.

(3) Die Proviniale Openbare Beskermer moet minstens een maal per kwartaal skriftelik aan die provinsiale wetgewer oor sy of haar aktiwiteite verslag doen deur bemiddeling van die Speaker, maar hy of sy kan te eniger tyd oor 'n besondere ondersoek aldus verslag doen.

### Personeel en delegasies

8. (1) (a) Die Proviniale Openbare Beskermer kan op sodanige bedinge en voorwaardes van diens wat hy of sy bepaal, in oorleg met die lid van die Uitvoerende Raad wat verantwoordelik is vir finansiële sake in die Provinsie en die Proviniale Dienskommissie, die persone aanstel wat nodig is om die werksaamhede van die Kantoor van die Proviniale Openbare Beskermer te verrig.

(b) Die Proviniale Openbare Beskermer kan, in oorleg met die Proviniale Dienskommissie, van staatsamptenaare wat aan sy of haar Kantoor gesekondeer word ingevolge die Staatsdienswet, 1994 (Proklamasie No. 103 van 1994), gebruik maak om sy of haar werksaamhede te verrig.

(2) Die Proviniale Openbare Beskermer kan, op die voorwaardes wat hy of sy bepaal—

- (a) enige van sy of haar bevoegdhede, uitgesonderd die bevoegdheid bedoel in hierdie subartikel, aan enige persoon aangestel of gesekondeer kragtens subartikel (1) deleger; en
- (b) enige persoon aangestel of gesekondeer kragtens subartikel (1) magtig om enige van sy of haar werksaamhede, uitgesonderd die werksaamheid bedoel in artikel 7 (3), te verrig.

(3) Die Proviniale Openbare Beskermer kan te eniger tyd enige ander persoon gelas om 'n ondersoek of 'n gedeelte daarvan namens die Proviniale Openbare Beskermer te doen en daaroor aan hom of haar verslag te doen, en vir daardie doel het so 'n persoon die bevoegdhede aan hom of haar verleen deur die Proviniale Openbare Beskermer.

(4) Die Proviniale Openbare Beskermer kan ook enige deskundige versoek om hom of haar met 'n spesifieke ondersoek behulpsaam te wees.

(5) 'n Persoon gelas kragtens subartikel (3) of versoek kragtens subartikel (4), en wat nie 'n staatsamptenaar is nie, is geregtig op die vergoeding en toelaes wat die Proviniale Openbare Beskermer in oorleg met die lid van die Uitvoerende Raad verantwoordelik vir finansiële sake in die Provinsie bepaal.

### Finansiële aangeleenthede

9. (1) Die Proviniale Openbare Beskermer kan, indien hy of sy dit wenslik ag, met die instemming van die lid van die Uitvoerende Raad wat verantwoordelik is vir finansiële sake in die Provinsie, gelas dat die uitgawes of 'n gedeelte van die uitgawes wat deur iemand in die loop van of in verband met 'n ondersoek deur die Proviniale Openbare Beskermer aangegaan is, uit provinsiale fondse aan daardie persoon vergoed word.

(2) All expenses in connection with the exercise of the powers and the performance of the functions of the Provincial Public Protector in terms of this Act or any other law shall be paid from money appropriated by the provincial legislature.

(3) The Provincial Public Protector shall charge a competent person on his staff, subject to the Provincial Exchequer Act, 1994, with the accounting for provincial money received or paid out by or on behalf of his Office, and that person shall see to it that the necessary accounting records are kept in connection therewith.

(4) The records contemplated in subsection (3) shall be audited by the Auditor-General.

### **Contempt of Provincial Public Protector**

**10.** (1) No person shall in connection with an investigation do anything which, if done in connection with a court of law, would constitute contempt of court.

(2) Any person who contravenes subsection (1) shall be guilty of an offence.

(3) If any person contravenes subsection (1) in the course of an investigation, the Provincial Public Protector, or the person authorized to conduct the investigation, may, subject to section 25 of the Constitution, sentence such person to a fine or imprisonment for a period not exceeding six months.

### **Penalties**

**11.** Any person convicted of an offence referred to in section 3 (1) (b) (ii), 3 (3) (b), 6 (7), 6 (9) (b) or 10 (2) shall be liable to a fine not exceeding R40 000 or imprisonment for a period not exceeding 12 months or to both such fine and such imprisonment.

### **Liability of Provincial Public Protector**

**12.** (1) The Office of the Provincial Public Protector shall be a legal person.

(2) The State Liability Act, 1957 (Act No. 20 of 1957), shall apply *mutatis mutandis* in respect of the said Office, and in such application the reference in section 2 (1) of that Act to "the Minister of the department concerned" shall be construed as a reference to the Provincial Public Protector in his or her official capacity.

(3) The Provincial Public Protector or any person appointed, seconded or directed under section 8 shall not be liable for anything reflected in any report, finding, point of view or recommendation made or expressed in good faith and submitted to the provincial legislature or made known in terms of this Act.

### **Application of Act**

**13.** (1) The provisions of this Act shall not derogate from any other law regulating an investigation or examination for any other purpose.

(2) Recourse to, or the exercise and performance of any power and functions of, the Provincial Public Protector shall not oust the jurisdiction of a court of law to hear any matter or cause whatsoever.

(3) Nothing in this Act shall in any way derogate from the powers and functions of the Public Protector.

### **Short title**

**14.** This Act shall be called the **Provincial Public Protector Act, 1994**.

(2) Alle uitgawes in verband met die uitvoering van die bevoegdhede en die verrigting van die werkzaamhede van die Provinciale Openbare Beskermer ingevolge hierdie Wet of enige ander wet word bestry uit geld wat deur die provinsiale wetgewer bewillig is.

(3) Die Provinciale Openbare Beskermer moet 'n bevoegde persoon op sy of haar personeel, behoudens die Provinciale Skatkiswet, 1994, belas met die verantwoording van provinsiale geld wat deur of namens sy of haar Kantoor ontvang of uitbetaal word, en daardie persoon moet toesien dat die nodige rekenkundige aantekeninge in verband daarmee gehou word.

(4) Die aantekeninge beoog in subartikel (3) word deur die Ouditeur-generaal geou-diteer.

### **Minagting van Provinciale Openbare Beskermer**

**10.** (1) Niemand mag in verband met 'n ondersoek iets doen nie wat, as dit gedoen word in verband met 'n gereghof, minagting van die hof sou uitmaak.

(2) Iemand wat subartikel (1) oortree, is aan 'n misdryf skuldig.

(3) Indien iemand in die loop van 'n ondersoek subartikel (1) oortree, kan die Provinciale Openbare Beskermer, of die persoon wat gemagtig is om die ondersoek te hou, die betrokke persoon, behoudens artikel 25 van die Grondwet, vonnis tot 'n boete of gevangenisstraf vir 'n tydperk van hoogstens ses maande.

### **Strawwe**

**11.** Iemand wat skuldig bevind word aan 'n misdryf bedoel in artikel 3 (1) (b) (ii), 3 (3) (b), 6 (7), 6 (9) (b) of 10 (2) is strafbaar met 'n boete van hoogstens R40 000 of gevangenisstraf vir 'n tydperk van hoogstens 12 maande of met daardie boete sowel as daardie gevangenisstraf.

### **Aanspreeklikheid van Provinciale Openbare Beskermer**

**12.** (1) Die Kantoor van die Provinciale Openbare Beskermer is 'n regspersoon.

(2) Die Wet op Staatsaanspreeklikheid, 1957 (Wet No. 20 van 1957), is *mutatis mutandis* van toepassing ten opsigte van genoemde Kantoor, en by sodanige toepassing word die verwysing in artikel 2 (1) van daardie Wet na "die Minister van die betrokke departement" uitgelê as 'n verwysing na die Provinciale Openbare Beskermer in sy of haar amptelike hoedanigheid.

(3) Die Provinciale Openbare Beskermer of enige persoon aangestel, gesekondeer of gelas kragtens artikel 8 is nie aanspreeklik ten opsigte van enigets weerspieël in 'n verslag, bevinding, standpunt of aanbeveling wat te goeder trou gedoen of uitgespreek is en ingevolge hierdie Wet bekend gemaak is of aan die provinsiale wetgewer voorgelê is nie.

### **Toepassing van Wet**

**13.** (1) Die bepalings van hierdie Wet doen nie afbreuk aan enige ander wet wat 'n ondersoek of ondervraging vir enige ander doel reëل nie.

(2) 'n Beroep op, of die uitvoering of verrigting van enige bevoegdhede en werkzaamhede van, die Provinciale Openbare Beskermer sluit nie die jurisdiksie van 'n gereghof uit om enige aangeleentheid of saak hoegenaamd aan te hoor nie.

(3) Niks in hierdie Wet beperk op enige wyse die bevoegdhede en werkzaamhede van die Openbare Beskermer nie.

### **Kort titel.**

**14.** Hierdie Wet heet die **Wet op die Provinciale Openbare Beskermer, 1994**.

**MEMORANDUM IN TERMS OF RULE 132 OF THE STANDING RULES OF THE PROVINCIAL LEGISLATURE ON THE PROVINCIAL PUBLIC PROTECTOR BILL, 1994****(i) *Reasons for the Bill***

Section 114 of the Constitution of the Republic of South Africa, 1993 (Act No. 200 of 1993) ("the Constitution") provides that a provincial legislature may by law provide for the establishment, appointment, powers and functions of a Provincial Public Protector and for matters connected therewith.

**(ii) *Effects of the Bill***

- (aa) The Office of the Provincial Public Protector, forms part of the refinement of the democratic system, since the subject is afforded the opportunity to lay his or her complaints against the administration, to the Provincial Public Protector. It grants the man in the street and independent and impartial forum where his or her problems with the administration can be resolved instead of going to court, which can sometimes be expensive and time consuming. It may prove to be an effective measure against corruption, maladministration and the abuse of powers and privileges to the detriment of society.
- (bb) The appointment of such a Provincial Public Protector contributes to the development of democracy and the Constitutional right to have justiciable disputes settled by an independent and impartial forum (Section 22 of the Constitution).

**(iii) *Environmental impact***

The man in the street is also given the opportunity to complain to the Provincial Public Protector on environmental issues. It creates a forum where the general public can exercise their right to a better environment.

**(iv) *Financial implications***

- (aa) The Public Protector has traditionally a small Office. When the Office becomes too large it will result in becoming just another bureaucratic system. The Office should however be large enough to handle the work. The Public Protector in the Province should have the rank of a judge and be paid the minimum salary of a judge. He or she should also receive a motor, a pension benefit of 12,5 per cent of his or her gross income, medical benefits as well as an entertainment allowance.
- (bb) The Bill also provides that the Provincial Public Protector may direct that the expenses incurred by any person in connection with an investigation be paid from provincial funds to that person, that all expenses incurred by the Office of the Provincial Public Protector be paid from money appropriated by the provincial legislature, that the Provincial Public Protector shall charge a competent person on its staff to account for all financial matters connected with its Office and all such records shall be audited by the Auditor-General.
- (cc) Approximately R2,9 million will be voted in the 1995/1996 Budget for the Office of the Provincial Public Protector.

**MEMORANDUM INGEVOLGE REËL 132 VAN DIE STAANDE REËLS VAN DIE PROVINSIALE WETGEWER OOR DIE WETSONTWERP OP DIE PROVINSIALE OPENBARE BESKERMER, 1994****(i) *Redes vir die Wetsontwerp***

Artikel 114 van die Grondwet van die Republiek van Suid-Afrika, 1993 (Wet No. 200 van 1993) ("die Grondwet"), bepaal dat 'n provinsiale wetgewer by wet voorsiening kan maak vir die instelling, aantelling, bevoegdhede en werksaamhede van 'n Provinsiale Openbare Beskermer en vir aangeleenthede wat daar mee in verband staan.

**(ii) *Effek van die Wetsontwerp***

- (aa) Die Kantoor van die Provinsiale Openbare Beskermer vorm deel van die verfyning van die demokratiese stelsel, aangesien die onderdaan die geleentheid gebied word om sy of haar klagtes teen die administrasie, aan die Provinsiale Openbare Beskermer voor te lê. Dit verskaf aan die man op straat 'n onafhanklike en onpartydige forum waar sy of haar probleme met die administrasie opgelos kan word in plaas daarvan om na die hof te gaan, wat somtyds duur en tydrowend kan wees. Dit mag blyk 'n effektiewe maatreël te wees teen korupsie, wanadministrasie en die misbruik van bevoegdhede en voorregte tot nadeel van die gemeenskap.
- (bb) Die aanstelling van so 'n Provinsiale Openbare Beskermer dra by tot die ontwikkeling van demokrasie en die toepassing van menseregte, byvoorbeeld die Grondwetlike reg om beregbare geskille deur 'n onafhanklike en onpartydige forum te laat besleg (artikel 22 van die Grondwet).

**(iii) *Uitwerking op omgewing***

Die man op straat word ook die geleentheid gegun om teenoor die Provinsiale Openbare Beskermer oor omgewingsake te kla. Dit skep 'n forum waar die algemene publiek hul reg op 'n beter omgewing kan uitoefen.

**(iv) *Finansiële implikasies***

- (aa) Die Openbare Beskermer het tradisioneel 'n klein Kantoorkantoor. As die Kantoorkantoor te groot word kan dit tot gevolg hê dat dit net weer nog 'n burokratiese sisteem kan raak. Die Kantoorkantoor moet egter groot genoeg wees om die werk te kan hanteer. Die Openbare Beskermer in die Provinsie moet die rang bekleë van 'n regter en die minimum salaris betaal word van 'n regter. Hy of sy moet ook 'n motor, 'n pensioenvoordeel van 12,5 persent van sy of haar bruto inkoste, mediese voordele asook 'n onthaaltoelae ontvang.
- (bb) Die Wetsontwerp maak ook daarvoor voorsiening dat die Provinsiale Openbare Beskermer kan gelas dat die uitgawes wat deur iemand in die loop van 'n ondersoek aangegaan is, uit die provinsiale fondse aan daardie persoon vergoed word, dat alle uitgawes wat aangegaan word deur die Kantoorkantoor van die Provinsiale Openbare Beskermer bestry word uit die geld wat deur die provinsiale wetgewer bewillig is, dat die Provinsiale Openbare Beskermer ook 'n bevoegde persoon op sy of haar personeel met belas met die verantwoording van alle finansiële sake in verband met sy of haar Kantoorkantoor en dat alle sodanige aantekeninge deur die Ouditeur-generaal geouditeer word.
- (cc) Ongeveer R2,9 miljoen word begroot in die 1995/1996 Begroting vir die Kantoorkantoor van die Provinsiale Openbare Beskermer.

**(v) Comments**

The comments received from the Office of the Ombudsman had been worked into the Bill.

**(vi) Clause-by-clause explanation**

The Bill is mainly based on the Constitution and the Ombudsman Act, 1979 (Act No. 118 of 1979), and contains *inter alia* the following provisions:

- (aa) In clause 1 certain words are defined.
- (bb) Clause 2 provides that the Provincial Public Protector shall be appointed in accordance with the Constitution for a period of seven years, that the remuneration and other terms and conditions of employment be determined by the Premier in consultation with the Provincial Service Commission, that he or she may in certain circumstances be removed from office or that the provincial legislature may allow him or her to vacate his or her office.
- (cc) Clause 3 provides that the Provincial Public Protector and a person appointed, seconded or directed under section 8, shall be independent and impartial, that they shall have the immunities and privileges assigned to them and that no organ of state or other person may interfere with the Office of the Provincial Public Protector, but shall accord such assistance as may be reasonably required.
- (dd) Clause 4 provides that the Provincial Public Protector has the competency to investigate complaints in certain circumstances, to endeavour to resolve disputes or rectify any act or omission by *inter alia* mediation, negotiation or the rendering of advice and to refer the matter to the relevant authorities or to make any other appropriate recommendation he or she deems expedient in the circumstances.
- (ee) Clause 5 provides that any person may lodge a complaint with the Provincial Public Protector, that the staff of the Office of the Provincial Public Protector should render the necessary assistance to such a complainant and that the Provincial Public Protector may refuse to investigate a complaint lodged with him or her in certain circumstances.
- (ff) Clause 6 provides that the Provincial Public Protector shall be competent, for the purposes of such an investigation, *inter alia* to direct that persons appear before him or her to be examined on the matter being investigated, to enter any building or premises, make such an inquiry or seize anything on these premises which has a bearing on the purpose of the investigation, to request any person to furnish an explanation regarding the matter being or to be investigated and in general conduct an investigation similar to the proceedings of a court of law.
- (gg) Clause 7 provides that the Provincial Public Protector shall record all proceedings of an investigation and make its findings known and shall report at least once every quarter to the provincial legislature through the agency of the Speaker.

(v) **Kommentaar**

Die kommentaar wat ontvang is van die Kantoor van die Ombudsman is ingewerk by die Konsepwetsontwerp.

(vi) **Klousule-vir-klousule verduideliking**

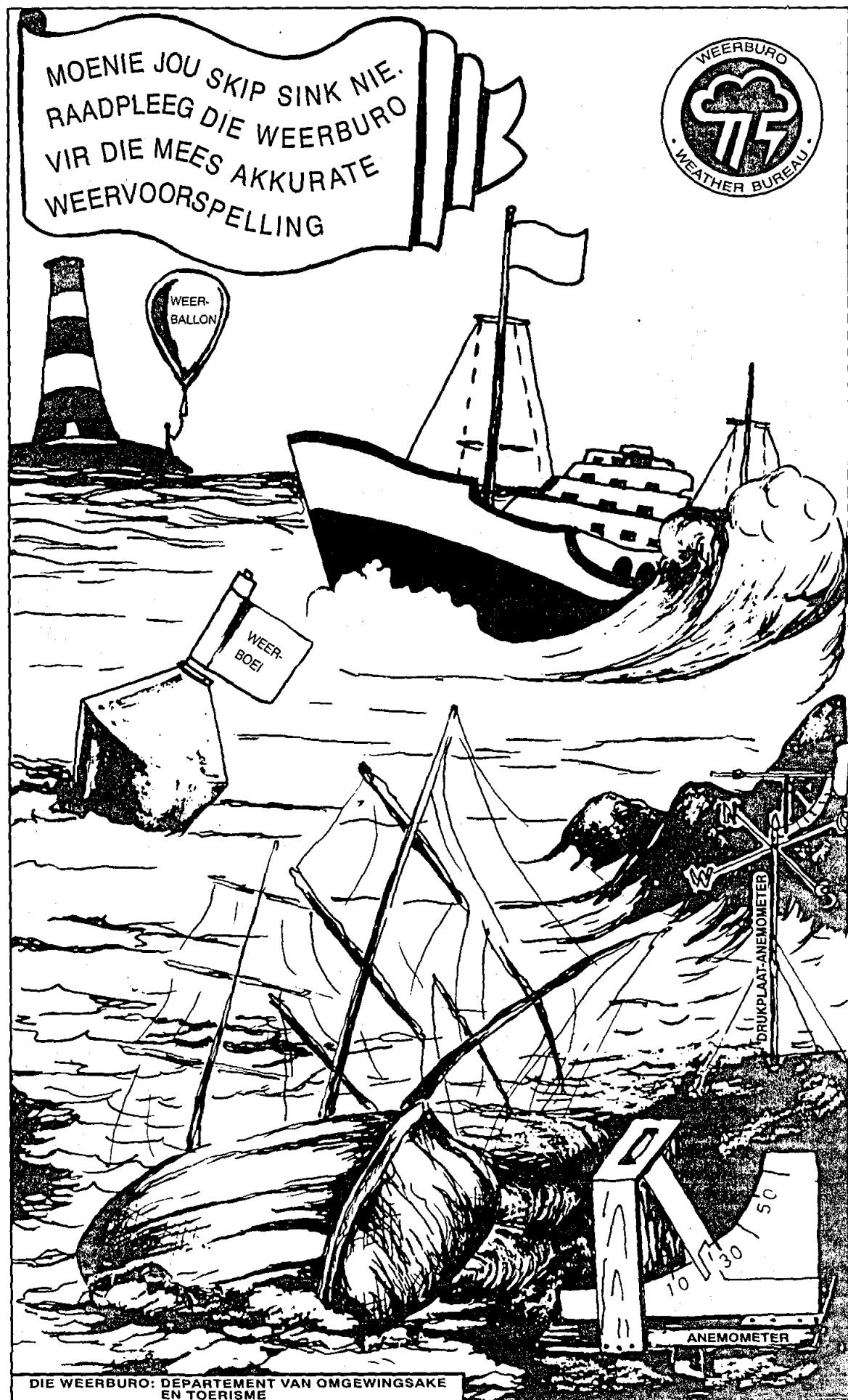
Die Wetsontwerp is hoofsaaklik gebaseer op die Grondwet en die Wet op die Ombudsman, 1979 (Wet No. 118 van 1979), en bevat onder andere die volgende bepalings:

- (aa) In klousule 1 word sekere woorde omskryf.
- (bb) Klousule 2 bepaal dat die Provinciale Openbare Beskermer aangestel word ooreenkomstig die Grondwet vir 'n tydperk van sewe jaar, dat die besoldiging en ander bedinge en voorwaardes van diens deur die Premier in oorleg met die Provinciale Dienskommissie bepaal word, dat hy of sy in sekere omstandighede van sy of haar amp onthef kan word en dat die provinsiale wetgewer hom of haar kan toelaat om sy of haar amp neer te lê.
- (cc) Klousule 3 bepaal dat die Provinciale Openbare Beskermer en 'n persoon wat kragtens artikel 8 aangestel, gesekondeer of gelas is, onafhanklik en onpartydig is, dat hulle die immuniteit en voorregte het wat aan hulle verleen word en dat geen staatsorgaan of geen ander persoon die Kantoor van die Provinciale Openbare Beskermer mag hinder nie, maar sodanige bystand wat redelikerwys vereis mag word, moet verleen.
- (dd) Klousule 4 bepaal dat die Provinciale Openbare Beskermer die bevoegdheid het om klagtes in sekere omstandighede te ondersoek, om te poog om dispute op te los of enige handeling of late reg te stel deur onder andere bemiddeling, onderhandeling of die gee van advies en om die aangeleentheid na die betrokke gesag te verwys of om enige ander gepaste aanbeveling wat hy of sy in die omstandighede doenlik ag, te maak.
- (ee) Klousule 5 bepaal dat enige persoon 'n klagte by die Provinciale Openbare Beskermer kan indien, dat die personeel by die Kantoor van die Provinciale Openbare Beskermer die nodige bystand aan so 'n klaer moet verleen en dat die Provinciale Openbare Beskermer in sekere omstandighede kan weier om 'n klagte wat by hom of haar ingedien is, te ondersoek.
- (ff) Klousule 6 bepaal dat die Provinciale Openbare Beskermer die bevoegdheid het om vir die doeleindes van so 'n ondersoek, onder andere, te kan gelas dat personeel voor hom of haar moet verskyn om ondervra te word oor die aangeleentheid wat ondersoek word, om enige gebou of perseel te betree, om enige navraag te doen of op enige ding op daardie perseel beslag te lê wat betrekking het op die doel van die ondersoek, om enige persoon te versoek om 'n verduideliking te verskaf in verband met die aangeleentheid wat ondersoek word of gaan word en om in die algemeen 'n ondersoek te loods soortgelyk aan die prosedure van 'n gereghof.
- (gg) Klousule 7 bepaal dat die Provinciale Openbare Beskermer alle verrigtinge van 'n ondersoek moet notuleer en dat hy of sy, sy of haar bevindings bekend moet maak en minstens een maal per kwartaal verslag moet doen aan die provinsiale wetgewer deur bemiddeling van die Speaker.

- (hh) Clause 8 provides that the Provincial Public Protector may appoint or make use of certain persons in order to perform his or her functions, and may also delegate certain powers to such persons. The Provincial Public Protector may also direct any other person to conduct an investigation on behalf of him or her, request any expert to assist him or her with a specific investigation and such a person, who is not a public servant, shall be entitled to certain remuneration and allowances.
- (ii) Clause 9 provides that the Provincial Public Protector may direct that the expenses incurred by any person in connection with an investigation be paid from provincial funds to that person, that all expenses incurred by the Office of the Provincial Public Protector be paid from money appropriated by the provincial legislature, that the Provincial Public Protector shall also charge a competent person on its staff to account for all financial matters connected with its Office and that all such records be audited by the Auditor-General.
- (jj) Clause 10 provides that a person could be charged with contempt of the Provincial Public Protector if he or she does anything in connection with an investigation, which, if done in connection with a court of law, would constitute contempt of court and if any person commits such an offence, he or she may be sentenced to a fine or imprisonment for a period not exceeding six months.
- (kk) Clause 11 provides that a person convicted of certain offences shall be liable to a fine not exceeding R40 000 or imprisonment for a period not exceeding 12 months or to both such fine and such imprisonment.
- (ll) Clause 12 provides that the Office of the Provincial Public Protector shall be a legal person, that the State Liability Act, 1957 (Act No. 20 of 1957), shall be applicable to that Office and that neither the Provincial Public Protector nor any person appointed, seconded or directed under section 8, shall be liable for anything reflected in any report, finding, point of view or recommendation made or expressed in good faith and submitted to the provincial legislature or otherwise made known.
- (mm) Clause 13 provides that the provisions of the Bill shall not derogate from any other law regulating an investigation or examination for any other purpose, that recourse to or the exercise and performance of any power and functions of the Provincial Public Protector, shall not oust the jurisdiction of a court of law and that nothing in this Bill shall in any way derogate from the powers and functions of the Public Protector.
- (nn) Clause 14 contains the short title.
- (vi) ***Other information deemed necessary by the Member in charge of the Bill***
- None

- (hh) Klousule 8 bepaal dat die Proviniale Openbare Beskermer persone kan aanstel of gebruik kan maak van sekere persone wat nodig is om sy of haar werksaamhede te verrig en dat hy of sy ook sekere bevoegdhede aan sodanige persone kan deleger. Die Proviniale Openbare Beskermer kan ook enige ander persoon gelas om namens hom of haar 'n ondersoek in te stel, enige deskundige versoek om hom of haar met 'n spesifieke ondersoek behulpsaam te wees en so 'n persoon, wat nie 'n staatsamptenaar is nie, is geregtig op sekere vergoeding en toelaes.
- (ii) Klousule 9 bepaal dat die Proviniale Openbare Beskermer kan gelas dat die uitgawes wat deur iemand in die loop van 'n ondersoek aangegaan is, uit provinsiale fondse aan daardie persoon vergoed word, dat alle uitgawes wat deur die Kantoor van die Proviniale Openbare Beskermer aangegaan word, bestry word uit die geld wat deur die provinsiale wetgewer bewillig is, dat die Proviniale Openbare Beskermer ook 'n bevoegde persoon op sy of haar personeel moet belas met die verantwoording van alle finansiële sake in verband met sy of haar Kantoorn en dat alle sodanige aantekeninge deur die Ouditeur-generaal geouditeer word.
- (jj) Klousule 10 bepaal dat 'n persoon aangekla kan word van minagting van die Proviniale Openbare Beskermer as hy of sy enigiets doen in verband met 'n ondersoek, wat, as dit gedoen word in verband met 'n gereghof, minagtend van die hof sou uitmaak en indien so 'n persoon so 'n misdaad pleeg kan hy of sy gevonnis word tot 'n boete of gevangenisstraf vir 'n tydperk van hoogstens ses maande.
- (kk) Klousule 11 bepaal dat 'n persoon wat skuldig bevind word aan sekere misdrywe strafbaar is met 'n boete van hoogstens R40 000 of gevangenisstraf vir 'n tydperk van hoogstens 12 maande of met daardie boete sowel as daardie gevangenisstraf.
- (ll) Klousule 12 bepaal dat die Kantoor van die Proviniale Openbare Beskermer 'n regspersoon is, dat die Wet op Staatsaanspreeklikheid, 1957 (Wet No. 20 van 1957), van toepassing is op daardie Kantoorn en dat nog die Proviniale Openbare Beskermer nog enige persoon aangestel, gesekondeer of gelas kragtens artikel 8, aanspreeklik is vir enigiets wat weerspieël word in 'n verslag, bevinding, standpunt of aanbeveling wat ter goeder trou gedoen of uitgespreek is en wat aan die provinsiale wetgewer voorgelê is of andersins bekend gemaak is.
- (mm) Klousule 13 bepaal dat die bepalings van die Wetsontwerp nie afbreuk doen aan enige ander wet wat 'n ondersoek of ondervraging vir enige ander doel reël nie, dat 'n beroep op of die uitoefening of verrigting van enige bevoegdhede en werksaamhede van die Proviniale Openbare Beskermer nie die jurisdiksie van 'n gereghof uitsluit nie en dat niks in hierdie Wetsontwerp op enige wyse die bevoegdhede en werksaamhede van die Openbare Beskermer beperk nie.
- (nn) Klousule 14 bevat die kort titel.
- (vi) **Ander inligting wat die Lid in bevel van die Wetsontwerp nodig ag**  
Geen.





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