

North West, South Africa

North West Provincial Legislature Management Act, 2007

Act 3 of 2007

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North West South Africa

North West Provincial Legislature Management Act, 2007

Act 3 of 2007

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[Amended by North West Provincial Legislature Management Amendment Act, 2010 (Act 5 of 2010) on 30 May 2011]

[Note: this Act has been amended by the substitution for the words "the Speaker" with the words "Executive Authority" and by substitution for the word "Secretary" with the words "Accounting Officer" wherever they occur, with exception of the definitions sections and headings under sections 6 and 7, by section 1 of Act 5 of 2010]

To provide for the repeal of the North West Provincial Legislature Service Act 8 of 1997; to provide for the establishment of a Service of the Legislature; to clearly define the roles, functions, and responsibilities of the Executive Authority of the Legislature, Members of the Legislature, and the Accounting Officer to the Legislature; to establish a framework for the administration of the Legislature; to regulate the financial management of the Legislature in a manner consistent with its status in terms of the Constitution; to ensure that all revenue, expenditure, assets and liabilities of the Legislature are managed efficiently and effectively; to define the responsibilities of officials in the Legislature, and in particular, persons entrusted with financial management responsibilities in the Legislature; and to provide for matters connected therewith.

Recognizing—

that the North West Provincial Legislature must be governed by the democratic values and principles in the Constitution

Therefore, in order to—

- promote and maintain a high standard of professional ethics in the general and financial management of the North West Provincial Legislature
- promote the efficient, economic and effective use of resources allocated to the North West Provincial Legislature;
- ensure transparency, accountability and sound management of the revenue, expenditure, assets and liabilities of the North West Provincial Legislature;
- ensure effective management of the Legislature in order to enable it to fulfill its Constitutional mandate;

BE IT ENACTED by the North West Provincial Legislature as follows:

Chapter 1 Interpretation and objects

1. Definitions

- (1) In this Act, unless the context otherwise indicates—

"Accounting Officer" means the Secretary to the Legislature, and includes, where appropriate, a person acting as the Accounting Officer;

"Accounting Standards Board" means the board established in terms of section 87 of the Public Finance Management Act;

"annual report" means the annual report referred to in [section 60](#);

"approved budget" means the Legislature's vote on the provincial annual budget as approved by the Legislature or revised in an adjustments budget by the Legislature;

"Constitution" means the [Constitution of the Republic of South Africa, 1996 \(Act No. 108 of 1996\)](#);

"employee" means an employee as defined in terms of section 213 of the Labour Relations Act ([Act No. 66 of 1995](#));

"Executing Authority" means the Speaker of the Legislature;

"financial year" means a year ending 31 March;

"fixed establishment" means the posts which have been created on the Legislature's organogram for the normal and regular requirements of the Legislature Service;

"fruitless and wasteful expenditure" means expenditure that was made in vain and would have been avoided had reasonable care been exercised;

"irregular expenditure" means expenditure, other than unauthorised expenditure, incurred in contravention of or that is not in accordance with a requirement of this Act or any other applicable legislation that regulates the financial management of Provincial Legislatures;

"Legislature" means the North West Provincial Legislature, constituted in terms of section 105 of the [Constitution](#);

"main division" means one of the main segments into which the Legislature's vote is divided and which specifies the total amount which is appropriated for the items under that segment;

"Member" means any elected Member of the North West Provincial Legislature;

"month" means one of the 12 months of a calendar year;

"official" means an employee of the Legislature or any other person to whom any function is delegated in terms of this Act;

"overspending" —

- (a) in relation to the vote of the Legislature, means causing expenditure under the vote to exceed the amount appropriated for the vote; or
- (b) in relation to a main division within the vote of the Legislature, means causing expenditure under the main division to exceed the amount appropriated for that main division;

"prescribe" means prescribe by regulation in accordance with [section 70](#);

"Public Finance Management Act" means the Public Finance Management Act, 1999 ([Act No. 1 of 1999](#));

"quarter" means any of the following periods in a financial year:

- (a) 1 April to 30 June;
- (b) 1 July to 30 September;
- (c) 1 October to 31 December; or
- (d) 1 January to 31 March;

"Secretary" means the Secretary to the North West Provincial Legislature;

"Service" means the service of the Legislature established in terms of [section 5](#);

"Speaker" means the Speaker of the North West Provincial Legislature, elected in terms of section 111 and Schedule 3 of the [Constitution](#) and the Standing Rules of the Legislature; and "Deputy Speaker" shall have a corresponding meaning; and

"Standing Rules" means the rules made by the Legislature in terms of section 116 of the [Constitution](#);

"standards of generally recognised accounting practice" means an accounting practice complying in material respects with standards issued by the National Minister of Finance on the advice of the Accounting Standards Board;

"unauthorised expenditure" means—

- (a) overspending of the Legislature's vote or a main division within that vote;
- (b) any expenditure from the Legislature's vote or a main division within the vote for a purpose unrelated to the vote or main division, subject to [section 24](#);
- (c) any expenditure of money for a purpose for which funds have not been appropriated or approved; or
- (d) any expenditure of donor funds for a purpose other than that specified in the agreement with the donor;

"vote" means the Legislature's vote on the provincial annual budget referred to in section 28 (1) of the Public Finance Management Act;

- (2) In this Act, a word or expression derived from a word or expression defined in subsection (1) has a corresponding meaning unless the context indicates that another meaning is intended.

2. Object of this Act

- (1) The objects of this Act are—
 - (a) to ensure transparency, accountability and sound management of the revenue, expenditure, assets and liabilities of the Legislature;
 - (b) to establish norms and standards for managing the financial affairs of the Legislature;
 - (c) to establish a Service of the Legislature which can enable the Legislature to effectively carry out its functions;
 - (d) to clearly define the roles, functions, and responsibilities of the Executive Authority of the Legislature, Members of the Legislature, the Accounting Officer to the Legislature, and officials of the Legislature; and
 - (e) to establish a framework for the effective administration of the Legislature.

Chapter 2

Matters relating to the repeal of the North West Provincial Legislature Service Act 8 of 1997

3. Deeming provision

Anything purported to have been done for and on behalf of the Legislature, and any person or persons purported to have been appointed to the staff of the Legislature prior to the coming into operation of this Act, shall be deemed to have been done and/or appointed in terms of the provisions of this Act.

4. Disestablishment of bodies established in terms of Act 8 of 1997

The Management Board, the Internal Supplies Committee, and the Management Committee, which were established in terms of the North West Provincial Legislature Service [Act 8 of 1997](#), are hereby disestablished.

Chapter 3 The Legislature Service

5. Establishment of the Legislature Service

There is hereby established the Legislature Service, whose principal duties shall be to provide administrative services to the Executive Authority and other Members of the Legislature.

Chapter 4 The roles, functions, and responsibilities of the Executive Authority, members of the Legislature, the Accounting Officer to the Legislature, and officials of the Legislature

6. Speaker of the Legislature

- (1) The Executive Authority, elected in terms of section 111 and Schedule 3 of the [Constitution](#) and the Standing Rules of the Legislature, is the Executing Authority of the Legislature.
- (2) The Executive Authority has overall responsibility for the Legislature, and is accountable to the Legislature for the sound management of the Legislature. The Executive Authority shall report to the Legislature as required in terms of this Act or any other applicable national or provincial legislation.
- (3) The Executive Authority is responsible for the overall strategic direction of the Legislature, and for policies which are adopted by the Legislature which are applicable to the Service and the administration of the Legislature.
- (4) The control of the expenditure and the appropriation of moneys for the Service vests in the Executive Authority, who is responsible for exercising the Treasury Function for the Legislature.
- (5) The Executive Authority shall be responsible for ensuring that the Legislature operates in accordance with the [Constitution](#), all applicable national and provincial legislation, and the Legislature's policies.
- (6) For as long as the Executive Authority is, for any reason, unable to perform the duties of the office, the Deputy Speaker shall perform the duties and exercise the powers of the Executive Authority.
- (7) The Executive Authority appoints the Accounting Officer after consultation with the Rules Committee.

[subsection (7) added by section 2 of [Act 5 of 2010](#)]

7. Secretary to the Legislature

- (1) The Accounting Officer is the Accounting Officer for the Legislature, who is responsible for -
 - (a) the collection, receipt, custody and payment of moneys for the services of the Legislature,
 - (b) for the receipt, custody and control of property acquired for the administration of the Legislature and,

- (c) for keeping of proper accounts in respect of such moneys and property.
- (2) The Accounting Officer is accountable to the Executing Authority for the sound management of the Legislature.
- (3) The Accounting Officer is responsible for-
 - (a) providing assistance to the Legislature in carrying out its functions;
 - (b) enforcing the Standing Rules of the Legislature and orders made by the Executive Authority;
 - (c) providing administrative services to the Executive Authority and other Members of the Provincial Legislature; and
 - (d) the overall management of the Legislature, and in particular, the financial management of the institution and the management of the Service.
- (4) The Accounting Officer is subject to the [Constitution](#), the provisions of any applicable national or provincial legislation which regulates the financial management of the Provincial Legislatures, the Standing Rules of the Legislature, the policies of the Legislature, and the performance management agreement which the Accounting Officer must sign in terms of the Performance Management Development System in the Legislature.
- (5) Provided that the Accounting Officer is unable to exercise his or her powers for any other reason, the Executive Authority shall appoint any person in the service of the Legislature to act as the Accounting Officer to the Legislature.

8. General financial management functions

The Accounting Officer must ensure that—

- (a) the Legislature's resources are used effectively, efficiently, economically and transparently;
- (b) full and proper records of the financial affairs of the Legislature are kept;
- (c) the Legislature maintains effective, efficient and transparent systems of financial management, risk management, internal control and internal audit;
- (d) the Legislature has appropriate systems to manage the performance of its officials;
- (e) there are suitable training and awareness programmes related to financial management for officers of the Legislature;
- (f) unauthorized, irregular and fruitless expenditure and other losses are prevented, and appropriate steps are taken where such expenditure has occurred;

[paragraph (f) added by section 3 of [Act 5 of 2010](#)]

- (g) disciplinary action is instituted against any employee of the Legislature who has allegedly committed an act of financial misconduct, and

[paragraph (g) added by section 3 of [Act 5 of 2010](#)]

- (h) when appropriate, criminal proceedings are instituted against any person who has allegedly committed an offence in terms of [section 74](#).

[paragraph (h) added by section 3 of [Act 5 of 2010](#)]

8A.

- (1) The Executive Authority and the Accounting Officer must conclude a written performance agreement for the Accounting Officer annually.

- (2) The performance agreement referred to in subsection (1) must—
 - (a) be concluded within one month after the Accounting Officer is employed and thereafter within one month after the start of each financial year;
 - (b) specify performance standards linked to the objectives and targets of the Legislature's strategic plan and performance plan for the financial year;
 - (c) provide for an annual assessment of the Accounting Officer's performance by the Executive Authority; and
 - (d) specify the consequences of substandard performance.
- (3) The provisions of this Act conferring responsibilities on the Accounting Officer forms part of the performance agreement of the Accounting Officer.
- (4) The annual assessment of the Accounting Officer's performance must take cognizance of the audit report on the annual financial statements of the Legislature.

[section 8A inserted by section 4 of [Act 5 of 2010](#)]

9. Members of the Legislature

The functions and activities of Members of the Legislature shall be conducted in accordance with the [Constitution](#), all applicable national and provincial legislation, the Standing Rules of the Legislature, and rules and policies adopted by the Rules Committee of the Legislature.

10. Responsibilities of officials

- (1) Every official in the Legislature, and particularly those assigned financial management responsibilities must—
 - (a) comply with the provisions of this Act and all other national and provincial legislation, to the extent applicable to that official;
 - (b) comply with the terms of any delegations in terms of [section 16](#); and
 - (c) take all reasonable steps within that official's area of responsibility to ensure—
 - (i) that the Legislature's system of financial management and internal control is implemented diligently;
 - (ii) that the Legislature's financial and other resources are used effectively, efficiently, economically and transparently;
 - (iii) that any unauthorized expenditure, irregular expenditure, fruitless and wasteful expenditure and other losses are prevented, and, when such expenditure or losses occur, are reported to the Accounting Officer;
 - (iv) that all revenue due to the Legislature is collected; and
 - (v) that the Legislature's assets and liabilities are managed effectively, and that assets are safeguarded and maintained to the extent necessary.

11. Fiduciary responsibilities

- (1) The Accounting Officer and all officials in the Legislature must —
 - (a) act with fidelity, honesty, integrity and in the best interests of the Legislature in managing its financial affairs;
 - (b) disclose all material facts which are available to that person or reasonably discoverable, and which in any way might influence any decision or action in terms of this Act; and

- (c) seek to prevent any prejudice to the financial interests and good reputation of the Legislature.
- (2) For the purposes of subsection (1) (b), any disclosure must be made—
 - (a) in the case of the Accounting Officer, to the Executive Authority; and
 - (b) in the case of any other person, to the Accounting Officer.
- (3) No official of the Legislature—
 - (a) may act in a way that is inconsistent with the Act; or
 - (b) may use their position or any confidential information obtained in the exercise of their responsibilities for personal gain or to benefit improperly themselves or any other person.

Chapter 5

Staff, their terms and conditions of employment, and organisation

12. Staff of the Legislature

- (1) The Accounting Officer shall appoint staff required for the proper functioning of the Legislature, in accordance with the organogram of the Legislature as approved by the Executive Authority in terms of the [Constitution](#) and all applicable national legislation and the policies of the Legislature.
- (2) The appointment of:
 - (a) three Executive Managers of the Legislature shall be made by the Accounting Officer, in consultation with the Executive Authority.
 - (b) staff in the Executive Authority's Office shall be made by the Accounting Officer, upon the instruction of the Executive Authority.
 - (c) all other staff members shall be made by the Accounting Officer after consultation with the Executive Authority.

[paragraph (c) substituted by section 5 of [Act 5 of 2010](#)]

- (3) The promotion, transfer or dismissal of any employee in the Executive Authority's Office shall be made by the Accounting Officer, after consultation with the Executive Authority.
 - (4) The promotion, transfer or dismissal of any other employee of the Legislature shall be made by the Accounting Officer after consultation with the Executive Authority.
- [subsection (4) substituted by section 5 of [Act 5 of 2010](#)]*
- (5) Any promotion, transfer or dismissal of any employee of the Legislature shall be in accordance with the [Constitution](#), all applicable national legislation and the policies of the Legislature.

13. Conditions of service of staff

- (1) The Accounting Officer shall, after consultation with the Executive Authority, make, and may from time to time vary, policies providing for the conditions of service for employees of the Legislature and regarding the appointment, promotion, demotion, transfer, or dismissal of employees.
- (2) All policies relating to the conditions of service for employees of the Legislature and regarding the appointment, promotion, demotion, transfer or dismissal of employees shall be in accordance with the [Constitution](#) and all applicable national and provincial legislation.

14. Organisation of the Legislature Service

The Service shall be organized in accordance with this Act and the organogram of the Legislature, as approved by the Executive Authority from time to time, which shall set out the posts on the fixed establishment of the Legislature.

15. Management of the Legislature Service

- (1) The Accounting Officer may establish structures within the Service to assist with the consideration of issues relating to the management of the Legislature, the development of policies regarding the management of the institution, and the effective running of the institution.
- (2) All policies developed relating to the Legislature Service and the management of the Legislature shall be subject to the final approval of the Executive Authority, and shall be in accordance with the [Constitution](#) and all applicable national and provincial legislation.

16. Delegation of powers

- (1) The Accounting Officer may delegate any powers or duties conferred on the Accounting Officer subject to any limitations which may be contained in applicable national legislation to an official of the Legislature in accordance with a system of delegation.
- (2) The system of delegation must be developed with the concurrence of the Executive Authority and must—
 - (a) maximize administrative and operational efficiency; and
 - (b) provide adequate checks and balances in the financial management of the Legislature.
- (3) The Accounting Officer must regularly review delegations made in terms of subsection (1) and, if necessary, amend or withdraw any of those delegations.
- (4) A delegation in terms of subsection (1)—
 - (a) must be in writing;
 - (b) is subject to any limitations and conditions the Accounting Officer may impose;
 - (c) may be to an individual or to the holder of a specific post in the Service;
 - (d) may authorize that official to sub-delegate, in writing, the delegated power or duty to another official, or to the holder of a specific post in the Service; and
 - (e) does not divest the Accounting Officer of responsibility for the exercise of the delegated power or the performance of the delegated duty.
- (5) The Accounting Officer may confirm, vary or revoke any decision taken by an official in terms of a delegation under subsection (2), subject to any rights that may have become vested as a consequence of the decision.

Chapter 6

Planning and budgeting

17. Preparation of strategic plan, annual performance plan and budget

The Executive Authority must—

- (a) oversee the preparation of the Legislature's strategic plan, annual performance plan and budget in accordance with this Chapter;

- (b) approve the strategic plan, annual performance plan and budget for submission to the Legislature.
- (c) table the strategic plan and annual performance plan in the Legislature.

[paragraph (c) added by section 6 of [Act 5 of 2010](#)]

18. Strategic plan

- (1) Within six months after a general election, or by another date determined by the Legislature, the Accounting Officer must prepare and present a strategic plan for the Legislature's administration to the Executive Authority.
- (2) The strategic plan for the Legislature's administration must—
 - (a) cover the following five years or other period determined by the Legislature,
 - (b) specify the priorities of the Legislature's administration for the period of the plan;
 - (c) include objectives and outcomes for each programme of the Legislature;
 - (d) include multi-year projections of revenue and expenditure; and
 - (e) include performance measures and indicators for assessing the administration's performance in implementing the strategic plan.

19. Annual performance plan

- (1) The Accounting Officer must, within six months prior to the start of the financial year, prepare a draft annual performance plan for the Legislature and present it to the Executive Authority.
[subsection (1) substituted by section 7 of [Act 5 of 2010](#)]
- (2) The annual performance plan must—
 - (a) cover the following financial year and the two financial years thereafter or other period determined by the Legislature;
 - (b) indicate any changes to the Legislature's priorities as set out in the strategic plan.
 - (c) update the projections of revenue and expenditure presented in the strategic plan;
 - (d) specify performance targets related to each of the performance measures and indicators for assessing the Legislature's performance in achieving its objectives and outcomes; and
 - (e) provide details of the Legislature's donor funded projects, including
 - (i) the donors and the amounts being given;
 - (ii) the purposes of the projects; and
 - (iii) performance measures and indicators for assessing the Legislature's performance in achieving the purposes of the projects.

20. Annual budget

- (1) At least ten months prior to the start of the financial year, the Accounting Officer must prepare a draft budget for the Legislature and present it to the Executive Authority.
- (2) The Legislature's budget must —
 - (a) cover the following financial year and the two financial years thereafter or other period determined by the Legislature;

- (b) specify the Legislature's expected revenues, distinguishing between—
 - (i) funds to be appropriated through the annual provincial budget;
 - (ii) funds that are a direct charge against the Provincial Revenue Fund; and
 - (iii) funds derived from the Legislature's own revenue sources, excluding donor funds;
- (c) specify the Legislature's proposed expenditure requirements per main division within the budget, distinguishing between the sources of funds identified in paragraph (b);
- (d) specify the purpose of each main division within the budget and provide explanations and other information substantiating the amounts proposed in terms of paragraphs (b) and (c);
- (e) specify—
 - (i) allocations of support for political parties represented in the Legislature;
 - (ii) constituency funds for political parties; and
 - (iii) transfers to other entities; 1
- (f) contain a schedule of the planned expenditure under the Legislature's donor funded projects; and
- (g) be in accordance with the format prescribed under section 27(3) of the Public Finance Management Act.

21. Annual appropriations and approvals

- (1) For each financial year, the Legislature must—
 - (a) appropriate the funds identified in terms of [section 20\(2\)\(b\)\(i\)](#) in the provincial annual budget referred to in section 27 (2) of the Public Finance Management Act;
 - (b) approve the use of the funds identified in terms of [section 20\(2\)\(b\)\(iii\)](#) before the start of the financial year.
- (2) Any revision of an appropriation in terms of subsection (1) must be made by a provincial adjustments budget referred to in section 31 of the Public Finance Management Act.

22. Expenditure before provincial annual budget is passed

- (1) If the provincial annual budget is not passed before the start of the financial year, funds may be withdrawn from the Provincial Revenue Fund for the requirements of the Legislature during that financial year as direct charges against the Fund until the budget is passed.
- (2) Funds withdrawn from the Provincial Revenue Fund in terms of subsection (1) -
 - (a) may be used only for services for which funds were appropriated in the previous annual budget or adjustments budget; and
 - (b) may not—
 - (i) during the first four months of that financial year, exceed 45 per cent of the total amount appropriated in the previous annual budget;
 - (ii) during each of the following months, exceed ten per cent of the total amount appropriated in the previous annual budget; and
 - (iii) in aggregate, exceed the total amount appropriated in the previous annual budget.

- (3) The funds provided for in subsection (1) are not additional to funds appropriated for the relevant financial year, and any funds withdrawn in terms of that subsection must be regarded as forming part of the funds appropriated in the budget for that financial year.

23. Unauthorized expenditure

- (1) Unauthorized expenditure incurred by the Legislature does not become a charge against the Provincial Revenue Fund, unless—
 - (a) the expenditure is an overspending of a vote and the Legislature appropriates an additional amount for that vote which covers the overspending; or
 - (b) the expenditure is unauthorized for another reason and the Legislature authorizes the expenditure as a direct charge against the Provincial Revenue Fund.
- (2) The Legislature must advise the Provincial Treasury of any unauthorized expenditure that has been authorized in terms of subsection (1).
- (3) If the Legislature authorizes unauthorized expenditure contemplated in sub-section (1) but does not appropriate an additional amount covering the amount of the unauthorized expenditure, the unauthorized expenditure becomes a charge against the funds of the Legislature.

24. Virement between main divisions within vote

- (1) The Accounting Officer may use a saving in the total amount appropriated under a main division within the Legislature's vote towards defraying excess expenditure under another main division within the vote, unless the Executive Authority directs otherwise.
- (2) The amount of a saving under a main division of the Legislature's vote that may be used in terms of subsection (1), may not exceed eight per cent of the amount appropriated under that main division.
- (3) This section does not authorize the use of a saving of an amount—
 - (a) specifically and exclusively appropriated for a purpose mentioned under a main division within the vote;
 - (b) appropriated for transfer to another institution;
 - (c) appropriated for capital expenditure in order to defray current expenditure; or
 - (d) that is a direct charge against the Provincial Revenue Fund in order to supplement the Legislature's appropriated funds.
- (4) The Executive Authority may make regulations or issue instructions concerning the application of this section.

25. Treatment of unspent funds

- (1) The Legislature is not required to return to the Provincial Revenue Fund money appropriated or approved for a particular financial year but not spent in that year.
- (2) Funds appropriated for, but not spent in a particular financial year must be regarded as funds derived from the Legislature's own revenue sources, and the approval of its use in subsequent financial years must be in accordance with [section 21\(1\)\(b\)](#).
- (3) Funds derived from the Legislature's own revenue sources that are approved for a particular financial year, but not spent in that year, must be approved for use in subsequent financial years in accordance with [section 21\(1\)\(b\)](#).

- (4) Despite the provisions of subsection (1), funds retained by the Legislature must be re-appropriated within the next two financial years.

[section 25 substituted by section 9 of [Act 5 of 2010](#)]

Chapter 7

Cash management and investment

26. Cash management and investment policy

- (1) The Executive Authority must prescribe an appropriate policy—
- (a) to ensure efficient and effective banking and cash management; and
 - (b) for investing money not immediately required.
- (2) The Accounting Officer is responsible for establishing systems and procedures for the effective implementation of the policy prescribed in terms of subsection (1).

[section 26, previously section 27, renumbered by section 9 of [Act 5 of 2010](#)]

27. Opening of bank accounts

- (1) The Accounting Officer, with the approval of the Executive Authority, and in accordance with the policy referred to in [section 27](#), must open and maintain—
- (a) a bank account into which all money received by the Legislature must promptly be paid; and
 - (b) such other bank accounts as are necessary for the effective and efficient management of the Legislature's funds.
- (2) The Legislature may not open a bank account—
- (a) abroad;
 - (b) with an institution not registered as a bank in terms of the Banks Act, 1990 ([Act No. 94 of 1990](#)); or
 - (c) otherwise than in the name of the Legislature.
- (3) A bank account opened in terms of this section does not form part of the Provincial Revenue Fund.

[section 27, previously section 28, renumbered by section 9 of [Act 5 of 2010](#)]

28. Control of bank accounts

The Accounting Officer—

- (a) must administer all bank accounts of the Legislature;
- (b) is accountable to the Executive Authority for the Legislature's bank accounts; and
- (c) must enforce compliance with [section 30](#).

[section 28, previously section 29, renumbered by section 9 of [Act 5 of 2010](#)]

29. Withdrawals from bank accounts

- (1) Only the Accounting Officer, or an official to whom that power has been delegated in terms of [section 16](#), may withdraw money, or authorise the withdrawal of money, from any of the Legislature's bank accounts.

- (2) A delegation in terms of subsection (1) must be in accordance with the policy made in terms of [section 27](#).
- (3) Money may be withdrawn from one of the Legislature's bank accounts only for—
 - (a) defraying expenditure in accordance with the Legislature's approved budget or authorized for the Legislature as a direct charge against the Provincial Revenue Fund;
 - (b) defraying expenditure incurred in relation to a donor funded project;
 - (c) refunding money incorrectly paid into a bank account;
 - (d) to make other refunds approved by the Executive Authority; or
 - (e) cash management or investment purposes in accordance with the policy made in terms of [section 27](#).

[section 29, previously section 30, renumbered by section 9 of [Act 5 of 2010](#)]

30. Restrictions on borrowing, guarantees and other transactions

- (1) The Legislature may not—
 - (a) borrow money;
 - (b) issue a guarantee, indemnity or security, or
 - (c) enter into any other similar transaction that binds or may bind it to any future financial commitment.
- (2) The Legislature is not bound by a loan transaction, guarantee, indemnity, security or other transaction entered into or concluded in breach of subsection (1).

[section 30, previously section 31, renumbered by section 9 of [Act 5 of 2010](#)]

31. Requisitioning of funds

The Executive Authority must determine a process for requisitioning funds that provides for sound cash-flow management.

[section 31, previously section 32, renumbered by section 9 of [Act 5 of 2010](#)]

Chapter 8 Financial arrangements

32. Asset and liability management

- (1) The Accounting Officer is responsible for managing—
 - (a) The Legislature's assets, including safeguarding and maintaining those assets; and
 - (b) The Legislature's liabilities.
- (2) For the purposes of subsection (1), the Accounting Officer must ensure that—
 - (a) The Legislature maintains a management, accounting and information system that accounts for its assets and liabilities;
 - (b) The Legislature's assets and liabilities are valued in accordance with generally recognised accounting practice; and

- (c) The Legislature maintains a system of internal control of assets and liabilities, including an asset and liabilities register, as may be prescribed.

[section 32, previously section 33, renumbered by section 9 of [Act 5 of 2010](#)]

33. Revenue management

- (1) The Accounting Officer is responsible for managing the revenue of the Legislature.
- (2) For the purposes of subsection (1), the Accounting Officer must ensure that—
 - (a) the Legislature has effective revenue collection systems;
 - (b) all money received is deposited promptly in accordance with this Act into the bank account contemplated by [section 28\(1\)\(a\)](#);
 - (c) the Legislature maintains a management, accounting and information system which—
 - (i) recognizes revenue when it is earned; and
 - (ii) accounts for receipts of revenue;
 - (d) the Legislature maintains a system of internal control in respect of revenue; and
 - (e) all revenue received by the Legislature is reconciled at least on a weekly basis.

[section 33, previously section 34, renumbered by section 9 of [Act 5 of 2010](#)]

34. Management of debtors

- (1) The Accounting Officer must take effective and appropriate steps to collect all monies due to the Legislature including—
 - (a) maintaining proper accounts and records of all debtors, including amounts received in part payment; and
 - (b) if appropriate, instituting legal proceedings.
- (2) The Accounting Officer may settle or write off a debt only in accordance with a prescribed policy.
- (3) Interest must be charged on any debt owed to the Legislature in accordance with a prescribed policy.

[section 34, previously section 35, renumbered by section 9 of [Act 5 of 2010](#)]

35. Expenditure management

- (1) The Accounting Officer is responsible for managing the expenditure of the Legislature.
- (2) For the purpose of subsection (1), the Accounting Officer must ensure that—
 - (a) the Legislature maintains an effective system of expenditure control, which includes procedures for the approval and authorization of the withdrawal and payment of funds;
 - (b) The Legislature maintains a management, accounting and information system which—
 - (i) recognizes expenditure when it is incurred;
 - (ii) accounts for creditors of the Legislature; and
 - (iii) accounts for payments made by the Legislature;
 - (c) the Legislature maintains a system of internal control in respect of creditors and payments;

- (d) the Legislature makes payment—
 - (i) directly to the person to whom it is due unless agreed otherwise or for good reason; and
 - (ii) either electronically or by way of non-transferable cheques, but cash payments and payments by way of cash cheques may be made for exceptional reasons, and only up to a prescribed limit;
- (e) all amounts owed by the Legislature are paid within 30 days of receiving the relevant invoice or statement, unless agreed otherwise; and
- (f) all financial accounts of the Legislature are closed at the end of each month and reconciled with its records.

[section 35, previously section 36, renumbered by section 9 of [Act 5 of 2010](#)]

36. Support for political parties

- (1) Allocations for support for political parties represented in the Legislature may be used only in accordance with a policy adopted by the Legislature.
- (2) Thirty days prior to the beginning of each financial year, each political party must submit to the Accounting Officer an expenditure plan approved by the caucus of the party, that conforms with the policy contemplated by sub-section (1).

[section 36, previously section 37, renumbered by section 9 of [Act 5 of 2010](#)]

37. Constituency funds

- (1) Constituency funds transferred to political parties represented in the Legislature may be used only in accordance with a policy adopted by the Legislature.
- (2) Before transferring any funds to a party, the Accounting Officer must—
 - (a) obtain a written assurance from the party it has financial management systems that will enable it to account separately for the use of constituency funds; or
 - (b) if such an assurance is not or cannot be given, the Accounting Officer must render the transfer of the funds subject to conditions requiring the political party to establish and implement the required financial management systems.
- (3) Two months after the end of the financial year, each political party must submit to the Executive Authority and the Auditor-General financial statements in the prescribed format reflecting the use of the constituency funds.
- (4) The Auditor-General must—
 - (a) audit the financial statements;
 - (b) submit an audit report on those statements to the Executive Authority within two months of receiving them; and
 - (c) recover the audit costs from the Legislature.
- (5) Within five days of receiving an audit report, the Executive Authority must table it and the relevant financial statements in the Legislature, unless the Legislature is then in recess, in which case the Executive Authority must table the report in the first sitting of the Legislature thereafter.

- (6) Should a party not submit the financial statements to the Accounting Officer within two months after the end of a financial year, the party will forfeit one tenth of its constituency funds for each month or part thereof that the financial statements are late.

[section 37, previously section 38, renumbered by section 9 of [Act 5 of 2010](#)]

38. Transfers

Before transferring any funds to any entity, whether within or outside government, the Accounting Officer must obtain—

- (a) a written assurance from the entity that it implements effective, efficient and transparent financial management and internal control systems; or
- (b) render the transfer subject to conditions and remedial measures requiring the entity to establish and implement effective, efficient and transparent financial management and internal control systems.

[section 38, previously section 39, renumbered by section 9 of [Act 5 of 2010](#)]

39. Budget implementation

The Legislature is responsible for implementing the Legislature's budget and must ensure that—

- (a) spending is in accordance with the approved budget; and
- (b) revenue and expenditure are properly monitored.

[section 39, previously section 40, renumbered by section 9 of [Act 5 of 2010](#)]

40. Instructions from the Executive Authority with financial implications

- (1) Any directive by the Executive Authority to the Accounting Officer that has financial implications must be in writing.
- (2) If implementation of a directive is likely to result in unauthorized expenditure, the Accounting Officer will be responsible for any resulting unauthorized expenditure, unless the Accounting Officer has informed the Executive Authority in writing of the likelihood of that unauthorized expenditure.
- (3) If the Executive Authority decides to proceed with the implementation of such a directive, the decision and the reasons for it, must be in writing, and the Accounting Officer must promptly file a copy of this document with the Auditor-General.

[section 40, previously section 41, renumbered by section 9 of [Act 5 of 2010](#)]

41. Impending shortfalls and overspending

The Accounting Officer must—

- (a) report in writing to the Executive Authority—
 - (i) any impending shortfalls in budgeted revenue and overspending of a main division within the Legislature's vote; and
 - (ii) any steps taken to prevent or rectify such shortfalls or overspending; and
- (b) comply with any remedial measures imposed by the Executive Authority to prevent or rectify such shortfalls or overspending.

[section 41, previously section 42, renumbered by section 9 of [Act 5 of 2010](#)]

Chapter 9

Supply chain management

42. Application of this Chapter

This Chapter applies to—

- (a) the procurement by the Legislature of goods and services; and
- (b) the disposal and letting of the Legislature's assets, including the disposal of goods no longer required.

[section 42, previously section 43, renumbered by section 9 of [Act 5 of 2010](#)]

43. Supply chain management policy

The Executive Authority must prescribe a supply chain management policy which—

- (a) is fair, equitable, transparent, competitive and cost effective;
- (b) promotes high ethical standards and prohibits fraud, corruption, favoritism and unfair and irregular practices;
- (c) requires disclosure of and deals appropriately with conflicts of interests;
- (d) establishes appropriate supply chain management processes and procedures, including—
 - (i) demand management;
 - (ii) acquisition management;
 - (iii) logistics management;
 - (iv) disposal management;
 - (v) risk management; and
 - (vi) regular assessment of supply chain performance;
- (e) complies with other applicable legislation;
- (f) is consistent with the supply chain management policy issued in terms of the Public Finance Management Act; and
- (g) covers at least the matters specified in Schedule 1 to this Act.

[section 43, previously section 44, renumbered by section 9 of [Act 5 of 2010](#)]

44. Implementation of system

The Accounting Officer must—

- (a) implement the supply chain management policy;
- (b) establish capacity in the Legislature to implement the policy;
- (c) take all reasonable steps to ensure that proper mechanisms are in place to minimize dishonesty, favoritism and unfair and irregular practices;
- (d) ensure that contracts concluded for the supply of services and goods are properly enforced;
- (e) monitor the performance of contractors; and

- (f) regularly report to the Executive Authority on—
 - (i) the management of contracts and the performance of contractors; and
 - (ii) the implementation of the policy.

[section 44, previously section 45, renumbered by section 9 of [Act 5 of 2010](#)]

45. Supply Chain Management Committee

In consultation with the Executive Authority, the Accounting Officer may-

- (a) constitute a Supply Chain Management Committee for the procurement of the services and supplies for the Legislature;
- (b) determine the size, structure, composition and duration of the Supply Chain Management Committee;
- (c) determine the procedures to be followed by the Supply Chain Management Committee in procuring the required services and supplies; and
- (d) determine the terms, conditions and other specification of the procurement contracts;

Provided that the system used by the Supply Chain Management Committee shall be fair, equitable, transparent, competitive and cost-effective, and in accordance with all applicable requirements set out in national or provincial legislation, and the supply chain management policy for the Legislature.

[section 45, previously section 46, renumbered by section 9 of [Act 5 of 2010](#)]

46. Unsolicited offers

- (1) The Executive Authority may prescribe procedures for considering offers to supply goods or services that are unsolicited or are made otherwise than in accordance with the Legislature's prescribed procurement processes.
- (2) The Legislature—
 - (a) is not obliged to consider any offer contemplated in subsection (1);
 - (b) may consider an offer contemplated in sub-section (1) only in accordance with the prescribed procedure.

[section 46, previously section 47, renumbered by section 9 of [Act 5 of 2010](#)]

47. Tenders not recommended

- (1) The Accounting Officer must notify the Auditor-General and the Executive Authority in writing if a contract is concluded in respect of a tender, quotation, or other bid other than the one recommended in terms of the supply chain management policy.
- (2) Sub-section (1) does not apply if a contract was concluded in order to rectify an irregularity.

[section 47, previously section 48, renumbered by section 9 of [Act 5 of 2010](#)]

48. Members of the Legislature barred from serving on tender committees

No Member of the Legislature may—

- (a) be a member of a committee evaluating or approving tenders, quotations, contracts or other bids for the Legislature.
- (b) attend any meeting of such committee as an observer; or

- (c) participate in any other way in evaluating or approving tenders, quotations, contracts or other bids for the Legislature.

[section 48, previously section 49, renumbered by section 9 of [Act 5 of 2010](#)]

49. Interference

No person may—

- (a) interfere with the supply chain management system of the Legislature;
- (b) impede the Accounting Officer in fulfilling the responsibilities of the Accounting Officer in terms of this Chapter; or
- (c) amend or tamper with any tender, quotation, contract or bid after its submission.

[section 49, previously section 50, renumbered by section 9 of [Act 5 of 2010](#)]

50. Prohibition on contracts

No contract to provide goods or services to the Legislature may be awarded to a Member of Parliament, to a Member of a Provincial Legislature, to a Municipal Councilor, to a person in the employ of the State or to any entity in which such a person is a Director or has a controlling or other substantial interest.

[section 50, previously section 51, renumbered by section 9 of [Act 5 of 2010](#)]

Chapter 10

Audit committee and internal audit unit

51. Establishment of audit committee

- (1) The Legislature must have an audit committee appointed by the Executive Authority.
- (2) The committee must—
 - (a) be constituted in a manner that ensures its independence; and
 - (b) consist of at least six persons with appropriate experience.
- (3) More than half of the members of the committee must be individuals who—
 - (a) are not employed by the Legislature or the state and are not Members of Parliament, a Provincial Legislature or a municipal council; and
 - (b) have no personal or financial interest in any matter related to the financial management of the Legislature.
- (4) The Executive Authority must appoint one of the members contemplated by subsection (3) as the chairperson of the committee.
- (5) The terms of appointment and remuneration of members of the audit committee contemplated in subsection (3) must be consistent with the requirements for audit committees prescribed under the Public Finance Management Act.
- (6) A member of the audit committee who has a personal or financial interest in any matter before the committee must disclose that interest and withdraw from the proceedings of the committee when that matter is considered.

[section 51, previously section 52, renumbered by section 9 of [Act 5 of 2010](#)]

52. Functions of audit committee

- (1) The audit committee must—
 - (a) establish an audit charter to—
 - (i) guide its audit approach and that of the internal audit unit;
 - (ii) set out its operating procedures; and
 - (iii) determine the rules that govern its relationship with the internal audit unit and the Accounting Officer;
 - (b) carry out such investigations into the Legislature's financial and risk management as it considers necessary or are requested by the Accounting Officer;
 - (c) in the annual report of the Legislature, comment on—
 - (i) the effectiveness of internal control;
 - (ii) the quality of financial management and reports compiled by the Accounting Officer in terms of this Act and other applicable national and provincial legislation; and
 - (iii) the quality of the annual financial statements;
 - (d) report to and advise the Accounting Officer on matters relating to the financial and risk management of the Legislature; and
 - (e) communicate any concerns it deems necessary to the Executive Authority and the Auditor-General.
- (2) In performing its functions, the audit committee must—
 - (a) have access to the financial records and other relevant information of the Legislature;
 - (b) must meet as often as required to perform its functions, but at least four times a year; and
 - (c) must liaise with—
 - (i) the internal audit unit of the Legislature; and
 - (ii) the person designated by the Auditor-General to audit the financial statements of the Legislature;

[section 52, previously section 53, renumbered by section 9 of [Act 5 of 2010](#)]

53. Allegations against the Accounting Officer

If the audit committee becomes aware of information implicating the Accounting Officer in fraud, corruption or gross negligence, it must report this promptly to the Executive Authority.

[section 53, previously section 54, renumbered by section 9 of [Act 5 of 2010](#)]

54. Internal audit unit

- (1) The Legislature must have an internal audit unit established by the Accounting Officer, which must conduct internal audits in accordance with the relevant standards prescribed for public entities in terms of the Public Finance Management Act.
- (2) The unit must prepare for the approval of the audit committee—
 - (a) operating procedures to guide its relationship with the administration of the Legislature;
 - (b) a three-year risk-based audit plan; and

- (c) an internal audit program for each financial year setting out the proposed scope of each audit.
- (3) The unit must report quarterly to the audit committee on its performance against the annual audit plan.
- (4) The unit must—
 - (a) be independent of the activities that are audited; and
 - (b) have access to the financial records and other relevant information of the Legislature.

[section 54, previously section 55, renumbered by section 9 of [Act 5 of 2010](#)]

Chapter 11

Reporting and auditing

Part 1 – In-year reporting

55. Monthly financial statements

- (1) Within fifteen days after the end of each month, the Accounting Officer must submit a financial statement to the Executive Authority, in a format determined by the Executive Authority, reflecting the state of the Legislature's finances for that month and for the financial year to date and specifying—
 - (a) actual revenue by revenue source;
 - (b) actual expenditure by main division;
 - (c) actual capital expenditure by main division; and
 - (d) when necessary, an explanation of—
 - (i) any material variances from the Legislature's projected revenue by source, and from the Legislature's expenditure projections by main division; and
 - (ii) any remedial or corrective steps taken or to be taken to ensure that projected revenue and expenditure remain within the Legislature's approved budget.
- (2) The statement must include a projection of revenue and expenditure for the remainder of the financial year, and any revisions from initial projections.
- (3) The amounts reflected in the statement must in each case be compared with the corresponding amounts set out in the projected cash-flows and in the Legislature's budget.

[section 55, previously section 56, renumbered by section 9 of [Act 5 of 2010](#)]

56. Quarterly performance reports

Within 30 days of the end of each quarter, the Accounting Officer must report to the Executive Authority on the Legislature's performance in implementing the annual performance plan in that quarter.

[section 56, previously section 57, renumbered by section 9 of [Act 5 of 2010](#)]

57. Mid-year budget and performance assessment

- (1) Before 31 October of each year, the Accounting Officer must submit to the Executive Authority a report that assesses the performance of the Legislature's administration during the first half of the financial year, taking into account—
 - (a) the monthly statements referred to in sections 37 and 38 for the first half of the financial year;
 - (b) the past year's annual report, and progress on resolving problems identified in the report; and
 - (c) performance in implementing the annual performance plan.
- (2) In the report Accounting Officer must—
 - (a) recommend whether an adjustments budget may be necessary; and
 - (b) revise projections for revenue and expenditure to the extent that this may be necessary.

[section 57, previously section 58, renumbered by section 9 of [Act 5 of 2010](#)]

58. Submission of reports to the Legislature

The Executive Authority must table the monthly, quarterly and mid-year reports in the Legislature within five working days of receiving the reports, unless the Legislature is currently in recess, in which case the reports shall be tabled at the first sitting of the Legislature after the Legislature is back in session.

[section 58, previously section 59, renumbered by section 9 of [Act 5 of 2010](#)]

Part 2 – Annual report, financial statements and auditing

59. Preparation of annual reports

- (1) For each financial year, the Accounting Officer must prepare an annual report.
- (2) The purpose of an annual report is to—
 - (a) provide a record of the activities of the Legislature's administration during the financial year to which the report relates;
 - (b) provide a report on performance of the Legislature's administration; and
 - (c) promote accountability for decisions made during the year by the Legislature's administration.
- (3) The annual report must be based on the annual performance plan and must contain—
 - (a) the annual financial statements of the Legislature for the relevant financial year as submitted to the Auditor-General;
 - (b) any explanations that may be necessary to clarify the financial statements;
 - (c) the Auditor-General's audit report on those financial statements;
 - (d) an assessment by the Accounting Officer of the performance of the Legislature during that financial year against the objectives and outcomes identified in Legislature's annual performance plan;
 - (e) particulars of any corrective action taken or to be taken in response to issues raised in the audit report referred to in paragraph (b);

- (f) the audit committee's report; and
- (g) any other prescribed information.

[section 59, previously section 60, renumbered by section 9 of [Act 5 of 2010](#)]

60. Preparation of financial statements

- (1) For each financial year, the Accounting Officer must prepare annual financial statements in accordance with generally recognized accounting practice and in the format prescribed in terms of the Public Finance Management Act.
- (2) The notes to the annual financial statements must—
 - (a) include particulars of the remuneration of officials of the Legislature, whether financial or in kind;
 - (b) disclose in respect of each bank account held by the Legislature during the relevant financial year—
 - (i) the name of the bank where the account is or was held, and the type of account; and
 - (ii) year opening and year end balances in each of these bank accounts; and
 - (c) provide a summary of all investments of the Legislature as at the end of the financial year; and
 - (d) provide particulars of—
 - (i) any material losses and any material unauthorized, irregular or fruitless and wasteful expenditures that occurred during the financial year and whether these are recoverable;
 - (ii) any criminal or disciplinary steps instituted as a result of such losses or unauthorized, irregular or fruitless and wasteful expenditures; and
 - (iii) any material losses written off.

[section 60, previously section 61, renumbered by section 9 of [Act 5 of 2010](#)]

61. Submission of annual financial statements

- (1) Within two months after the end of the financial year, the Accounting Officer must submit the annual financial statements—
 - (a) to the Auditor-General for auditing; and
 - (b) to the Provincial Treasury for inclusion in the consolidated financial statements.

[section 61, previously section 62, renumbered by section 9 of [Act 5 of 2010](#)]

62. Auditing of annual financial statements

- (1) The Auditor-General must—
 - (a) audit the financial statements submitted in terms of [section 62](#); and
 - (b) submit an audit report on those statements to the Executive Authority within two months of receiving the statements.
- (2) If the Auditor-General is unable to complete an audit within two months of receiving the financial statements, the Auditor-General must promptly submit a report outlining the reasons for the delay to the Executive Authority. The Executive Authority must promptly table the report in the Legislature.

- (3) Once the Auditor-General has submitted an audit report to the Executive Authority, no person other than the Auditor-General may alter the report or the annual financial statements to which the report relates.

[section 62, previously section 63, renumbered by section 9 of [Act 5 of 2010](#)]

63. Submission of annual report

The Accounting Officer must submit the Legislature's annual report to the Executive Authority within five months of the end of the financial year concerned.

[section 63, previously section 64, renumbered by section 9 of [Act 5 of 2010](#)]

64. Tabling of annual report

- (1) The Executive Authority must table the annual report in the Legislature within five working days of receiving it, unless the Legislature is in recess, in which case the report shall be tabled at the first sitting of the Legislature after the Legislature is back in session.
- (2) The annual report, including the audited financial statements and audit report, must be made public.

[section 64, previously section 65, renumbered by section 9 of [Act 5 of 2010](#)]

65. Issues raised in audit reports

The Accounting Officer must—

- (a) promptly address any issues raised by the Auditor-General in an audit report; and
- (b) advise the Executive Authority of the steps taken to address the issues.

[section 65, previously section 66, renumbered by section 9 of [Act 5 of 2010](#)]

66. Consequences of non-compliance with certain provisions

- (1) If the Accounting Officer does not submit the annual financial statements to the Auditor-General in accordance with [section 62](#)—
 - (a) the Accounting Officer must promptly submit a written explanation setting out the reasons for the failure to—
 - (i) the Auditor-General; and
 - (ii) the Executive Authority; and
 - (b) the Executive Authority—
 - (i) must report to the Legislature concerning the failure;
 - (ii) must take appropriate steps to ensure that the financial statements are submitted for auditing; and
 - (iii) may order that disciplinary steps be taken against the Accounting Officer or other person responsible for the failure; and
 - (c) the Auditor-General may issue a special report on such failure to the Legislature which must be made public.

- (2) If the Executive Authority does not table the annual report in the Legislature in accordance with [section 65](#)—
- (a) the Executive Authority—
 - (i) must table a report on the failure in the Legislature;
 - (ii) must take appropriate steps to ensure that the annual report is tabled in the Legislature; and
 - (iii) may order that disciplinary steps be taken against the Accounting Officer or other person responsible for the failure; and
 - (b) the Auditor-General—
 - (i) must submit the audited financial statements and audit report to the Legislature for tabling; and
 - (ii) may issue a special report on the delay.

[section 66, previously section 67, renumbered by section 9 of [Act 5 of 2010](#)]

Part 3 – General reporting responsibilities

67. Reporting of irregularities

The Accounting Officer must report particulars of any unauthorized, irregular or fruitless and wasteful expenditure to the Executive Authority immediately on discovery.

[section 67, previously section 68, renumbered by section 9 of [Act 5 of 2010](#)]

68. Other information

The Accounting Officer must comply with any request by the Executive Authority or the Auditor-General for information, returns, documents, explanations and motivations.

[section 68, previously section 69, renumbered by section 9 of [Act 5 of 2010](#)]

Chapter 12 Regulations and instructions

69. Regulations and instructions

- (1) The Executive Authority may make regulations or issue instructions not inconsistent with this Act concerning—
- (a) any matter in respect of which this Act authorizes regulations or instructions;
 - (b) the handling of, and control over, the assets of the Legislature;
 - (c) the improvement and maintenance of the assets of the Legislature;
 - (d) the alienation, letting or other disposal of the assets of the Legislature;
 - (e) an appropriate supply chain management system for the Legislature which complies with Chapter 9;
 - (f) the financial management of the provision of support services to Members;
 - (g) the rendering of free services by the Legislature's administration;

- (h) the determination of any scales of fees, other charges or rates relating to services provided by the Legislature's administration;
 - (i) the writing off of, or settling of claims in respect of, losses of money or other assets of the Legislature or amounts owed to the Legislature;
 - (j) liability for losses and damages, and procedures for recovery, including the recovery of fruitless and wasteful, unauthorized and irregular expenditure;
 - (k) the cancellation or variation of contracts to the detriment of the Legislature;
 - (l) the settlement of claims by or against the Legislature;
 - (m) the waiver of claims by the Legislature;
 - (n) the remission of money due to the Legislature;
 - (o) gifts or donations to officials of the Legislature;
 - (p) vouchers or other proofs of receipts or payments, which are defective or have been lost or damaged;
 - (q) varying the time period within which any act must be performed in terms of this Act if it is necessary to achieve conformity with the budgeting or accounting cycles applicable to the public sector; and
 - (r) any other matter concerning the financial or general management of the Legislature that may facilitate the application of this Act.
- (2) Regulations in terms of subsection (1) may prescribe that the prior approval of the Executive Authority must be obtained for particular actions.
- (3) Regulations issued by the Executive Authority in terms of sub-section (1) may come into effect only after they have been approved by the Legislature.
- (4) The Accounting Officer must publish all regulations issued by the Executive Authority after their approval by the Legislature.

[section 69, previously section 70, renumbered by section 9 of [Act 5 of 2010](#)]

Chapter 13

Financial misconduct

Part 1 – Disciplinary proceedings

70. Financial misconduct by the Accounting Officer

- (1) The Accounting Officer commits an act of financial misconduct if the Accounting Officer deliberately or negligently—
- (a) contravenes a provision of this Act or other applicable national or provincial legislation that regulates the financial management of provincial legislatures;
 - (b) fails to comply with a duty imposed by a provision of this Act or other applicable national or provincial legislation on the Accounting Officer as accounting officer;
 - (c) makes, or permits or instructs another official of the Legislature to make, an unauthorized, irregular or fruitless and wasteful expenditure; or
 - (d) provides incorrect or misleading information in any document which must be submitted to the Executive Authority or the Auditor- General in terms of this Act.

- (2) The Executive Authority must—
- (a) investigate promptly any allegation of financial misconduct against the Accounting Officer, unless it is obviously unfounded; and
 - (b) if the investigation warrants such a step, institute disciplinary proceedings promptly and in accordance with any applicable systems and procedures.

[section 70, previously section 71, renumbered by section 9 of [Act 5 of 2010](#)]

71. Financial misconduct by officials

- (1) An official of the Legislature to whom a power or duty was delegated in terms of [section 16](#), commits an act of financial misconduct if that official deliberately or negligently—
- (a) fails to carry out the delegated power or duty;
 - (b) contravenes or fails to comply with a condition of the delegated power or duty;
 - (c) makes, or permits or instructs another official of the Legislature to make, an unauthorized, irregular or fruitless and wasteful expenditure; or
 - (d) provides incorrect or misleading information in any document submitted to the Accounting Officer.
- (2) The Accounting Officer must—
- (a) investigate any allegation of financial misconduct against an official unless it is obviously unfounded; and
 - (b) if the investigation warrants such a step, institute disciplinary proceedings within 30 days in accordance with any applicable systems and procedures.

[section 71, previously section 72, renumbered by section 9 of [Act 5 of 2010](#)]

Part 2 – Criminal proceedings

72. Offences

- (1) It is an offence for the Accounting Officer to—
- (a) deliberately or in a grossly negligent way—
 - (i) contravene or fail to comply with a provision of [section 8](#), [33\(2\)\(a\)](#) or (c), [34\(2\)\(a\)](#) or (c) or [36\(2\)\(a\)](#), (b), (c), (d) or (f);
 - (ii) fail to take all reasonable steps to prevent unauthorized, irregular or fruitless and wasteful expenditure; or
 - (b) contravene [section 11\(3\)\(b\)](#);
 - (c) fail to take all reasonable steps to prevent corrupt practices —
 - (i) in the management of Legislature's assets or receipt of money; or
 - (ii) in the implementation of the Legislature's supply chain management system;
 - (d) deliberately mislead or withhold information from the Executive Authority or Auditor-General on any bank accounts of the Legislature or on money received or spent by the Legislature; or
 - (e) deliberately provide false or misleading information in any document which in terms of a requirement of this Act must be submitted to the Executive Authority or Auditor-General.

- (2) It is an offence for any official—
- (a) to whom a power or duty is delegated in terms of [section 16](#), deliberately or in a grossly negligent way to contravene or fail to comply with the delegation or a condition of the delegation; or
 - (b) to contravene [section 11\(3\)\(b\)](#).
- (3) It is an offence for any person to contravene [section 50](#) or [63 \(3\)](#).
- [section 72, previously section 73, renumbered by section 9 of [Act 5 of 2010](#)]*

73. Penalties

A person convicted of an offence in terms of [section 73](#) is liable to imprisonment for a period not exceeding five years or to an appropriate fine determined in terms of applicable legislation or both.

[section 73, previously section 74, renumbered by section 9 of [Act 5 of 2010](#)]

74. Liability of functionaries exercising powers and functions in terms of this Act

- (1) The Executive Authority, the Accounting Officer or any other official exercising a power or performing a function in terms of this Act, is liable in respect of any loss or damage resulting from the exercise of that power or the performance of that function in good faith.
- (2) Without limiting liability in terms of the common law or other legislation, the Legislature may recover from the Accounting Officer or other official, any loss or damage suffered by it because of the deliberate or negligent unlawful actions of the Accounting Officer or other official when performing a function in terms of this Act.

[section 74, previously section 75, renumbered by section 9 of [Act 5 of 2010](#)]

75. Repeal of laws

The laws mentioned in the first and second columns of Schedule 2 are hereby repealed to the extent indicated in the third column of Schedule 2.

[section 75, previously section 76, renumbered by section 9 of [Act 5 of 2010](#)]

76. Transitional provision

Anything purported to have been done for and on behalf of the Legislature, and any person or persons appointed to the staff of the Legislature in terms of this Act, prior to the commencement of this Act, shall be deemed to have been done or appointed in terms of the provisions of this Act.

[section 76, previously section 77, renumbered by section 9 of [Act 5 of 2010](#)]

77. Short title and commencement

This Act is called the North West Provincial Legislature Management Act, 3 of 2007 and shall come into operation on the 1st of April 2008.

[section 77, previously section 78, renumbered by section 9 of [Act 5 of 2010](#)]

Schedule 1

Code of Ethics for the Executive Authority

- (1) The object of the Code is to enhance the confidence of the public and that of the Members of the Provincial Legislature in the integrity of the management of the Provincial Legislature. It applies to the

Executive Authority of the Provincial Legislature and supplements the Legislature's Code of Ethics. It recognizes that in holding high public office for the Executive Committee has an obligation to Perform official functions and duties in a way that will bear the closest public Scrutiny, an obligation that is not discharged by simply acting within the law.

- (2) The Executive Authority must conform to the principles of good governance set out in this Schedule.
- (3) The Executive Authority must—
 - (a) fulfill all the obligations placed upon it by the [Constitution](#), the law and the rules, regulations and policies of the Legislature;
 - (b) perform his or her duties and exercise powers with honesty and diligence, and in accordance with the highest ethical standards;
 - (c) act in all respects in a manner that is consistent with the integrity of this or her office; and
 - (d) arrange his or her private affairs in a manner that will prevent real, potential or apparent conflicts of interests from arising and, if such conflict arises, resolve the conflict in favour of the interests of the Legislature and the public.
- (4) The Executive Authority may not—
 - (a) use her or his position to enrich herself or himself or improperly benefit any other person;
 - (b) expose herself or himself to any situation involving the risk of a conflict between official responsibilities and private interests;
 - (c) receive remuneration for any work or service other than for the performance of her of his functions as Executive Authority; or
 - (d) use any allowance provided by the Legislature for a purpose other than that for which it was provided.
- (5) Any complaints concerning adherence to this Code must be determined by the Ethics Committee under the Standing Rules of the Legislature to oversee the Code of Ethics for members of the Legislature.

[Schedule 1 inserted by [Act 5 of 2010](#)]

Schedule 2

Matters that must be covered in the Legislature's supply chain management policy

The Legislature's supply chain management policy must cover the following matters—

- (a) the range of supply chain management processes that the Legislature may use, including tenders, quotations, auctions and other types of competitive bidding;
- (b) when the Legislature may or must use a particular type of process;
- (c) procedures and mechanisms for each type of process;
- (d) procedures and mechanisms for more flexible processes where the value of a contract is below a prescribed amount;
- (e) open and transparent pre-qualification processes for tenders or other bids;
- (f) competitive bidding processes in which only pre-qualified persons may participate;
- (g) bid documentation, and the advertising of and invitations for contracts;
- (h) procedures and mechanisms for—
 - (i) the opening, registering and recording of bids in the presence of interested persons;

- (ii) the evaluation of bids to ensure best value for money;
- (iii) negotiating the final terms of contracts; and
- (iv) the approval of bids;
- (i) screening processes and security clearances for prospective contractors on tenders or other bids above a prescribed value;
- (j) compulsory disclosure of any conflicts of interests prospective contractors may have in specific tenders;
- (k) the circumstances in which prospective contractors may be excluded from being considered for any contract on account of a conflict of interest;
- (l) the consequences of failing to disclose conflicts of interest in accordance with the Policy;
- (m) participation in the supply chain management system of persons who are not officials of the Legislature or employed by the state;
- (n) the barring of persons from participating in tendering or other bidding processes, including persons-
 - (i) convicted for fraud, corruption or any other crime involving dishonesty in the previous five years;
 - (ii) who willfully breached a contract with an organ of state during the previous five years; or
 - (iii) whose tax matters are not cleared by South African Revenue Service;
- (o) measures for—
 - (i) combating dishonesty, favoritism and unfair and irregular practices in supply chain management; and
 - (ii) promoting ethics of officials of the Legislature and others involved in supply chain management;
- (p) the invalidation of recommendations or decisions that were made, taken or in any way influenced by—
 - (i) Members of the Legislature in contravention of this Act or any applicable code of conduct for Members of the Legislature;
 - (ii) officials of the Legislature in contravention of this Act or any applicable code of conduct for officials of the Legislature;
- (q) the procurement of goods and services by the Legislature through contracts procured by other organs of state;
 - (i) contract management and dispute settling procedures;
 - (ii) the delegation of the Legislature's supply chain management powers and duties to officials of the Legislature; and
 - (iii) the circumstances in which a contract or agreement procured through the supply chain management policy of the Legislature may be amended by the parties.

[Schedule 2, previously Schedule 1, renumbered by [Act 5 of 2010](#)]

Schedule 2

Legislation repealed

[Note: numbering according to original]

No and Year of Act	Short Title	Extent of Repeal
Act No. 8 of 1997	North West Provincial Legislature Service Act, 1997	The whole
Act No. 4 of 1997	North West Provincial Exchequer Act, 1994	Section 15A

Schedule 3

Transitional arrangements

- (1) Until such time as any regulations that must be made in terms of the Principal Act and its amendments come into force, any policies, regulations or rules concerning the subject matter of such regulations remain in force.
- (2) If, when this Act comes into effect there is no performance agreement for the Accounting Officer as required in terms of [section 9](#), an agreement must be concluded within one month.
- (3) [Section 25](#) comes into effect at the start of the financial year after this Act comes into effect, or by decision of the Executive Authority.
- (4) The North West Provincial Legislature shall remain on modified cash accounting system insofar as it relates to the following sections of the Principal Act: sections [19](#), [20](#), [21](#), [23](#), [24](#), [56](#), [57](#), [58](#), [59](#), [60](#), [61](#), [62](#), [63](#), [64](#), [65](#), [66](#) and [67](#) until the Executive Authority decides otherwise.
- (5) Regulations required by this Act must be made within a reasonable time of the Act coming into effect.

[Schedule 3 added by [Act 5 of 2010](#)]