

Western Cape, South Africa

Western Cape Witnesses Act

Act 2 of 2006

Legislation as at 8 November 2006

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Western Cape South Africa

Western Cape Witnesses Act Act 2 of 2006

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and includes any amendments published up to 12 April 2024.]*

To regulate the summoning and examination of witnesses by the Provincial Parliament; and to provide for incidental matters.

BE IT ENACTED by the Provincial Parliament of the Province of the Western Cape, as follows:—

1. Definitions

In this Act, unless the context indicates otherwise—

"**committee**" means a committee of the Provincial Parliament consisting of members;

"**member**" means—

- (a) a member of the Provincial Parliament; or
- (b) a permanent delegate of the Province of the Western Cape to the National Council of Provinces;

"**Powers, Privileges and Immunities Act**" means the Powers, Privileges and Immunities of Parliament and Provincial Legislatures Act, 2004 ([Act No. 4 of 2004](#)), of the National Parliament;

"**Provincial Parliament**" means the Provincial Parliament of the Province of the Western Cape;

"**Secretary**" means the Secretary to the Provincial Parliament;

"**sheriff**" means a person appointed as sheriff in terms of section 2 of the Sheriffs Act 1986 ([Act No. 90 of 1986](#)), and includes an acting sheriff and a deputy sheriff;

"**Speaker**" means the Speaker of the Provincial Parliament;

"**Standing Rules**" means the rules made by the Provincial Parliament in terms of section 23(3)(b) of the Constitution of the Western Cape.

2. Summoning of witnesses

- (1) A summons in terms of section 25(a) of the Constitution of the Western Cape to appear before the Provincial Parliament or a committee to give evidence or to produce documents must be issued by the Secretary on the instructions of—
 - (a) the Speaker; or
 - (b) the chairperson of the committee concerned, acting in accordance with a resolution of the committee and with the concurrence of the Speaker.
- (2) The summons must state—
 - (a) the name of the person summonsed;

- (b) the name or designation of the person who must serve the summons;
 - (c) the time, place and venue at which the person summonsed is required to appear;
 - (d) the subject of the enquiry;
 - (e) the purpose for which the evidence of that person is required; and
 - (f) a description of the document, if any, which that person is required to produce.
- (3) The summons must be served by the sheriff, or by a person designated by the Secretary, by delivering a copy of the summons—
- (a) to the person mentioned in the summons: or
 - (b) at that person's usual or last known place of residence or of employment or business, to a person apparently over the age of 18 years and apparently residing or employed there.
- (4) A return by the person who served the summons that service thereof has been effected in accordance with subsection (3) is *prima facie* proof of the service.
- (5) A person summonsed in terms of this section or requested by the Provincial Parliament or a committee to attend a meeting of the Parliament or committee, is entitled to be paid an amount for his or her expenses as approved by the Speaker in accordance with the Standing Rules.

3. Examination of witnesses

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

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

4. Privilege of witnesses

- (1) Subject to subsection (2), the law regarding privilege as applicable to a witness summonsed to give evidence or to produce a document before the High Court of South Africa applies to the examination of a person in terms of [section 3](#).
- (2) A person who is being examined under oath or affirmation in terms of [section 3](#) may be required to answer any question put to him or her in connection with the subject of the enquiry, and to produce any document that he or she is requested to produce, despite the fact that the answer or the document would incriminate him or her or would tend to expose him or her to criminal or civil proceedings, or damages.
- (3) Evidence given under oath or affirmation by a person before the Provincial Parliament or a committee may not be used against that person in any court or place outside the Parliament, except in criminal proceedings where the person concerned stands trial on a charge of perjury or a charge contemplated in [section 5\(1\)\(c\)](#) or [5\(2\)\(d\)](#) or (e).

5. Offences

- (1) A person who—
- (a) has been duly summonsed in terms of [section 2](#) and who fails, without sufficient cause—
 - (i) to attend at the time and place specified in the summons; or
 - (ii) to remain in attendance until excused from further attendance by the person presiding at the enquiry;
 - (b) when called upon under [section 3\(a\)](#), refuses to be sworn in or to make an affirmation as a witness; or
 - (c) fails, without sufficient cause—
 - (i) to answer fully and satisfactorily all questions lawfully put to him or her under [section 3\(b\)](#); or
 - (ii) to produce any document in his or her possession or custody or under his or her control which he or she has been required to produce under [section 3\(b\)](#),
- commits an offence and is liable to a fine or to imprisonment for a period not exceeding 12 months or to both the fine and the imprisonment.
- (2) A person who—
- (a) threatens or obstructs another person in respect of evidence to be given before the Provincial Parliament or a committee;
 - (b) induces another person—
 - (i) to refrain from giving evidence to or producing a document before the Provincial Parliament or a committee; or
 - (ii) to give false evidence before the Provincial Parliament or a committee;
 - (c) assaults or penalises or threatens another person, or deprives that person of any benefit, on account of the giving or proposed giving of evidence before the Provincial Parliament or a committee;
 - (d) with intent to deceive the Provincial Parliament or a committee, produces to the Parliament or committee any false, untrue, fabricated or falsified document; or
 - (e) whether or not during examination under [section 3](#), wilfully furnishes the Provincial Parliament or a committee with information, or makes a statement before it, which is false or misleading,
- commits an offence and is liable to a fine or to imprisonment for a period not exceeding 10 two years or both the fine and imprisonment.
- (3) Subject to subsection (4), subsections (1) and (2) do not apply to members.
- (4) A member who commits an act mentioned in subsection (1) or (2) is guilty of contempt of the Provincial Parliament as contemplated in section 13 of the Powers, Privileges and Immunities Act.

6. Repeal of legislation

Sections 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27 and 28 of the Western Cape Law on the Powers and Privileges of the Provincial Legislature, 1995 ([Law No. 3 of 1995](#)), are repealed.

7. Short title

This Act is called the Western Cape Witnesses Act, 2006.