

PROVINCE OF WESTERN CAPE

Buitengewone Provinsiale Koerant

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It is hereby notified that the Premier of the Province of Western Cape has assented to the following Act which is hereby published for general information:—

No. 3 of 1998: Western Cape Law on the Powers and Privileges of the Provincial Legislature Amendment Act, 1997.

PROVINSIE WES-KAAP

Provincial Gazette Extraordinary

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KANTOOR VAN DIE PREMIER
VAN DIE PROVINSIE
WES-KAAP

P.K. 175/1998

1 April 1998

Hierby word bekend gemaak dat die Premier van die Provinsie Wes-Kaap die onderstaande Wet wat hierby ter algemene inligting gepubliseer word, bekragtig het:—

Nr. 3 van 1998: Wes-Kaapse Wysigingswet op die Wet op die Bevoegdhede en Voorregte van die Provinsiale Wetgewer, 1997.

GENERAL EXPLANATORY NOTE:

- [] Words in bold type in square brackets indicate omissions from existing enactments.
- _____ Words underlined with a solid line indicate insertions in existing enactments.

ACT

To amend the Western Cape Law on the Powers and Privileges of the Provincial Legislature, 1995, (Law 3 of 1995) so as to provide for the financial arrangements of the Provincial Legislature, and to make provision for the appointment of, and the fixing of the salaries, wages, allowances and other terms or conditions of service of a Secretary and such other officers as may be necessary for the discharge of the work of the Provincial Legislature, and to provide for matters incidental thereto.

(Afrikaans text signed by the Premier)
(Assented to 9 March 1998)

BE IT ENACTED by the Provincial Legislature of the Province of Western Cape as follows:

Amendment of section 1 of Law 3 of 1995

1. Section 1 of the Western Cape Law on the Powers and Privileges of the Provincial Legislature, 1995 (Law 3 of 1995) (hereafter referred to as "the principal Law"), is hereby amended by the substitution for the definition of "officer" of the following definition: 5

" 'officer' means the Secretary, and any other person who may be appointed [to the staff of the Provincial Legislature] by the Speaker in terms of section 16B;".

Insertion of Chapter 3A in Law 3 of 1995

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2. The principal Law is hereby amended by the insertion after Chapter 3 of the following Chapter:

"CHAPTER 3A**FINANCIAL ARRANGEMENTS AND STAFF**

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Appropriation of moneys and control of expenditure

16A (1) The control of the expenditure and the appropriation of moneys for the services of the Provincial Legislature shall be vested in the Speaker, and his or her authorization for such expenditure and appropriation of moneys, as well as receipts issued by the accounting officer referred to in 20

ALGEMENE VERDUIDELIKENDE NOTA:

- [] Woorde in vet druk tussen vierkantige hake dui skappings uit bestaande verordenings aan.
- _____ Woorde met 'n volstreep daaronder, dui invoegings in bestaande verordenings aan.

WET

Om die Wes-Kaapse Wet op die Bevoegdhede en Voorregte van die Provinsiale Wetgewer, 1995 (Wet 3 van 1995) te wysig om voorsiening te maak vir die finansiële reëlins van die Provinsiale Wetgewer en om voorsiening te maak vir die aanstelling van, en die bepaling van die salarisse, lone, toelaes en ander bedinge of diensvoorwaardes van 'n Sekretaris en sodanige ander beamptes wat nodig mag wees vir die uitvoering van die werk van die Provinsiale Wetgewer, en om voorsiening te maak vir aangeleenthede wat daarmee in verband staan.

*(Afrikaanse teks deur die Premier geteken)
(Bekragtig op 9 Maart 1998)*

DAAR WORD BEPAAL deur die Provinsiale Wetgewer van die Provinsie Wes-Kaap, soos volg:

Wysiging van artikel 1 van Wet 3 van 1995

1. Artikel 1 van die Wes-Kaapse Wet op die Bevoegdhede en Voorregte van die Provinsiale Wetgewer, 1995 (Wet 3 van 1995) (hierna "die Hoofwet" genoem), word hiermee gewysig deur die omskrywing van "beampte" deur die volgende omskrywing te vervang:

"'beampte' die Sekretaris, en enigiemand anders wat [in die personeel van die Provinsiale Wetgewer] deur die Speaker ingevolge artikel 16B aangestel word;"

10 Invoeging van Hoofstuk 3A in Wet 3 van 1995

2. Die Hoofwet word hiermee gewysig deur die volgende Hoofstuk na Hoofstuk 3 in te voeg:

"HOOFSTUK 3A

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FINANSIËLE REËLINGS EN PERSONEEL**Bewilling van geld en beheer van uitgawes**

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16A (1) Die beheer oor die uitgawes en die toewysing van geld vir die diens van die Provinsiale Wetgewer berus by die Speaker, en sy of haar magtiging vir sodanige uitgawes en toewysing van geld, asook kwitansies namens hom of haar deur die rekenpligtige beampte bedoel in subartikel

subsection (2) on his or her behalf, with reference to all matters affecting those services shall, notwithstanding anything to the contrary contained in any law but subject to the provisions of this section, be *prima facie* taken to be in all respects good, valid and effectual.

(2) Subject to the provisions of this Law, and unless otherwise directed by the Speaker, the Secretary shall be the accounting officer charged with the collection, receipt, custody and payment of moneys for the services of the Provincial Legislature, as well as the receipt, custody and control of property acquired for the administration of the Provincial Legislature, and the Secretary shall keep proper accounts of all moneys received and paid out by him or her and of all his or her financial transactions.

(3) The Secretary shall requisition the moneys voted for the services of the Provincial Legislature from the Provincial Treasury.

(4) The Secretary shall maintain at a bank registered as such under the Banks Act, 1990 (Act 94 of 1990), and approved by the Speaker, an account into which must be deposited all moneys received by him or her and from which all payments shall be made by him or her, and the Secretary may authorize an officer to sign the necessary cheques for the said payments.

(5) Notwithstanding anything to the contrary contained in any law, the Secretary may approve that a saving under a main division of the vote of the Provincial Legislature in an appropriation Law may be applied towards the defrayment of excess expenditure under another main division or of the expenditure under a new main division of that vote; provided that amounts appearing in "Column 2" of a schedule to such an appropriation Law in respect of the said vote, subject to the provisions of section 7(1)(b)(ii) of the Western Cape Exchequer Law, 1994 (4 of 1994), shall not be exceeded, and the savings thereon, with the approval of the Speaker, may be applied for the defraying of other expenses for which insufficient allocation was made under the vote.

(6) At the end of each financial year the Secretary shall cause statements of account to be prepared showing in detail the moneys received by him or her, and the expenditure incurred by him or her during the financial year in question and these statements shall be submitted to the standing committee of the Provincial Legislature responsible for the internal arrangements of the Legislature.

(7) At the end of a financial year the Secretary shall surrender to the Provincial Treasury for redepositing in the Provincial Exchequer Account, any unexpended balance of moneys received from the Treasury.

(8) The provisions of sections 7, 15, 20 and 21 of the Western Cape Exchequer Law, 1994 (Law 4 of 1994), shall *mutatis mutandis* apply in respect of the services, vote, accounts, moneys and property of the Provincial Legislature, and in such application—

- (a) any reference in sections 15, 20 and 21 to an accounting officer shall be deemed to be a reference to the Secretary;
- (b) any reference in section 20(1)(c) to the Provincial Treasury shall be deemed to be a reference to the Speaker;
- (c) any reference in section 21 to the responsible Member and the Provincial Treasury shall be deemed to be a reference to the standing committee referred to in subsection (6) and to the Speaker respectively; and
- (d) any reference in section 21 to a person who is or was in the employ of the Province, shall be deemed to be a reference to an officer who is or was in the employ of the Provincial Legislature.

(9) The accounts of the Provincial Legislature will be audited by the Auditor-General.

(10) For the purposes of this section the expressions—

- (a) "Auditor-General" in subsection (9);
 - (b) "Provincial Exchequer Account" in subsection (7);
 - (c) "financial year" in subsections (6) and (7);
 - (d) "Provincial Treasury" in subsections (3) and (7), and
 - (e) "vote" and "Appropriation Law" in subsection (5),
- shall bear the respective meanings assigned thereto in section 1(1) of the Western Cape Exchequer Law, 1994 (Law 4 of 1994).

(2) uitgereik, ten aansien van alles wat daardie diens raak, word, ondanks andersluidende wetsbepalings maar behoudens die bepalinge van hierdie artikel, in alle opsigte as *prima facie* goed, geldig en bindend beskou.

(2) Behoudens die bepalinge van hierdie Wet, en tensy die Speaker anders gelas, is die Sekretaris die rekenpligtige beampte belas met die invordering, ontvangs, bewaring en uitbetaling van geld vir die diens van die Provinsiale Wetgewer, asook met die ontvangs, bewaring en beheer van goed wat vir die administrasie van die Provinsiale Wetgewer verkry is, en die Sekretaris moet behoorlik boekhou van al die geld wat deur hom of haar ontvang en uitbetaal is, en van al sy of haar finansiële transaksies.

(3) Die Sekretaris moet die geld wat vir die diens van die Provinsiale Wetgewer bewillig is deur middel van 'n rekwisisie van die Tesourie aanvra.

(4) Die Sekretaris hou by 'n bank wat as sodanig kragtens die Bankwet, 1990 (Wet 94 van 1990), geregistreer is, en wat deur die Speaker goedgekeur is, 'n rekening waarin alle gelde deur hom of haar ontvang, gestort moet word en waaruit alle betalings deur hom of haar gedoen moet word, en die Sekretaris kan 'n beampte magtig om die tjeks te teken wat vir bedoelde betalings nodig is.

(5) Ondanks andersluidende wetsbepalings, kan die Sekretaris goedkeur dat 'n besparing onder 'n hoofindeling van die begrotingspos van die Provinsiale Wetgewer in 'n Begrotingswet aangewend word ter bestryding van ooruigawes onder 'n ander hoofindeling, of van uitgawes onder 'n nuwe hoofindeling van daardie begrotingspos; met dien verstande dat bedrae wat in "Kolom 2" van 'n bylae by so 'n begrotingswet ten opsigte van genoemde begrotingspos voorkom, behoudens die bepalinge van artikel 7(1)(b)(ii) van die Wes-Kaapse Skatkiswet, 1994 (4 van 1994), nie oorskry mag word nie, en die besparings daarop, met die instemming van die Speaker, aangewend mag word ter bestryding van ander uitgawes waarvoor onvoldoende voorsiening onder die begrotingspos gemaak is.

(6) Die Sekretaris moet aan die einde van elke boekjaar rekeningstate laat opstel wat met die gepaste besonderhede die geld deur hom of haar ontvang en die uitgawes deur hom of haar aangegaan gedurende die betrokke boekjaar, opgee en hierdie rekeningstate moet aan die staande komitee van die Provinsiale Wetgewer wat vir interne reëlings van die Wetgewer verantwoordelik is, voorgelê word.

(7) Enige onbestede saldo's aan die einde van 'n boekjaar van geld wat van die Tesourie ontvang is, moet deur die Sekretaris aan die Provinsiale Tesourie oorbetal word vir terugstorting in die Provinsiale Skatkisrekening.

(8) Die bepalinge van artikels 7, 15, 20 en 21 van die Wes-Kaapse Skatkiswet, 1994 (Wet 4 van 1994) is *mutatis mutandis* van toepassing op die diens, begrotingspos, rekenings, geld en goed van die Provinsiale Wetgewer, en by sodanige toepassing word—

- (a) 'n verwysing in artikels 15, 20 en 21 na 'n rekenpligtige beampte geag 'n verwysing na die Sekretaris te wees;
- (b) 'n verwysing in artikel 20(1)(c) na die Provinsiale Tesourie geag 'n verwysing na die Speaker te wees;
- (c) 'n verwysing in artikel 21 na die verantwoordelike Lid en die Provinsiale Tesourie geag 'n verwysing onderskeidelik na die staande komitee waarna in subartikel (6) verwys word en die Speaker te wees; en
- (d) 'n verwysing in artikel 21 na iemand wat in diens van die Provinsie is of was, geag 'n verwysing na 'n beampte wat in diens van die Provinsiale Wetgewer is of was, te wees.

(9) Die rekenings van die Provinsiale Wetgewer word deur die Ouditeur-generaal geouditeer.

(10) By die toepassing van hierdie artikel het die uitdrukkings—

- (a) "Ouditeur-generaal" in subartikel (9);
- (b) "Provinsiale Skatkisrekening" in subartikel (7);
- (c) "boekjaar" in subartikels (6) en (7);
- (d) "Provinsiale Tesourie" in subartikels (3) en (7); en

Appointment of staff and fixing of remuneration

16B (1) The Speaker shall appoint a Secretary and such other officers as may be necessary for the discharge of the work of the Provincial Legislature.

(2) The salaries, wages or allowances and other terms or conditions of service of the Secretary and officers referred to in subsection (1) shall be fixed by the Speaker with due regard to salaries, wages or allowances and other terms or conditions of service applicable to officers appointed in terms of the Public Service Act, 1994.

(3) Before fixing the salaries, wages or allowances referred to in subsection (2), the Speaker shall consult the Member of the Executive Council responsible for Finance on the financial implications thereof.

Transitional arrangements

16C (1) The Speaker shall, subject to subsections (2) and (3) and any other applicable laws, appoint as an officer any person who immediately before the commencement of the Western Cape Law on the Powers and Privileges of the Provincial Legislature Amendment Act, 1998 was an officer in the Public Service, and was engaged in the discharge of the work of the Provincial Legislature; provided that the foregoing provision shall not apply to any person who will receive a voluntary severance package from the Public Service.

(2) For the purpose of an appointment referred to in subsection (1) the Speaker shall enter into a written agreement with the person concerned which provides at least for the following—

- (a) that the person concerned undertakes to resign from the Public Service with effect from an agreed date;
- (b) that the Speaker undertakes to appoint the person to the staff of the Provincial Legislature with effect from the date immediately following the date of resignation;
- (c) the full protection of the rights, interest and rank of the person;
- (d) that the Speaker undertakes to apply to the Government Employees Pension Fund for registration as an employer for purposes of that fund; and
- (e) that the Provincial Legislature undertakes that for so long as any such person remains in the employ of that legislature, it will remain so registered as an employer and undertakes to pay the employer contributions to such pension fund as from time to time determined.

(3) The salaries, wages or allowances and other terms or conditions of service of any persons appointed in terms of subsection (1) shall not be less favourable at the time of the appointment than they were immediately before such appointment."

Short title

3. This Act shall be called the Western Cape Law on the Powers and Privileges of the Provincial Legislature Amendment Act, 1998.

(e) "begrotingspos" en "begrotingswet" in subartikel (5), die onderskeie betekenis daaraan toegeskryf in artikel 1(1) van die Wes-Kaapse Skatkwet, 1994 (Wet 4 van 1994).

Aanstelling van personeel en bepaling van vergoeding

5 **16B** (1) Die Speaker stel 'n Sekretaris en sodanige ander beamptes aan wat vir die uitvoering van die werk van die Provinsiale Wetgewer nodig mag wees.

10 (2) Die salarisse, lone of toelaes en ander bedinge of diensvoorwaardes van die Sekretaris en beamptes waarna in subartikel (1) verwys, word deur die Speaker bepaal met behoorlike inagneming van salarisse, lone of toelaes en ander bedinge of diensvoorwaardes wat betrekking het op beamptes wat ingevolge die Staatsdienswet, 1994, aangestel is.

15 (3) Voordat die salarisse, lone of toelaes in subartikel (2) bedoel, bepaal word, raadpleeg die Speaker die Lid van die Uitvoerende Raad belas met Finansies oor die finansiële implikasies daarvan.

Oorgangsbepalings

20 **"16C** (1) Die Speaker stel, behoudens subartikels (2) en (3) en enige ander toepaslike wette, enige persoon wat onmiddellik voor die inwerkingtreding van die Wes-Kaapse Wysigingswet op die Bevoegdhede en Voorregte van die Provinsiale Wetgewer, 1998, 'n beampte in die Staatsdiens was en wat met die verrigting van die werk van die Provinsiale Wetgewer gemoeid was, as 'n beampte aan; met dien verstande dat voormelde bepaling nie van toepassing is op enige persoon wat 'n vrywillige skeidingspakket van die Staatsdiens sal ontvang nie.

25 (2) Vir die doeleindes van 'n aanstelling in subartikel (1) bedoel, gaan die Speaker 'n skriftelike ooreenkoms met die betrokke persoon aan, wat minstens vir die volgende voorsiening maak—

- 30 (a) dat die betrokke persoon onderneem om met ingang van 'n ooreengekome datum uit die Staatsdiens te bedank;
- (b) dat die Speaker onderneem om die persoon met ingang van die datum wat onmiddellik op die datum van bedanking volg, in die personeel van die Wetgewer aan te stel;
- (c) die volle beskerming van die regte, belange en rang van die persoon;
- 35 (d) dat die Speaker onderneem om by die 'Government Employees Pension Fund' om registrasie as 'n werkgewer vir die doeleindes van die fonds aansoek te doen; en
- (e) dat die Provinsiale Wetgewer onderneem om vir solank as wat enige sodanige persoon in die diens van die Wetgewer bly, as a werkgewer geregistreer te bly en onderneem om die werkgewerbydraes tot sodanige pensioenfonds, soos van tyd tot tyd bepaal, te betaal.
- 40 (3) Die salarisse, lone of toelaes en ander bedinge of diensvoorwaardes van 'n persoon ingevolge subartikel (1) aangestel, sal ten tye van die aanstelling nie minder gunstig wees as wat dit onmiddellik voor sodanige aanstelling was nie."

45 Kort titel

3. Hierdie Wet heet die Wes-Kaapse Wysigingswet op die Wet op die Bevoegdhede en Voorregte van die Provinsiale Wetgewer, 1998.

