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MEMBERS OF THE WESTERN CAPE PROVINCIAL PARLIAMENT CODE OF CONDUCT ACT 3 OF 2002

(English text signed by the Premier)

[Assented to: 3 June 2002]

[Commencement Date: 7 June 2002]

ACT

as amended by:

Act 4 of 2003

To give effect to Section 27 of the Constitution of the Western Cape, 1997 (Act 1 of 1998) by providing for a Code of Conduct governing the conduct of members of the Provincial Parliament; and to provide for matters incidental thereto.

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

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1. Definitions

In this Act, unless the context otherwise indicates:-



“Code of Conduct” means the Code of Conduct contemplated in Section 2;

“Constitution” means the Constitution of the Republic of South Africa, 1996 (Act 108 of 1996);

“Constitution of the Western Cape” means the Constitution of the Western Cape, 1997 (Act 1 of 1998);

“Conduct Committee” means the Committee on Conduct and Members’ Interests established in terms of the Standing Rules of the Provincial Parliament;

“member” means a member of the Provincial Parliament and includes a Member of the Provincial Cabinet;

[Definition of "member" substituted by s. 1 of Act 4/2003]

“Provincial Parliament” means the Western Cape Provincial Parliament;

“Public Protector” means the Public Protector contemplated in Section 181 of the Constitution;

“Registrar” means the Registrar of Members’ Interests appointed in terms of Section 3;

“Speaker” means the Speaker of the Western Cape Provincial Parliament elected in terms of Section 20 of the Constitution of the Western Cape.

2. Code of Conduct

- (1) The Provincial Parliament must adopt a Code of Conduct, prescribing standards and rules aimed at promoting open, democratic and accountable government.
- (2) Members of the Provincial Parliament must comply with the Code of Conduct in performing their official responsibilities.
- (3) The Speaker must publish the Code of Conduct in the *Provincial Gazette*.
- (4) The Code of Conduct must-
 - (a) include provisions requiring members:-
 - (i) at all times to act in good faith and in the best interest of good governance;
 - (ii) to meet all the obligations imposed on them by law;
 - (b) include provisions prohibiting members from:-
 - (i) undertaking any other paid work without obtaining prior permission from the party of which they are a member;
 - (ii) acting in a way that is inconsistent with their office;
 - (iii) exposing themselves to any situation involving the risk of a conflict between their official responsibilities and their private interests;
 - (iv) using their position or any information entrusted to them, to enrich themselves or improperly benefit any other person;
 - (v) acting in a way that may compromise the credibility or integrity of their office or of the Provincial Parliament;
 - (c) require the members to disclose to the Registrar the following:-
 - (i) their financial interests when assuming office as well as the financial interests of such persons having a family or other relationship with them, as may be determined in the Code of Conduct;
 - (ii) any financial interests acquired after their assumption of office, including any gifts, sponsored foreign travel, pensions, hospitality and other benefits of a material nature received by them or by such persons having a family or other relationship with them as may be determined in the Code of Conduct; and
 - (d) prescribe that the financial interests to be disclosed in terms of paragraph (c) must at least include the information, and be under the same conditions of public access thereto, as determined by the Conduct Committee from time to time, but may prescribe the disclosure of additional information.



(5) The Code of Conduct may prescribe any maker that may be necessary for the effective implementation thereof.

3. Appointment of Registrar

The Provincial Parliament must appoint a Registrar of Members' Interests.

4. Registrar must investigate breaches

(1) The Registrar must investigate any alleged breach of the Code of Conduct by a member on receipt of a complaint contemplated in Section 5.

(2) The Registrar must submit a report on the alleged breach of the Code of Conduct within 30 days of receipt of the complaint, to the Conduct Committee.

(3) If the Registrar reports at the end of the period referred to in subsection (2) that the investigation has not yet been completed, the Registrar must submit a further report when the investigation has been completed.

(4) When conducting an investigation in terms of this Section, the Registrar shall have all the powers as set out in the Code of Conduct.

(5) The Conduct Committee must within a reasonable time, but not later than 30 days after receiving a report, submit a copy of the report and any comments thereon, together with a report on any action to be taken, to the Provincial Parliament.

5. Complaints

(1) The Registrar must investigate, in accordance with Section 4, an alleged breach of the Code of Conduct by a member on receipt of a complaint by a Member of the Cabinet, another member or a member of the public.

(2) The complaint must be in writing and must contain the following:-

(a) the name and address of the complainant;

(b) full particulars of the alleged conduct of the member; and

(c) such other information as may be required by the Registrar or prescribed in the Code of Conduct.

(3) Nothing in this Section shall prevent the Public Protector from investigating any complaint by a member of the public in accordance with the Public Protector Act, 1994 (Act 23 of 1994).

6. Prosecutions not affected

Nothing in this Act shall prevent or delay the prosecution of a member in a court of law.

7. Short title and commencement

This Act shall be called the Members of the Western Cape Provincial Parliament Code of Conduct Act, 2002, and shall come into operation on a date determined by the Speaker by proclamation in the *Provincial Gazette*.