

WESTERN CAPE PROVINCIAL PARLIAMENT



PUBLIC EDUCATION WORKBOOK

Public Education Workbook

**Published by
the Western Cape Provincial Parliament
2018**

TABLE OF CONTENTS

Introduction and General Overview.....	3
Symbols of the WCPP.....	4
Chapter 1: Principles of Democracy.....	5
What is Democracy?.....	7
The Chamber.....	7
Principles of Democracy.....	8
Discussion Questions.....	8
Chapter 2: Three Spheres of Government.....	11
Three Spheres of Government Illustrated.....	13
Discussion Questions.....	14
Chapter 3: Three Arms of The State.....	15
Three Arms of The State Illustrated.....	17
Discussion Question.....	18
Chapter 4: Functions of the Western Cape Provincial Parliament.....	19
1. Oversight and Accountability.....	21
2. Public Participation.....	23
3. Law Making.....	24
Passing of an Ordinary Bill.....	25
Discussion Questions.....	26
Chapter 5: The Constitution.....	27
Preamble.....	29
Background.....	29
Know Your Constitution – Know Your Rights.....	30
Discussion Questions.....	32
Chapter 6: State Institutions in Support Of Constitutional Democracy.....	33
Chapter 9 Institutions.....	35
Discussion Question.....	38
Chapter 7: The Budget Process.....	39
What is the budget?.....	41
How is money spent in government?.....	41
Characteristics of a good budget.....	41
The Annual Budget Cycle.....	41
How can the public get involved?	42
Discussion Questions.....	43

TABLE OF CONTENTS

Chapter 8: Annual Reports Process.....	45
What are Departmental Annual Reports?.....	47
Why do Provincial Departments submit Annual Reports to the Provincial Parliament?	47
Role of the Auditor-General.....	47
Role of the Standing Committees and Public Accounts Committee.....	47
Role of the Public.....	48
The Annual Reports Process.....	48
Discussion Questions.....	49
Chapter 9: Petitions.....	51
What is a Petition?.....	53
Types of Petitions.....	53
Formal requirements for Petitions.....	53
Procedure for Submitting a Petition.....	53
Petitions Case Study.....	54
Chapter 10: Submissions.....	55
What is a Submission?.....	57
How are Submissions made?.....	57
What is the content of a Submission?.....	57
Activity.....	58
Additional resources.....	59
Glossary.....	61
Additional Reading.....	64
Petitions Regulation in terms of Act No.3 of 2006.....	67
Western Cape Petitions Act, 2006.....	71
Annexure A Petitions form.....	73
Evaluation form.....	75

INTRODUCTION AND GENERAL OVERVIEW

The Public Education and Outreach Educational Workbook is envisaged to serve as an educational resource tool not only during educational workshops but with the objective of serving as an on-going source of information for public educational initiatives. The Workbook provides the reader/user with a distilled overview of a wide range of matters relating to Legislative issues, the Constitution of RSA, state institutions, chapter nine institutions and information to engage the Western Cape Provincial parliament. A series of questions at the end of each chapter encourages small group discussions for further insight.

Uses of the workbook:

- educational workshops
- civic education information sessions
- small group discussions
- petitions and submissions education programmes

We trust you find the information helpful, informative and meaningful as you partner with us in creating a more active citizenry amongst the diverse communities of the Western Cape Province.

SYMBOLS OF THE WCPP

Logo of the Western Cape Provincial Parliament



The WCPP logo depicts the vibrant, diverse people of the Western Cape at the centre of parliamentary business.

The three figures, representing the three arms of government, are standing at the top of a flight of steps, thus communicating the centrality and elevation of the people we serve.

The arches at the top of the flight of steps symbolise the arches at the entrance to the Wale Street precinct and the open doors reflect a parliament that is open and accessible to all. Behind the figures a ray of sunlight reflects the hope and aspirations of the people.

The wording around is in the three official languages of the province - Afrikaans, isiXhosa and English.

The emblem is surrounded by a black seal representing the official mark of the WCPP.

The Mace



The mace is used as a ceremonial staff-of-office and as a symbol of the Speaker's authority and the right of Members of Parliament to exercise freedom of speech.

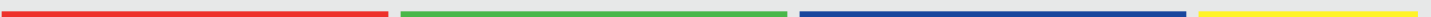
At the beginning of each sitting of the House, the mace is placed on the table in front of the Speaker and only removed when the House adjourns.

At the top of the staff is a coronet of proteas and rings. The crown sits on a Khoikhoi pot, decorated with anchors and bunches of grapes. Just above and below the pot is traditional San beadwork. At the bottom of the Stinkwood shaft is a stylised protea. The top and bottom of the mace consists of nine-carat white and yellow gold.

WESTERN CAPE PROVINCIAL PARLIAMENT



CHAPTER 1 PRINCIPLES OF DEMOCRACY



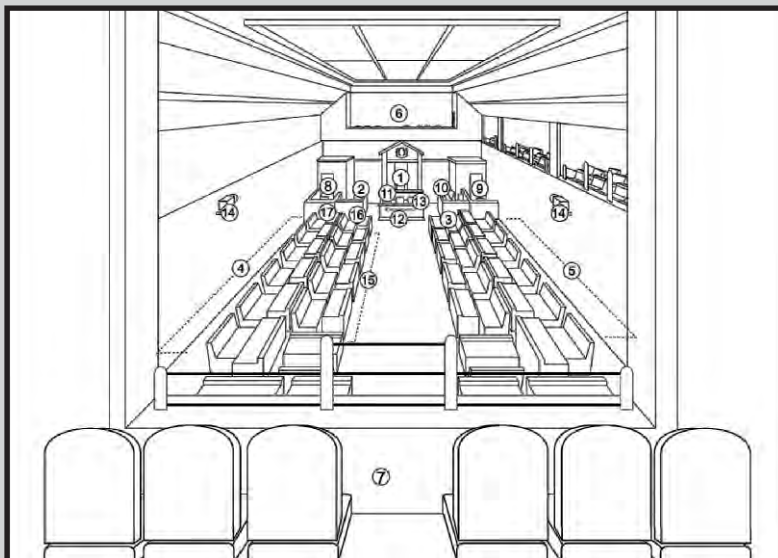
WHAT IS DEMOCRACY?

Democracy is a system of governance—a way of governing a country. The most common definition of democracy is “government by the people”. This basically means that the people give the government a mandate (their permission) to run the country on their behalf. Through their right to vote, the people are given the opportunity to choose, in regular, free and fair elections, the political parties and politicians who will represent them in government.

Once it had been elected, the government has many responsibilities. It is responsible for managing resources like land, water and public services to ensure that people's basic needs are met. The people are required to pay taxes to the government and this money is used to pay for services like basic health care and education, social grants and pensions, roads, housing, water and so forth. While free and fair elections are an essential part of democracy, democracy is about more than just voting. Democracy also gives citizens the opportunity to participate in government at the local level. Citizen participation helps to ensure that elected representatives and officials are accountable for their actions.

They are expected to act honestly and efficiently and to deliver on the promises they made during their election campaigns, and to be open and transparent in their actions. When the majority of citizens vote for the government, they effectively give the state a mandate to pass and enforce laws on their behalf. If the government becomes unpopular, the governing party may be voted out of power and replaced by an opposition party or coalition of parties.

Layout of Chamber



1. Speaker
2. Premier
3. Leader of the Opposition
4. Majority grouping
5. Opposition
6. Media gallery
7. Public gallery
8. Official's bay
9. Premier and Speaker's bay
10. Hansard reporters
11. Secretary
12. Mace
13. Table
14. TV cameras
15. Ministerial benches
16. Leader of government business
17. Chief whip

PRINCIPLES OF DEMOCRACY

Participation

People have a right and a duty to vote in elections and join political and civil society organisations.

Equality

All people should be treated equally and without discrimination and be given equal opportunities.

Tolerance

Everyone, including minority groups, should be allowed to express their opinions and join political, religious or civil society organisations of their own choice.

Accountability

Government must be accountable to the people for its actions, including the laws that are passed and how these laws are implemented.

Transparency

Government must report openly and honestly—it must be “transparent” (like a window) in its dealings with the public.

Regular, Free and Fair Elections

Elections must happen regularly and in a free and fair way, without intimidation, corruption or threats to any member of the public.

Accepting the results of Elections

When a political party loses an election, its leaders and supporters must accept the outcome of the election.

Human Rights

The human rights of individuals and groups should be protected, as stipulated in the Bill of Rights.

Rule of Law

The rules of law mean that no one is above the law, including the president or leader of the country.

Multi-Party System

More than one political party must be allowed to participate in elections and play a role in government.

DISCUSSION QUESTIONS

1. What are the chief components of a functioning democracy?

2. What is the relation between human rights and democracy?

3. What role can schools play in education for democracy?

4. What are the main challenges facing democracy today?

5. How can voter apathy be addressed?

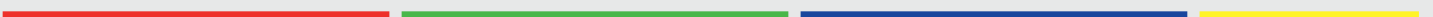
NOTES

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WESTERN CAPE PROVINCIAL PARLIAMENT



CHAPTER 2 THREE SPHERES OF GOVERNMENT



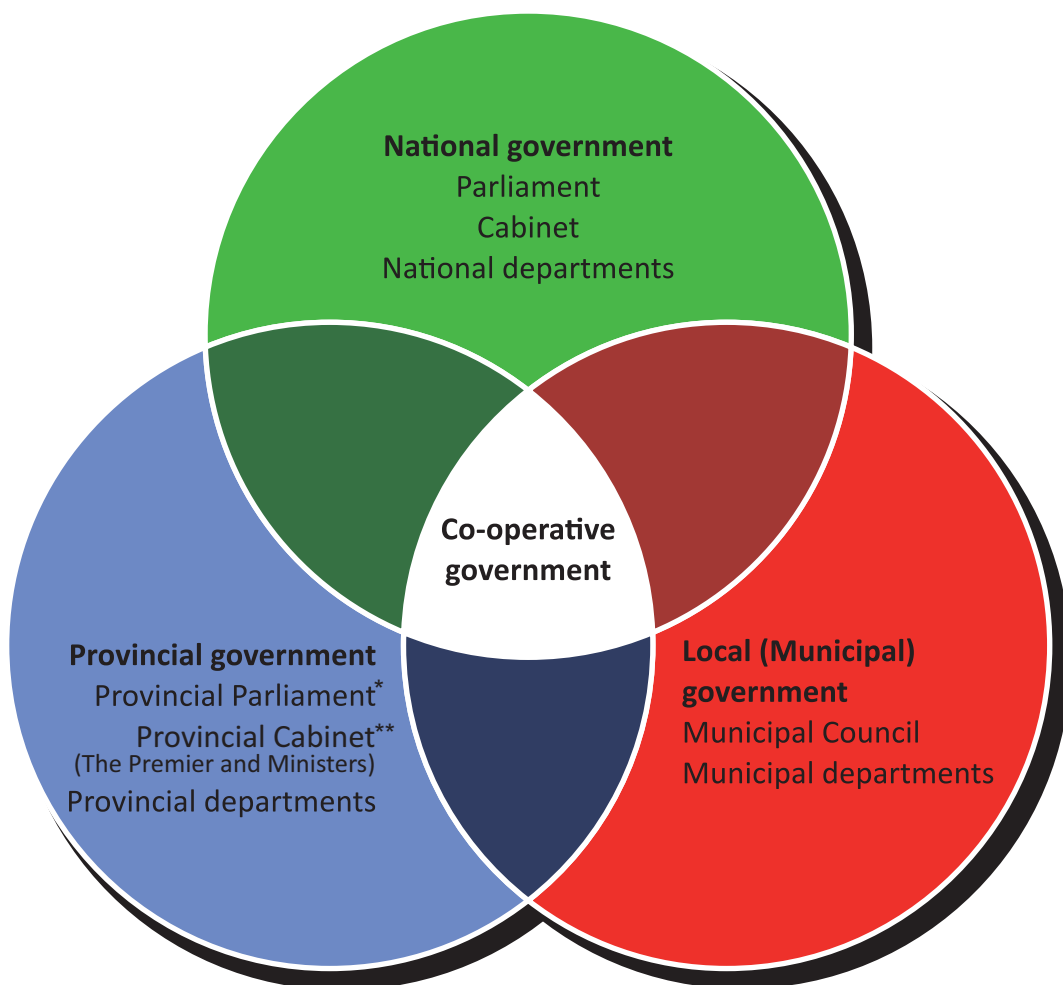
THREE SPHERES OF GOVERNMENT

The Constitution of the Republic of South Africa, 1996 determines how government works.

There are three spheres of government

1. National government
2. Provincial government
3. Local government

These spheres are distinctive, interrelated and interdependent.



*

** The national constitution of South Africa, section 101, 1(a) and the Western Cape Provincial constitution, section 42(1) make provision for provinces to refer to their provincial executive as the “provincial cabinet” and members of the provincial executive as “provincial ministers.”

DISCUSSION QUESTIONS

1. Why do you think we have three spheres of government in South Africa?

2. Name and broadly classify the powers and duties of each sphere of government.

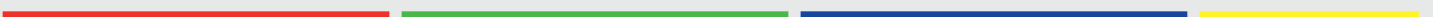
3. Identify areas of overlap and cooperation between the various spheres of government.

4. Which chapter of the Constitution makes provision for cooperative government?

WESTERN CAPE PROVINCIAL PARLIAMENT



CHAPTER 3 THREE ARMS OF THE STATE



THREE ARMS OF THE STATE



Separation of Powers (The Constitution of the Republic of South Africa, 1996)

- The separation of powers in the Constitution means the government's functions and powers are split into three distinct branches, namely The Legislature, The Executive and The Judiciary.
- These branches are independent of each other and each has its own functions.

LEGISLATIVE ARM

- Pass laws
- Oversees/monitors the executive
- Represents the people
- Elects the President, or the Premier in the case of provinces

THREE ARMS OF THE STATE

Consists of:

Parliament

1. National Assembly
2. National Council of Provinces
3. Provincial legislatures

EXECUTIVE ARM

- Makes policies
- Proposes laws
- Implements laws
- Is responsible for the planning and provision of primary services

Consists of:

President, Deputy President and cabinet Ministers at national level

Premier and Members of the Executive Council at provincial level

- Makes policies
- Proposes laws
- Implements laws
- Is responsible for the planning and provision of primary services

THE JUDICIARY

- Constitutional matters
- Cases where laws are breached
- Appeals against sentences
- Includes the:
 - Constitutional Court, Supreme Court of Appeal, High Courts and Magistrates Courts

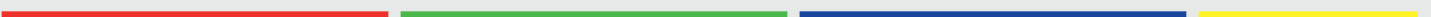
DISCUSSION QUESTION

1. Why is the separation of powers important?

WESTERN CAPE PROVINCIAL PARLIAMENT



CHAPTER 4 FUNCTIONS OF THE WESTERN CAPE PROVINCIAL PARLIAMENT



FUNCTIONS OF THE WESTERN CAPE PROVINCIAL PARLIAMENT

1. OVERSIGHT AND ACCOUNTABILITY

In the South African context oversight and accountability are constitutionally mandated functions of legislatures/provincial parliaments to scrutinise and oversee executive action and any organ of state. The Constitution of the Republic of South Africa at section 114(2) mandates that:

A provincial parliament or legislature must provide mechanisms-

- a) to ensure that all provincial executive organs of state in the provinces are accountable to it; and
- b) to maintain oversight of –
 - i. the exercise of provincial executive authority in the province, including the implementation of legislation; and
 - ii. any provincial organ of state.”

Defining Oversight and Accountability

The term “Oversight” is derived from an act – “to oversee” with accountability as a direct result. Accountability is almost synonymous with “answerability.” Accountability places responsibility upon those overseen that they must account for all decisions and actions that were taken during a specific time period. Different definitions for oversight have been used by different parliaments and parliamentary organisations.

The Inter-Parliamentary Union defines parliamentary oversight as “the review, monitoring and supervision of government and public agencies, including the implementation of policy and legislation. This definition focuses on the purpose and nature of the oversight activities rather than on the procedural stages in which they take place. It covers the work of both parliamentary committees and plenary sittings, as well as hearings during the parliamentary stages of bills and the budgetary cycle.”

Oversight entails the informal and formal, watchful, strategic and structured scrutiny exercised by legislatures, including national parliament, in respect of the implementation of laws, the approval and expenditure of the budget, and the strict observance of statutes and the Constitution. In addition, and most importantly, it entails overseeing the effective management of government departments by individual members of the relevant executive authority in pursuit of improved service delivery for the achievement of a better quality of life for all people.

In terms of the provisions of the Constitution, parliament and the provincial legislatures must maintain oversight of all organs of state, including those at provincial and local government levels.

Accountability is the hallmark of modern democratic governance. Democracy remains clichéd if those in power cannot be held accountable in public for their acts or omissions, for their decisions, their expenditure or policies. Historically, the concept of accountability was closely linked to accounting in the financial sense. It has, however, moved far beyond its origins and has become a symbol of good governance both in the public and private sectors. Accountability refers to institutionalised practices of giving account of how assigned responsibilities are carried out.

FUNCTIONS OF THE WESTERN CAPE PROVINCIAL PARLIAMENT

Parliamentary accountability is focused on ensuring that governments and organs of state must fulfil their responsibilities and should they not do this, there should be mechanisms available to hold them to account for their actions or omissions.

Accountability is premised on four axes, i.e.

- (a) Who is accountable?
- (b) For what is one accountable?
- (c) To whom is one accountable?
- (d) How can the accountability be enforced.

Functions of Oversight

The concept of oversight contains many aspects which include political, administrative, financial, ethical, legal and strategic elements. The functions of oversight are:

- To detect and prevent abuse, arbitrary behaviour or illegal and unconstitutional conduct on the part of the government and organs of state. At the core of this function is the protection of the rights and liberties of citizens.
- To hold the government to account in respect of how the taxpayers' money is used. It detects waste within the machinery of government and organs of state. Thus it can improve the efficiency, economy and effectiveness of government operations.
- To ensure that policies announced by government and authorised by parliament and provincial legislatures are actually delivered. This function includes monitoring the achievement of goals set by legislation and the government's own programmes.
- To improve the transparency of government operations and enhance public trust in the government, which is itself a condition of effective policy delivery.

Functions of Accountability

The functions of accountability include the following:

- To enhance the integrity of public governance in order to safeguard government against corruption, nepotism, abuse of power and other forms of inappropriate behaviour.
- As an institutional arrangement, to effect democratic control.
- To improve performance, that will foster institutional learning and service delivery.
- In regard to transparency, responsiveness and answerability, to assure public confidence in government and bridge the gap between the governed and the government and ensure public confidence in government.
- To enable the public to judge the performance of the government by the government giving account in public.

Oversight and Accountability in Committees

The appropriate mechanism for legislatures to conduct oversight of organs of state is through committees, including the plenary sessions. In conducting oversight, a committee would either request a briefing from the organ of state or visit the organ of state for fact-finding, depending on the purpose of the oversight. The committees would have to consider the appropriate means for conducting oversight to cover all organs of state. Some of the most important aspects of the oversight function is the consideration by committees of departmental budgets, annual reports of organs of state and the Auditor-General's report.

FUNCTIONS OF THE WESTERN CAPE PROVINCIAL PARLIAMENT

If further accountability is required, committees could use the power provided in the Constitution to access information even from public bodies that are at provincial or local government level in order that the committee has complete information and details on the public function reported on. Where a committee is reviewing the performance of an organ of state, the committee must ensure that the performance of its other entities, i.e. subsidiaries of the main organ of state, is included in the report. If this is not included in the report, parliament or the legislature or the committee should in terms of Section 56(b), 69(b) or 115(b) of the constitution require the entity to report to it.

2. PUBLIC PARTICIPATION

Public participation is the process by which Parliament and provincial parliaments consult with the people and interested or affected individuals, organisations and government entities before making a decision. Public participation is a two-way communication and collaborative problem solving mechanism with the goal of achieving representative and more acceptable decisions. Other terms sometimes used are 'public involvement', 'community involvement' or 'stakeholder involvement'.

'Stakeholders' include a wide array of non-governmental and non-profit organisations; community groups, charitable organisations, labour unions, indigenous groups, faith-based organisations, professional associations and foundations. These have a presence in public life; expressing the interests and values of their members or others based on ethical, cultural, political, scientific, religious or philanthropic considerations.

Legislative imperative to implement public participation as stipulated in the constitution of the Republic of South Africa

Section 1: Founding Values

The Republic of South Africa is one, sovereign, democratic state founded on the following values:

- a) Human dignity, the achievement of equality and the advancement of human rights and freedoms.
- b) Non-racialism and non-sexism.
- c) Supremacy of the constitution and the rule of law.
- d) Universal adult suffrage, a national common voters' roll, regular elections and a multi-party system of democratic government to ensure accountability, responsiveness and openness.

Chapter 6: Provincial Parliament

Section 115 – Evidence or information before Provincial Parliament.

A provincial parliament or any of its committees may—

- 1) summon any person to appear before it to give evidence on oath or affirmation, or to produce documents;
- 2) require any person or provincial institution to report to it;
- 3) compel, in terms of provincial legislation or the rules and orders, any person or institution to comply with a summons or requirement in terms of paragraph (a) or (b); and
- 4) receive petitions, representations or submissions from any interested persons or institutions.

FUNCTIONS OF THE WESTERN CAPE PROVINCIAL PARLIAMENT

Section 116 – Internal arrangements, proceedings, and procedures of provincial parliaments.

- 1) A provincial parliament may—
 - b) make rules and orders concerning its business, with due regard to representative and participatory democracy, accountability, transparency and public involvement.

Section 118 – Public access to and involvement in provincial parliaments.

- 1) A provincial Parliament must:
 - a) facilitate public involvement in the legislative and other processes of the parliament and its committees, and
 - b) conduct its business in an open manner, and hold its sittings, and those of its committees, in public, but reasonable measures may be taken
 - c) regulate public access, including access of the media to the WCPP and its committees.

3. LAW-MAKING

One of the core functions of the Western Cape Provincial Parliament is to make laws for the Western Cape Province. A proposed law is known as a Bill and may be introduced by a Provincial Minister, committee or Member of the Provincial Parliament. A Bill once introduced goes through various stages in the Provincial Parliament before it becomes a law. Each stage (called a reading) must be approved before the Bill can proceed to the next stage. For ordinary Bills there are two stages and for money Bills three stages.

Once introduced, Bills are read a first time and distributed to all Members of the House. The Secretary to the Provincial Parliament publishes the Bill for 21 days in the Provincial Gazette for public input. If a Bill is considered urgent, the Premier may direct that the 21 days publication period be reduced. After the 21 days the appropriate standing committee considers the Bill, taking into account all comments received from the public and interested groups. The committee may also call for public hearings to get direct input from the public on the Bill. This ensures careful consideration of the Bill and allows for maximum input and participation by the public. Having considered the Bill, the committee reports to the House and recommends whether to accept, reject or accept the Bill with amendments thereto.

The next stage (second reading) deals with the objects and principles of the Bill. The Bill is debated in the House. After the second reading the Bill can be recommitted to the relevant committee for final amendments, if the House requests this. The House may approve the Bill or decide on the Bill via a vote.

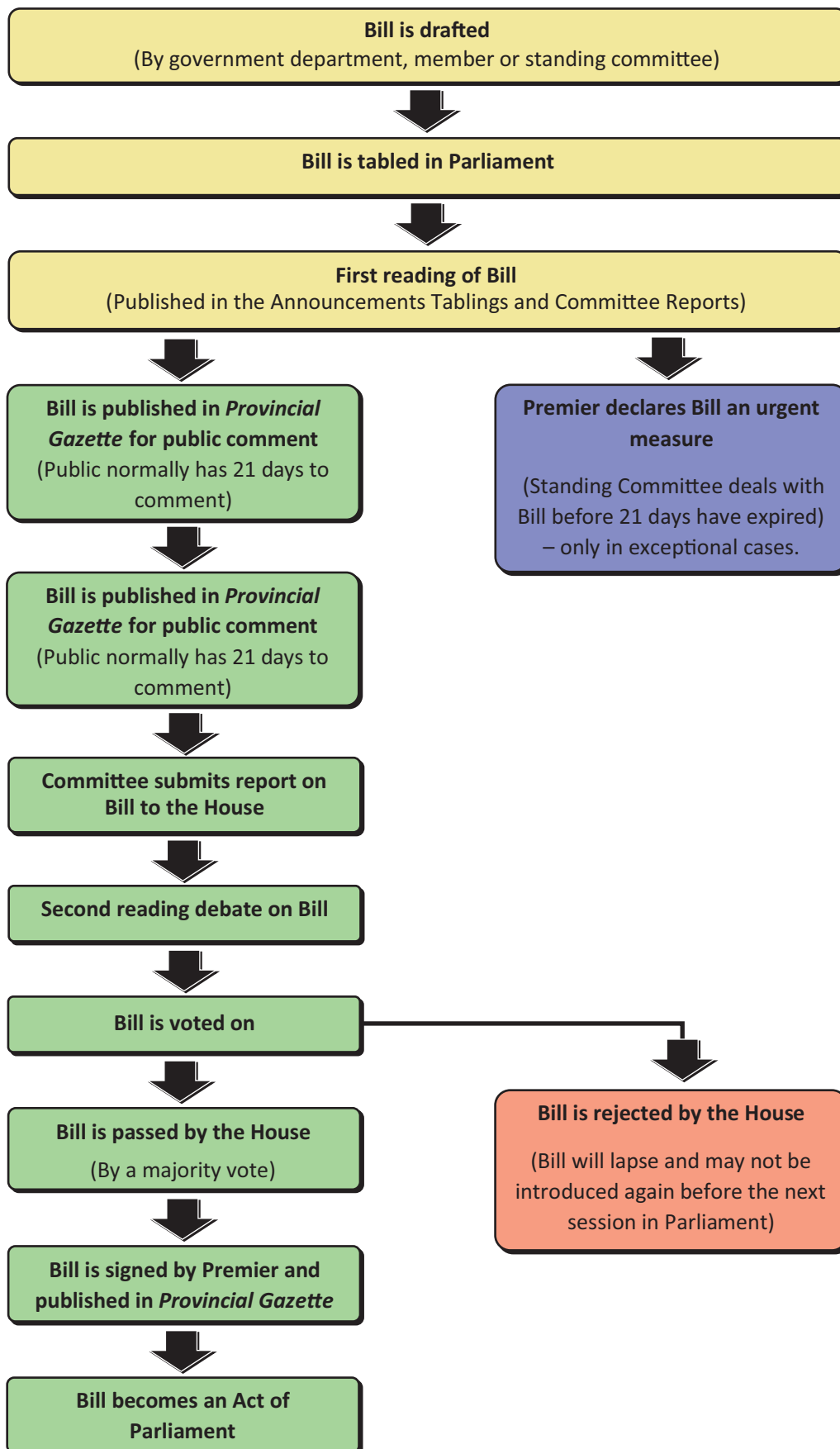
A copy of the Bill as passed by the House is sent to the Premier for his/her signature (assent). Once the Premier has assented to a Bill, it becomes an Act of the Province.

Electing The Premier

Section 128 in chapter 6 of the Constitution of the RSA sets out the process of electing a Premier.

A provincial legislature must elect from amongst its members a man or a woman to be the Premier of the province. This election must take place during the first sitting after its election, and whenever necessary to fill a vacancy. A judge designated by the Chief Justice must preside of the election.

PASSING OF AN ORDINARY BILL



DISCUSSION QUESTIONS

OVERSIGHT AND ACCOUNTABILITY

1. Why is it important that our elected representatives be accountable?

2. How does the Provincial Parliament oversee the work of the Executive? (Mechanisms)

3. What is a Standing Committee?

4. What is the difference between oversight and accountability?

5. What contribution can individual citizens make to accountable government?

PUBLIC PARTICIPATION

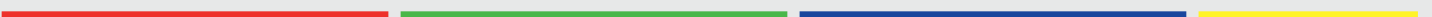
1. In what ways can public participation contribute to good governance?

2. Which section of the Constitution makes provision for public participation in legislatures?

WESTERN CAPE PROVINCIAL PARLIAMENT



CHAPTER 5 THE CONSTITUTION



THE CONSTITUTION

PREAMBLE

*We, the people of South Africa,
Recognise the injustices of our past;
Honour those who suffered for justice and freedom in our land;
Respect those who have worked to build and develop our country; and
Believe that South Africa belongs to all who live in it, united in our diversity
We therefore, through our freely elected representatives, adopt this Constitution as the
supreme law of the Republic so as to-
Heal the divisions of the past and establish a society based on democratic values,
social justice and fundamental human rights;
Lay the foundations for a democratic and open society in which government is based on
the will of the people and every citizen is equally protected by law;
Improve the quality of life of all citizens and free the potential of each person; and
Build a united and democratic South Africa able to take its rightful place
as sovereign state in the family of nations.
May God protect our people.
Nkosi Sikelel' iAfrika. Morena boloka setjhaba sa heso.
God seen Suid-Afrika. God bless South Africa.
Mudzimu fhatutshedza Afurika. Hosi katekisa Afrika*

BACKGROUND

The Constitution of South Africa is the supreme law of the Republic of South Africa. It provides the legal foundation for the existence of the republic, sets out the rights and duties of its citizens, and defines the structure of the government. The current constitution, the country's fifth, was drawn up by the Parliament elected in 1994 in the South African general election, 1994. It was promulgated by President Nelson Mandela on 18th December 1996 and came into effect on 4 February 1997, replacing the Interim Constitution of 1993.

Since 1996, the Constitution has been amended by seventeen amendment acts. The Constitution is formally entitled the "Constitution of the Republic of South Africa, 1996." It was previously also numbered as if it were an Act of Parliament—Act No. 108 of 1996—but, since the passage of the Citation of Constitutional Laws Act, neither it nor the acts amending it are allocated act numbers.

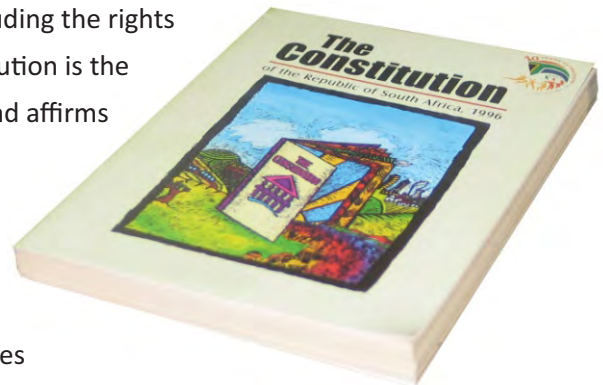
KNOW YOUR CONSTITUTION - KNOW YOUR RIGHTS

Chapter 1: Founding provisions of the Constitution

The founding provisions are the basic ideas behind the Constitution. Chapter 1 highlights the supremacy of the Constitution, the rights and duties of citizens, and statements on the national anthem, national flag and languages of our country.

Chapter 2: Bill of Rights

The Bill of Rights explains the rights of all citizens, including the rights of non-citizens in the country. Chapter 2 of the Constitution is the cornerstone of South Africa's democracy. It protects and affirms the democratic values of human dignity, equality and freedom.



Chapter 3: Co-operative government

Co-operative government is constituted across 3 spheres i.e. national, provincial and local or (Municipal) sphere of government.

Chapter 4: Parliament

Parliament makes laws and oversees government action. The structure of Parliament, consist of the National Assembly; and the National Council of Provinces. This Chapter further provides constitutional guidelines for the national legislative or law-making process.

Chapter 5: The President and National Executive

Outlines The National Executive, election and term of office of the President, and the powers of the President. The President is the Head of State and head of the National Executive, with a responsibility to govern the country.

Chapter 6: Provinces

The Republic has 9 provinces: Eastern Cape; Free State; Gauteng; KwaZulu-Natal; Limpopo; Mpumalanga; Northern Cape; North West; and the Western Cape. Each have a legislature and a provincial executive. The powers and structure of the provincial legislature, and a provincial executive, are asset out in chapter 6.

Chapter 7: Local Government

Deals with the structure, powers and functioning of local government and its municipalities.

KNOW YOUR CONSTITUTION - KNOW YOUR RIGHTS

Chapter 8: Courts and administration of justice

The courts administer justice in South Africa. Listed in this chapter is the chain of authority of the Constitutional court, the Supreme Court of Appeal, High Courts, magistrate courts including the Judicial Service Commission, and the National Prosecuting Authority.

Chapter 9: Institutions supporting constitutional democracy

Six independent state institutions strengthen constitutional democracy, i.e. the Public Protector, South African Human Rights Commission, Commission for the Promotion and Protection of the Rights of Cultural, Religious and Linguistic Communities, Commission for Gender Equality, Auditor General and the Electoral Commission.

Chapter 10: Public Administration

The public administration system, and principles that govern Public Administration include promotion of a high standard of professional ethics, efficient, economic and effective use of resources for people who work for government. The public must be encouraged to participate in policymaking.

Chapter 11: Security Services

The security services comprise of the national defence force, the police and intelligence services. The primary objective of national security services is to defend and protect the Republic, and to prevent, combat and investigate crime.

Chapter 12: Traditional Leaders

Traditional leaders and customary law are recognised by the Constitution.

Chapter 13: Finance

This Chapter outlines a National Revenue Fund, from which money may be appropriated or used only in accordance with an Act of Parliament. This places a responsibility on all spheres of government to manage public finances in a transparent and accountable manner. The National Treasury oversees the budgetary processes and ensures compliance with budgetary processes.

Chapter 14: General Provisions

General provision lists rules about international agreements and customary international law, negotiation and signing of all international agreements.

DISCUSSION QUESTIONS

1. How and when was the Constitution drafted and accepted?

2. What are human rights?

3. What is a “basic education” as mention in Section 29 of the Bill of Rights?

4. The Bill of Rights makes reference to “everyone” in several of its sections. Who is everyone?

5. When is a limitation of the right justified under section 36 of the Bill of Rights?

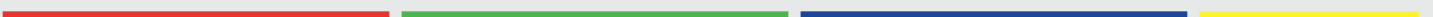
6. How do we promote and protect Constitutional rights in South Africa?

WESTERN CAPE PROVINCIAL PARLIAMENT



CHAPTER 6

STATE INSTITUTIONS IN SUPPORT OF CONSTITUTIONAL DEMOCRACY



STATE INSTITUTIONS IN SUPPORT OF CONSTITUTIONAL DEMOCRACY

CHAPTER 9 INSTITUTIONS

The South African Constitution enshrines the supremacy of the Constitution and the rule of law. Everyone in South Africa, including the government, are subject to and must follow the Constitution. Likewise, all laws are subject to the Constitution. The Constitution also contains the Bill of Rights, which it describes as “the cornerstones of democracy in South Africa”. The Constitution compels the State to “respect, protect, promote and fulfil the rights in the Bill of Rights”.

Recognising that the protection and promotion of human rights cannot be left to individuals or to the government, Chapter 9 of the Constitution creates seven independent national institutions, subject only to the Constitution and the law, whose task it is to transform our society, and protect the fundamental rights of all citizens that are entrenched in the Constitution. These Chapter 9 Institutions, as they are often called, are 'protected mechanisms' designed to ensure that the government does its work properly and conducts itself in accordance with the Constitution. The Chapter 9 Institutions are independent of the government and are required to report to Parliament at least once a year.

THE PUBLIC PROTECTOR

The Public Protector receives and investigates complaints from the public against government agencies or officials, and has the power to recommend corrective action. The Public Protector's services are free and available to all, and if you lay a complaint your name will be kept confidential.

The Public Protector is subject only to the Constitution and the law and is independent of government and any political party. No person or state department may interfere with the functioning of the Public Protector's office.

Tel: 021 423 8644 (Regional)
Tel: 012 366 7000 (Head Office)
Toll free number: 080 011 2040
Website: www.pprotect.org.za



THE SOUTH AFRICAN HUMAN RIGHTS COMMISSION

The South African Human Rights Commission has the task of ensuring that the ideals expressed in the Constitution are enjoyed by all South Africans.

They do this by:

- Addressing human rights violations and to seek remedies for such violations
- Monitoring and assessing how well human rights are being observed in South Africa
- Raising awareness of human rights issues among the public
- Educating and training the public about human rights.

Tel: 021 426 2277 (Regional)
Tel: 012 011 877 3600 (Head Office)
Website: www.sahrc.org.za



THE COMMISSION FOR GENDER EQUALITY

The Commission for Gender Equality's role is to advance gender equality in all spheres of society and make recommendations on any legislation affecting the status of women. The Commission must promote respect for gender equality and the protection, development and attainment of gender equality. The Commission aims to transform society by "exposing gender discrimination in laws, policies and practices." It also advocates changes in sexist attitudes and gender stereotypes, and strives to demonstrate that women's rights are fundamental human rights.



Although the Commission act in the interest of women generally, it pays particular attention to the most disadvantaged women –those living in rural and semi-urban areas.

Tel: 021 426 4080(Regional)

Tel: 011 403 7182 (Head Office)

Website: www.cge.org.za

THE AUDITOR-GENERAL

The Auditor-General is responsible for auditing and reporting on the accounts, financial statements and financial management of all national and provincial state departments and administrations; all municipalities; and any other institution or accounting entity required by national or provincial legislation to be audited by the Auditor-General.



The Auditor-General may also audit and report on the accounts, financial statements and financial management of any institution funded from National Revenue Fund or a Provincial Revenue Fund or by a municipality; or any institution that is authorised in terms of any law to receive money for a public purpose.

Tel: 021 528 4100(Regional)

Tel: 012 426 8000 (Head Office)

Website: www.agsa.co.za

THE COMMISSION FOR THE PROMOTION AND PROTECTION OF THE RIGHTS OF CULTURAL, RELIGIOUS AND LINGUISTIC COMMUNITIES

The functions of the Commission are to:

- Promote respect for and further the protection of the rights of cultural, religious and linguistic communities;
- Develop peace, friendship, humanity, tolerance and national unity among and within cultural, religious and linguistic communities, on the basis of quality, non-discrimination and free association;
- Promote the right of communities to develop their historically diminished heritage.



Tel: 011 537 7600(Regional)

Tel: 011 358 9100 (Head Office)

Website: www.crlcommission.org.za

STATE INSTITUTIONS IN SUPPORT OF CONSTITUTIONAL DEMOCRACY

INDEPENDENT ELECTORAL COMMISSION (IEC)

The Independent Electoral Commission is responsible for managing the elections of national, provincial and municipal legislative bodies in accordance with national legislation and ensuring that those elections are free and fair. It must also declare the results of those elections within the period prescribed by national legislation.



Although publicly funded and accountable to Parliament, the IEC is independent of the government.

Section 5 of the Electoral Commission Act, 1996 requires that the IEC:

- Compile and maintain a register of parties;
- Undertake and promote research into electoral matters;
- Promote voter education;
- Appoint appropriate public administrations in any sphere of government to conduct elections when necessary;
- Continuously review electoral laws and proposed electoral laws, and make recommendations.

Tel: 021 910 5700 (Regional)

Tel: 012 622 5700 (Head Office)

Website: www.elections.org.za

INDEPENDENT COMMUNICATIONS AUTHORITY OF SOUTH AFRICA (ICASA)

(A further institution recognised to promote democracy)

ICASA is an independent authority whose task it is to regulate broadcasting in the public interest, and to ensure fairness and a diversity of views broadly representing South African society.



The Authority also issues licenses to telecommunications and broadcasting service providers, enforces compliance with rules and regulations, protects consumers from unfair business practices and poor quality services, hears and decides on disputes and complaints brought against licensees and controls and manages the effective use of radio frequency spectrum.

Tel: 021 431 9800(Regional)

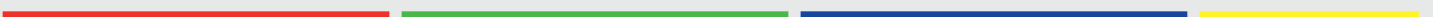
Tel: 011 566 3000/3001 (Head Office)

Website: www.icasa.org.za

WESTERN CAPE PROVINCIAL PARLIAMENT



CHAPTER 7 THE BUDGET PROCESS



THE BUDGET PROCESS

What is the budget?

A budget is government's written annual financial plan. The budget announces all projected expenditure and income over a specific period. Many decisions are involved and many questions should be asked and answered during the budget process. One of the questions that should be asked concerns the availability of resources and the need for additional resources.

How is money spent in government?

The Western Cape has a Provincial Legislature and 13 Government Departments. A portion of the budget must be allocated to each of these departments. This allocation of funds is informed by government's key priorities as outlined in the Premier's State of the Province Address. The Western Cape Government's key priority spending areas include Social Development, Health, Community Safety and Education.

Characteristics of a good budget

Participation:	Involve as many people as possible
Comprehensiveness:	Embrace the whole organisation
Standards:	Base it on established standards of performance.
Flexibility:	Allow for changing circumstances
Feedback:	Constant monitoring of performance

The Annual Budget Cycle

Four phases can be identified in the annual budget cycle.

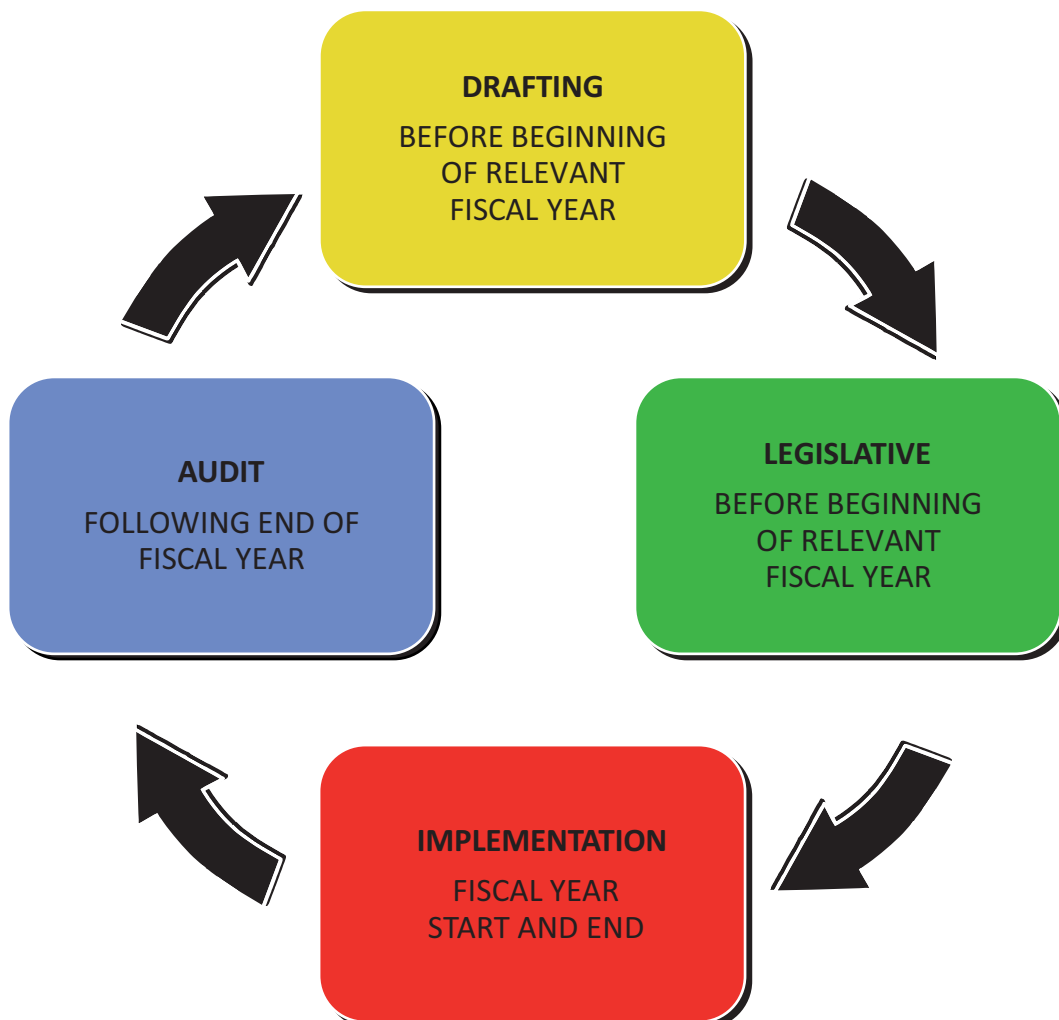
DRAFTING:	Finance Ministry or treasury issues guidelines to spending departments or agencies Spending departments submit draft budgets Negotiation and final decision by executive
LEGISLATIVE:	Budget tabled in the legislature in March Consideration by Parliamentary Committee(s) Parliament accepts, amends or rejects budget
IMPLEMENTATION:	Funds apportioned to spending departments to implement activities Finance ministry monitors spending Request for legislative approval of adjustment budget if necessary
AUDIT:	Supreme audit institution assesses departmental accounts and performance Audit reports published and reviewed by Parliament

THE BUDGET PROCESS

How can the public get involved?

One of the core objectives of the Western Cape Provincial Parliament is to facilitate public participation and involvement in its processes and activities. The public is therefore allowed to attend committee meetings and debates at the Western Cape Provincial Parliament. The public can also attend the budget vote – presentations, as well as the Annual Reports on service delivery.

Part of the role of the Public Education and Outreach Section of the WCPP is to inform citizens on how they can get involved and influence the laws and processes that govern their lives. The Public Education and Outreach Section facilitates education workshops and activities across the province.



DISCUSSION QUESTIONS

1. Why is government budgeting important?

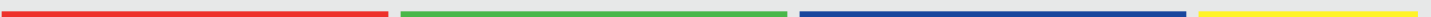
2. Why does the government prepare a new budget every year?

3. What mechanisms ensure that funds have been properly allocated and spent?

WESTERN CAPE PROVINCIAL PARLIAMENT



CHAPTER 8 ANNUAL REPORTS PROCESS



WHAT ARE DEPARTMENTAL ANNUAL REPORTS?

Annual reports are the key reporting instruments for departments to report against performance targets and budgets outlined in its strategic plans. Annual reports are required to contain information on service delivery, in addition to financial statements and the audit report.

The strategic plan and budget of a department are seen as forward-looking documents. These documents set out what departments' intended to do and how funds will be spent in the coming financial year. Annual reports are seen as backward-looking documents, as it reports on performance at the end of a financial year.

Why do Provincial Departments submit Annual Reports to the Provincial Parliament?

In order to facilitate the Provincial Parliament's oversight of the Provincial Government, section 33(3)(b) of the Constitution requires that "Members of the Provincial Executive Council must provide the Provincial Legislature with full and regular reports concerning matters under their control." Before 2000 there was no oversight over non-financial service delivery performance and departments only tabled their financial statements and audit reports.

In terms of Section 65 of PFMA the Provincial Minister responsible for a department or public entity must table in the Provincial Legislature the annual report within one month after the Accounting Officer or Accounting Authority for the department or public entity received the audit report. A Provincial Minister who fails to table an annual report within six months after the end of the financial year must table a written explanation in the Provincial Legislature setting out the reasons why the report was not tabled.

Role of the Auditor-General

The Auditor-General is a state institution established by Chapter 9 of the Constitution of the Republic of South Africa. The Auditor-General is independent, subject only to the Constitution and accountable to the National Assembly. Section 188 of the Constitution states that the Auditor-General must audit and report on the accounts, financial statements and financial management of all national and provincial departments, municipalities and any other institution required by national or provincial legislation. The Auditor-General then submits audit reports to the Provincial Parliament

Role of the Standing Committees and Public Accounts Committee

The Public Accounts Committee plays a leading role in the tabling of annual reports. The standing committees must however support the work of the Public Accounts Committee and have complementary roles. Standing committees are ideally structured to oversee service delivery and performance of the various departments and public entities that falls within the same portfolio. The standing committees play a vital role in holding government departments accountable and ensuring that they have delivered on the service delivery promises made in their strategic plans and budgets.

Role of the Public

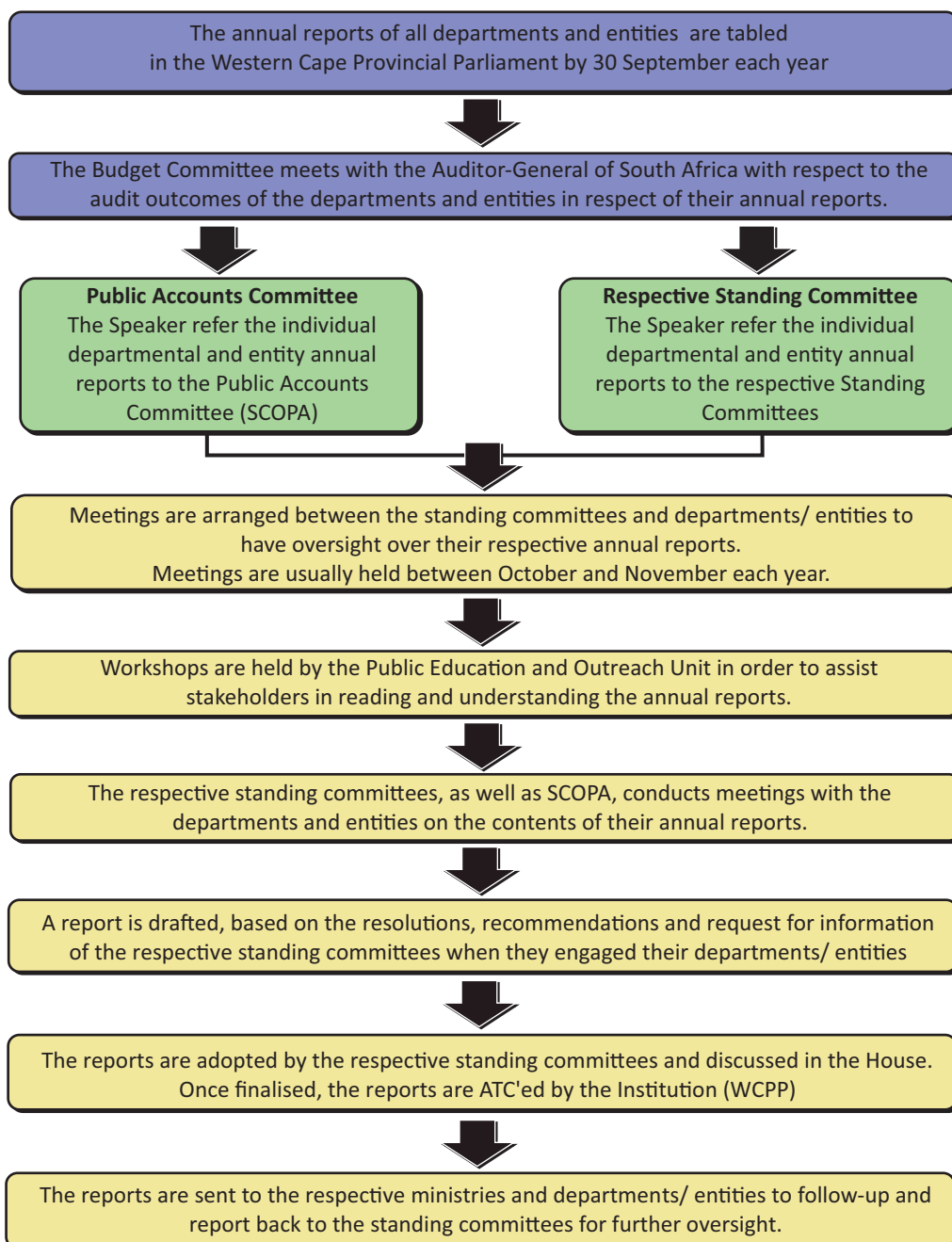
The public is allowed to attend annual report public hearings as part of the oversight process. The primary purpose of the public hearings is to obtain further information from the Provincial Minister, Accounting Officer and officials. It is also an opportunity for the standing committee to solicit input from community stakeholders and subject experts.

WHAT ARE DEPARTMENTAL ANNUAL REPORTS?

Standing committees may use the following strategies to ensure optimal participation in the process:

- Standing committees may require all participants to restrict themselves to commenting on the information contained in the annual reports that are under discussion.
- Standing committee may focus on the debate by asking participants to address specific issues related to the activities of the entity under discussion or raised in the annual report.
- Standing committees may approach specific organisations, institutions or subject experts to participate in the public hearings.
- Standing committees may release an initial set of issues that its own research has identified and ask for the public to give further input on these issues.

Annual Report period at the Western Cape Provincial Parliament



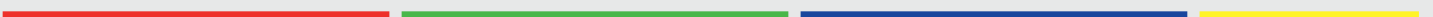
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WESTERN CAPE PROVINCIAL PARLIAMENT



CHAPTER 9 PETITIONS



WHAT IS A PETITION?

A petition is a complaint, request, representation or submission addressed by a petitioner to the Petitions Committee, and may take the form of:

- a) A single petition, which is an individual submission from a single petitioner concerning a particular complaint or request;
- b) A collective petition, which is a collection of signatures from a number of petitioners concerning a particular complaint or request;
- c) A group petition, made up of individual or group submissions from a number of petitioners concerning the same or substantially similar complaint or request; or
- d) An association petition, which is an individual or group submission from an association or an individual mandated by an association, concerning a particular complaint or request.

Types of Petitions

There are generally two types of petitions, namely special petitions and public or general petitions. A special petition is when an individual makes a specific request or asks for personal relief from the State, which is not authorised by law, such as access to a pension. A public petition is when a group of citizens with similar interests request general relief or redress of a grievance.

Formal requirements for Petitions

- (1) A petition must be:
 - a) in the form prescribed by regulation;
 - b) in one of the official languages of the Province;
 - c) signed by every Petitioner or, if so requested or authorised by the Petitioner, by another person on behalf of the Petition; and
 - d) lodged with the Secretary.
- (2) A petition must state:
 - a) the names and address of every Petitioner;
 - b) in whose interest the Petitioner is acting; and
 - c) what avenues, if any, the Petitioner has used to try and resolve the matter.

Procedure for Submitting a Petition

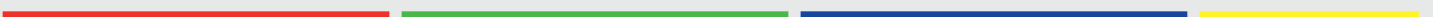
- 1) A petitioner must complete the form Annexure A in full as a prerequisite in order to submit his/her petition.
- 2) A petition must be submitted by:
 - a. registered mail;
 - b. delivering it to the Provincial Parliament in the designated box;
 - c. e-mail to the designated e-mail address; or
 - d. completing the relevant column on the website of the WCPP.
- 3) The Form Annexure A, which must be completed by the petitioner, as contemplated in sub-regulation (1), must be signed by the petitioner or by any other person authorised to act on behalf of the petitioner.

PLEASE NOTE: Petitioners must ensure that all possible avenues have been explored to resolve the complaint before petitions are submitted to the Provincial Legislature.

WESTERN CAPE PROVINCIAL PARLIAMENT



CHAPTER 10 SUBMISSIONS



WHAT IS A SUBMISSION?

Submissions are verbal or written comments by a person or organisation on proposed new law or policy in which concerns or recommendations are made with a view to improve it.

How are Submissions made?

A submission can be made to the Western Cape Provincial Parliament on any matter in general or on a specific matter for which submissions have been invited. Submissions should be made in writing or indicating your intention to make an oral submission. It is then referred to a committee for consideration, which also decides whether oral evidence should be heard on the matter.

What is the content of a Submission?

A submission should contain the following information:

- 1) A definition of the main issue.
- 2) Law related facts: How does the stated issue line up with current legislation.
- 3) Background to the problem. Stated facts about the main issue. Evidence in support of submission.
- 4) A proposal. A suggested way forward on how to deal with the problem.
- 5) Final resolutions or expected outcomes.

Submissions can be forwarded to



In writing, to the following address:

The Secretary
Western Cape Provincial Parliament
PO Box 648
Cape Town, 8000



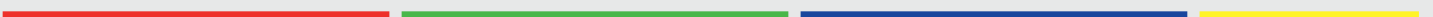
Hand delivered:

Western Cape Provincial Parliament
Reception
7 Wale Street
Cape Town, 8001

WESTERN CAPE PROVINCIAL PARLIAMENT



ADDITIONAL RESOURCES



GLOSSARY

A

Act - A law made by the Provincial Parliament, i.e. legislation passed by the Provincial Parliament, assented to and signed by the Premier and published in the Provincial Gazette.

Amendment bill - A bill introduced in order to change a particular provision or provisions in an existing Act.

Appropriation Bill - A bill granting authority to spend public money or to incur expenses for the requirements of the state.

Arms of government - Refers to the Executive, Judiciary and Legislature at national level.

B

Bill - A draft Act of the Provincial Parliament or a proposal for a new law that has been introduced in the Provincial Parliament.

Budget - The provincial government's annual Appropriation Bill and Estimates of Expenditure to give effect to its fiscal, economic and social policies. It is presented once a year in the Provincial Parliament.

Budget Vote - An individual item in the Provincial Budget, indicating the amount of money requested by the provincial government for each department.

C

Caucus - All members of the Provincial Parliament belonging to a specific political party. Party caucuses meet privately, usually weekly.

Chamber - The hall in which Members of the Provincial Parliament meet for a formal sitting of the House.

Chief Whip - A member of a political party who is responsible for organising the party's participation in the Provincial Parliament. Combined, the whips are sometimes referred to as "the whippery".

Clause - An individually numbered provision in, or part of, a bill. Once a bill becomes an Act, its clauses are called sections.

Coalition government - An alliance or union between two or more parties for the purpose of governing the country, usually when one party does not obtain an outright majority of the votes in an election.

Constituency - A geographical area assigned to a Member of the Provincial Parliament by his/her party.

Constituency office - The office of a Member of the Provincial Parliament in a geographical area.

Constitution - The supreme law by which the country is governed.

Constitutional Court - The highest court in the country, dealing only with matters relating to the Constitution. All laws can be tested in the Constitutional Court to ensure that they are not in conflict with the Constitution.

D

Debate - A formal discussion by members of the Provincial Parliament during which different parties get an opportunity to put their views on any matter before the House.

Deputy Speaker - A member of the Provincial Parliament elected to assist the Speaker and to act as Speaker when the Speaker is absent.

GLOSSARY

E

Election - The process through which the citizens of the country select their Members of Parliament by voting. In South Africa, parliamentary elections must be held at least every five years.

Electorate - All citizens of the country who are legally entitled to vote.

Executive - The President of the Republic and other members of the Cabinet. The Executive is the arm of government responsible for the formulation and execution of policy.

F

Floor of the House - The part of the Chamber reserved for Members of the Provincial Parliament. This may also refer to the central open space in the Chamber.

G

Gallery (public) - A demarcated area in the Chamber from where members of the public and visitors may observe the proceedings of the House.

H

Hansard - The official, substantially verbatim record of the debates of Parliament.

House - The WCPP Chamber

House Chairpersons - Members elected to assist the Presiding Officers in the House with their presiding duties and other functions relating to the management of the institution.

I

Interpellation - An interpellation is a mini-debate lasting 15 minutes on a subject of which notice is given on the Question Paper.

Introduction (of a bill) - To bring before or formally present a bill to the House for consideration.

J

Judiciary - The arm of government that is responsible, through the courts, for the administration of justice.

L

Leader of the Opposition - The leader of the largest opposition party in the Provincial Parliament.

Legislation - A general term for laws, statutes or Acts.

Legislative process - The steps followed in the Provincial Parliament which result in a law being made.

Legislature - A law-making body of elected representatives. The arm of government with the power to make and change laws.

M

Mace - A richly ornamented staff that represents the authority of the Provincial Parliament and the Speaker. At the start of a day's proceedings, the mace is carried into the Chamber by the Serjeant-at-Arms who places it in a stand in front of the Speaker's Chair.

Majority party / governing party - The political party that forms the provincial government because it had more of its members elected to the Provincial Parliament by the people than any other political party.

Member of Provincial Parliament - A person elected to the WCPP.

GLOSSARY

Money bill - A bill imposing a tax or levy or proposing the spending of money for a particular purpose. The Appropriation Bill is a money bill.

Motion - A motion is a proposal by a member that the House do something, order something to be done or express an opinion with regard to some matter. A motion, if adopted, becomes a resolution of the House. It could also just be a proposal for the House to debate a matter.

N

Notice of motion - An announcement by a member that he/she intends putting forward a motion for consideration.

O

Order Paper - An approved programme or agenda setting out the items of business which the House is expected to deal with on a particular day.

P

Presiding Officer - A member elected or appointed to chair House sittings.

Proportional representation - Representation of parties in an elected body in proportion to the votes they received in an election.

Provincial Government - The party or a coalition of parties that governs by virtue of having gained the most seats in a parliamentary election.

Provincial Minister - A member of the Provincial Executive who is politically in charge of one or more provincial government departments or ministries.

Public Hearing - A meeting of a standing committee for the purpose of obtaining the viewpoints of members of the public on a matter being considered by that committee.

R

Reading - A formal stage in the passage of a bill through the Provincial Parliament.

Ruling - A formal decision by a Presiding Officer, usually on a matter of procedure relating to the rules and practice of the House.

S

Serjeant at Arms - An official of the Provincial Parliament who conducts the Speaker or Presiding Officer into the Chamber each sitting day, bearing the Mace.

Speaker - The principal presiding officer of the WCPP, elected by the House.

Standing Committee - A group of members, usually from different parties, formally assigned to consider and report on bills and other matters referred to them.

Standing Rules - The formally agreed directives according to which the business of the House and committees is conducted.

U

Unparliamentary language - The use of offensive or unbecoming language by a member in proceedings of the House or a committee. If found guilty of this offence, members will be asked to withdraw the offending remark.

W

Westminster system - A system of government originating in Britain, the main features of which are a head of state (the Queen) who is not the head of government (Prime Minister) and an executive which is drawn from and directly responsible to Parliament.

ADDITIONAL READING

Association of European Parliamentarians with Africa (AWEPA)

The Association of European Parliamentarians with Africa (AWEPA) works in partnership with African parliaments to strengthen democracy in Africa.

Centre for Justice and Crime Prevention

<http://www.cjcp.org.za/>

Works to develop, inform and promote evidence-based crime prevention practice in South Africa and, where of benefit to this, in other developing countries.

Centre for the Study of Violence and Reconciliation

<http://www.csvr.org.za/>

Multi-disciplinary institute involved in research, policy formation, community interventions, service delivery, education and training, as well as providing consultancy services. The primary goal of CSVR is to use its expertise in building reconciliation, democracy and a human rights culture and in preventing violence in South Africa and in other countries in Africa.

Children's Institute (UCT)

<http://www.ci.org.za>

Focuses on key challenges to the well-being of South Africa's children: poverty, inequality, HIV/AIDS, high infant and child mortality and morbidity, violence and abuse. Publications include South African Child Gauge, Children count.

City of Cape Town

<http://www.capetown.gov.za>

Access to by-laws, policies, reports.

Civics Academy

<http://www.civicsacademy.co.za/>

Civics Academy is an independent, not-for-profit online education initiative in South Africa. We offer free video and audio content aiming to inform and to strengthen democratic values and responsible citizenship. As such Civics Academy covers educational content related to democracy, governance, elections, political parties, the justice system, the Constitution, economics, civil society, human rights and the environment.

Commonwealth Parliamentary Association

<http://www.cpahq.org/cpahq/>

Includes directory of members with contact details of various office bearers, as well as documents on topics relevant to legislatures.

Creamer Media

<http://www.polity.org.za>

Privately-owned website; information on policy, law, economics and politics.

Democracy Works

<https://democracyworks.org.za/>

Democracy Works Foundation analyses the health of democracy and implements innovative interventions and technologies in order to foster inclusive development through a deepening of democratic culture and capacity whilst ensuring sustainability and independence of its operations.

ADDITIONAL READING

Development Policy Research Unit (UCT)

<http://www.dpru.uct.ac.za>

The DPRU has been actively engaged in policy-relevant research since 1990, establishing itself as one of South Africa's premier research institutions in the fields of labour markets, poverty and inequality.

Econ3x3

<http://www.econ3x3.org/>

Accessible policy-relevant research and expert commentaries on unemployment, income distribution and inclusive growth in South Africa.

Education Resources Information Center (ERIC)

<http://eric.ed.gov/>

Online digital library of education research and information. ERIC is sponsored by the Institute of Education Sciences of the United States Department of Education. The mission of ERIC is to provide a comprehensive, easy-to-use, searchable, Internet-based bibliographic and full-text database of education research and information for educators, researchers, and the general public. Includes the South African Journal of Higher Education.

HSRC Press

<http://www.hsrbpress.ac.za/>

The external publishing arm of the HSRC, the largest dedicated research institute in the social sciences and humanities on the African continent.

Human Sciences Research Council (HSRC)

<http://www.hsrb.ac.za>

The core business of the HSRC is to conduct large-scale, policy-relevant, social-scientific projects for public-sector users, non-governmental organisations and international development agencies.

Institute for Poverty, Land and Agrarian Studies (PLAAS)

<http://www.plaas.org.za/>

PLAAS does research, policy engagement, teaching and training about the dynamics of chronic poverty and structural inequality in Southern Africa, with a particular emphasis on the key role of restructuring and contesting land holding and agro-food systems in the subcontinent and beyond.

Inter-Parliamentary Union

<http://www.ipu.org>

The international organisation of Parliaments was established in 1889. It has useful resources, such as books, reports, surveys, and periodicals, which can be downloaded or ordered for free from its head office in Geneva.

Isandla Institute

<http://www.isandla.org.za>

The Institute's mission is to act as a public-interest think-tank with a primary focus on fostering just, equitable and democratic urban settlements.

Legislative Sector Support

<http://www.sals.gov.za/>

The specific objective of the Legislative Sector collaboration is to strengthen the legislative arm of state through cooperative governance to ensure service delivery and accountability to the people of South Africa.

ADDITIONAL READING

Mapungubwe Institute for Strategic Reflection

<http://www.mistra.org.za>

Independent research institute, focusing on strategic challenges facing South Africa.

Parliament of the Republic of South Africa

<https://www.parliament.gov.za/>

South African Local Government Association

<http://www.salga.org.za/>

Contact details for municipalities, guidelines for municipalities, information pertaining to local government authorities.

Southern African Legal Information Institute

<http://www.saflii.org/>

Publishes legal information for free public access which comprises mainly of case law and legislation from South Africa. SAFLII also hosts legal materials from other countries in the region which are obtained through partnerships, collaborative efforts and more recently through linking to other Legal Information Institutes established in these regions.

Southern African NGO Network (SANGONeT)

<http://www.ngopulse.org/>

Founded in 1987, over the past 26 years SANGONeT has developed into a dynamic civil society organisation with a history closely linked to the social and political changes experienced by South Africa during its transition to democracy.

Statistics South Africa

<http://www.statssa.gov.za>

Publishes the Labour Force survey and General Household survey, and other statistics.

United Nations Children's Fund

<http://www.unicef.org/>

Provides long-term humanitarian and developmental assistance to children and mothers in developing countries.

United Nations Entity for Gender Equality and the Empowerment of Women

<http://www.unwomen.org/>

Women's Legal Centre

<http://www.wlce.co.za>

Non-profit, independently funded law centre that seeks to achieve equality for women in South Africa.

Western Cape Provincial Government

<http://www.westerncape.gov.za>

Wide range of documents, directories, information; also free access to the Provincial Gazette.

PETITIONS REGULATIONS IN TERMS OF ACT NO 3 OF 2006

P.N. 232/2010
31 May 2010

WESTERN CAPE PETITIONS ACT, 2006

ACT No. 3 OF 2006

REGULATIONS IN TERMS OF ACT NO 3 OF 2006

I, Shahid Esau, Speaker of the Western Cape Provincial Parliament, acting in terms of section 8 of the Western Cape Petitions Act, 2006 (Act No. 3 of 2006), make the regulations set out in the Schedule to this notice.

SCHEDULE

Definitions

1. In these regulations, unless the context indicates otherwise, a word or expression to which a meaning has been assigned in the Act has the meaning so assigned, and—

"petition" means a complaint, request, representation or submission addressed by a petitioner to the Committee, and may take the form of—

- (a) a single petition, which is an individual submission from a single petitioner concerning a particular complaint or request;
- (b) a collective petition, which is a collection of signatures from a number of petitioners concerning a particular complaint or request;
- (c) a group petition, made up of individual or group submissions from a number of petitioners concerning the same or substantially similar complaint or request; or
- (d) an association petition, which is an individual or group submission from an association or an individual mandated by an association, concerning a particular complaint or request;

"petition file" means the file contemplated in terms of regulation 8 of these regulations;

"the Act" means the Western Cape Petitions Act, 2006 (Act No. 3 of 2006), in terms of which these regulations are promulgated.

Application of regulations

2. These regulations apply to any petition submitted in terms of the Act.

Responsibilities of the Committee

(1.) The Committee must—

- (a) take reasonable steps to inform the citizens of the Province of their rights in terms of the Act;
- (b) take reasonable steps to inform the citizens of the Province of the physical address, fax number, e-mail or postal address where a petition may be submitted;
- (c) ensure that persons or categories of persons previously disadvantaged by unfair discrimination enjoy full participation in the process of governance; and
- (d) exercise maximum accountability and transparency in the consideration of petitions.

(2) The Committee may—

- (a) resolve a dispute by means of mediation or negotiation, where appropriate, or if requested to do so by a petitioner; and
- (b) where appropriate, lodge a complaint with the Public Protector in terms of the Public Protector Act, 1994 (Act No. 23 of 1994), if the conduct of a person or body against whom a petition has been referred, is unsatisfactory.

PETITIONS REGULATIONS IN TERMS OF ACT NO 3 OF 2006

Rights and obligations of a petitioner

- (1.) A petitioner has the right to—
 - (a) submit a petition in accordance with Annexure A to these regulations; (b) withdraw a petition at his or her own volition;
 - (c) submit a petition in any of the official languages of the Province;
 - (d) submit his or her petition electronically by means of e-mail or via the website of the Provincial Parliament;
 - (e) be assisted by the administrative staff of the Provincial Parliament in submitting a petition;
 - (f) have his or her petition considered by the Committee, unless the petition is subject to a disqualification as contemplated in the Act or these regulations;
 - (g) attend a Committee meeting where his or her petition is considered, unless the chairperson of the Committee determines otherwise and has in writing prior to that meeting informed him or her of that determination and the reasons therefor;
 - h) be given written reasons if the Committee refuses to consider a petition;
 - (i) be advised in writing of the outcome of the consideration by the Committee of the petition;
 - (j) be advised by the Committee, where appropriate, of other remedies available to him or her; and
 - (k) have access at any reasonable time to the petition file.
- (2) A petitioner has a right, at any time before the Committee concludes its consideration of the petition, to—
 - (a) submit additional information to the Committee in respect of the subject matter of the petition;
 - (b) submit a written rebuttal against any statement, opinion or recommendation expressed by any person or body in respect of that petition, if invited to do so by the Committee; and/or
 - (c) obtain, upon request to the Committee, any information or any evidence which has been led in respect of the subject matter of the petition, and that information or evidence must be included in the petition file.
- (3) A petitioner must inform the Committee if any person or body has, subsequent to the submission of the petition, addressed the matter in respect of which the petition was submitted.

Administrative staff

5. The Secretary must designate such employees for the Committee as may be necessary for the Committee to perform its work arising from or connected with petitions.

Obligations of the administrative staff in processing petitions

- (1.) The administrative staff must, on receipt of a petition—
 - (a) ensure that the form Annexure A to these regulations is duly completed and signed by the petitioner or any person authorised to act on behalf of the petitioner;
 - (b) render assistance to any person who is unable to submit a petition complying with all the requirements imposed by the Act and these regulations; and
 - (c) determine whether the petition complies with the requirements of the Act and these regulations in order to be considered by the Committee.
- (2) The administrative staff must—
 - (a) open a petition file for each petition received;
 - (b) allocate a file number to the petition; and
 - (c) register a petition by entering the details thereof in a register.

PETITIONS REGULATIONS IN TERMS OF ACT NO 3 OF 2006

(3) The administrative staff must, within five working days of receipt of the petition, inform the petitioner of the status of his or her petition and the file number thereof.

Procedure for submitting a petition

(1.) A petitioner must complete the form Annexure A in full as a prerequisite in order to submit his or her petition. (2) A petition must be submitted by—

- (a) registered mail;
- (b) delivering it at the Provincial Parliament in the designated box; (c) e-mail to the designated e-mail address; or
- (d) completing the relevant column on the website of the Provincial Parliament.

(3) The form Annexure A, which must be completed by the petitioner, as contemplated in subregulation (1), must be signed by the petitioner or by any other person authorised to act on behalf of the petitioner.

The petition file

(1.) The petition file must contain the following:

- (a) a duly completed petition form as contemplated in Annexure A;
- (b) the preliminary investigation report as contemplated in regulation 9;
- (c) any advice or opinion on the matter furnished by a legal adviser contemplated in regulation 9(4); and
- (d) any relevant information recorded by the administrative staff.

(2) The petition file must record whether the petition is acceptable or not acceptable as contemplated in terms of section 4(1) and (2) of the Act. (3) The Committee must keep record of every petition received by it.

Preliminary investigation into petition

(1.) The administrative staff, within ten days of registration of a petition, must conduct a preliminary investigation and report in respect of that petition.

(2) The administrative staff, in conducting the preliminary investigation contemplated in subregulation (1), must—

- (a) obtain all information or documents relevant to the petition held by the executive authority of the Province, a municipal council, any person or official body referred to in the petition, where there is such information available; and
- (b) obtain the official comments of the relevant department, municipal council or official body which is responsible for the function which forms the subject matter of the petition.

(3) The administrative staff must, where required by the Committee, obtain a translation of the petition and any other document relevant thereto.

(4) Where the petition pertains to a question of law or the interpretation of legislation the administrative staff must request the legal adviser of the Provincial Parliament to provide advice or express an opinion on the subject matter of the petition.

(5) The Secretary may request in writing any person or entity, other than those contemplated in subregulation (2)(a) and (b), to provide information held by him, her or it relating to the subject matter of the petition, which may reasonably be required to complete the preliminary investigation into the petition.

(6) The person or entity contemplated in sub-regulation (5) must submit the information within five working days from the date of request by the Secretary.

(7) The Secretary must, within five working days of completion of the preliminary investigation, refer the petition file to the Speaker.

PETITIONS REGULATIONS IN TERMS OF ACT NO 3 OF 2006

Referral

10. The Speaker must, upon receipt of the petition file, refer the petition file to the Committee for consideration and resolution.

Committee process

(1) . The Committee must consider and process the petition referred to it by the Speaker in accordance with the Act, these regulations and the Standing Rules.

(2) The Committee must inform the petitioner of—

(a) progress made in the processing of his or her petition;

(b) the date, venue and time when the petition will be considered; and

(c) whether the Committee would require or consider any oral submissions on the petition from the petitioner and/or any other relevant parties.

(3) The Committee must, after considering the petition, submit a report on the petition to the Speaker with any of the recommendations contemplated in section 5(3) of the Act.

(4) The Speaker must table such report in the Provincial Parliament for consideration in accordance with the recommendations made by the Committee.

(5) The Committee must in writing notify the petitioner and, if necessary, any other person or entity who has an interest in the subject matter of the petition—

(a) of any developments regarding the petition, including proceedings of the Committee; and

(b) any relevant resolution of the Provincial Parliament regarding the petition.

(6) The Secretary must, within four weeks from the date of the resolution by the Provincial Parliament— (a) inform the petitioner of the final outcome of the petition; and

(b) where the petition has been rejected in terms of section 5(6) of the Act, inform the petitioner of such decision with reasons therefor, in accordance with the provisions of the Promotion of Administrative Justice Act, 2000 (Act No. 3 of 2000).

Short title

12. These regulations are called the Western Cape Petitions Regulations, 2010.

Date of commencement

13. These regulations come into effect from 8 June 2010.

WESTERN CAPE PETITIONS ACT, 2006

ACT

To provide for the right to petition the Provincial Parliament; to regulate the submission and consideration of petitions; and to provide for incidental matters.

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

Definitions

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

"**Committee**" means the standing committee of the Provincial Parliament appointed to deal with public petitions;

"**National Constitution**" means the Constitution of the Republic of South Africa, 1996;

"**Petitioner**" means a person who has submitted a petition to the Provincial Parliament;

"**Provincial Executive**" means the provincial executive authority referred to in section 35 of the Constitution of the Western Cape;

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

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

"**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;

"**this Act**" includes the regulations made under section 8.

Right to petition

2. (1) Any person, group of persons, institution or association has the right to submit a petition to the Provincial Parliament.

(2) The right to petition must be exercised in accordance with this Act.

(3) Subsection (1) does not apply to a member of the national executive authority or of the Provincial Executive.

(4) A member of the Provincial Parliament may not submit a petition to the Parliament requesting redress for the member.

Formal requirements for petitions

3. (1) A petition must be—

(a) in the form prescribed by regulation;

(b) in one of the official languages of the Province;

(c) signed by every Petitioner or, if so requested or authorised by the Petitioner, by another person on behalf of the Petitioner; and

(d) lodged with the Secretary.

(2) A petition must state—

(a) the names and address of every Petitioner;

(b) in whose interest the Petitioner is acting; and

(c) what avenues, if any, the Petitioner has used to try and resolve the matter concerned.

Contents of petitions

4. (1) Subject to subsection (2), a petition may consist of any request, complaint, representation or submission relating to the functions of the Provincial Parliament or the Provincial Executive, including any matter—

(a) on which the Provincial Parliament can pass legislation;

(b) falling within the area of responsibility of any member of the Provincial Executive;

(c) assigned to a member of the Provincial Executive in terms of section 99 of the National Constitution;

(d) relating to the conduct of a member of the Provincial Executive or any of its employees or agents; or

(e) relating to provincial supervision and monitoring of local government in terms of section 49 and Chapter 5 of the Constitution of the Western Cape.

(2) A petition is not acceptable if it—

(a) falls outside the scope of the matters referred to in subsection (1);

(b) interferes with the judicial authority of the Republic;

(c) concerns a matter in respect of which legal proceedings are pending; or

(d) concerns a matter that is being investigated by a commission of inquiry appointed by the President of the Republic or the Premier of the Province.

WESTERN CAPE PETITIONS ACT, 2006

Consideration of petitions by Committee

5. (1) All petitions received by the Provincial Parliament must be referred to the Committee.
- (2) The Committee must—
- (a) protect and promote the rights of Petitioners provided for in this Act; and
 - (b) subject to subsections (5) and (6), consider every petition referred to it.
- (3) The Committee must report to the Provincial Parliament on each petition. In its report, the Committee may make any appropriate recommendation, including that—
- (a) in so far as a matter falls within the competence of the Provincial Parliament, the Provincial Parliament itself should take steps to address the concerns of the Petitioner;
 - (b) the matter be referred to another committee of the Provincial Parliament;
 - (c) the matter be referred to the Provincial Executive or to a municipal council in the Province for attention;
 - (d) the matter be referred to any other body or authority, including the National Prosecuting Authority or an institution established by Chapter 9 of the National Constitution;
 - (e) a recommendation be made to a person or body with a view to resolving the matter forming the subject of the petition; or
 - (f) no further steps be taken regarding the petition.
- (4) The Chairperson of the Committee must ensure that every Petitioner is timeously and, where applicable, regularly informed of developments regarding the petition concerned, including proceedings of the Committee on the petition and any relevant resolution of the Provincial Parliament.
- (5) The Committee must reject a petition referred to in section 4(2). (6) The Committee may reject a petition if—
- (a) the petition does not comply fully with section 3(1) or (2);
 - (b) the petition contains offensive language;
 - (c) the petition reflects on the proceedings of the Provincial Parliament or any of its committees or otherwise offends against the Standing Rules or the practice of the Provincial Parliament; or
 - (d) the Petitioner has not exhausted all other available remedies, including, where applicable, legal proceedings.
- (7) When the Committee rejects a petition in terms of subsection (5) or (6)—
- (a) the Committee must provide reasons for its decision; and
 - (b) the Secretary must inform the Petitioner of the rejection of the petition and the reasons therefor.
- (8) The procedure of the Committee is as prescribed by the Standing Rules.

Reports by Provincial Executive

6. When the Provincial Parliament has referred a matter to the Provincial Executive as contemplated in section 5(3)(c), the Premier or the responsible Minister must, within four weeks from the date of the relevant resolution, table a report in the Provincial Parliament on the position of the Provincial Executive regarding the matter and any steps taken or to be taken to address the concerns of the Petitioner.

Administrative support

7. The Secretary must ensure that adequate administrative assistance is provided to—
- (a) prospective petitioners to enable them to submit petitions complying with the requirements of this Act; and
 - (b) the Committee to enable it to perform its functions.

Regulations

8. (1) The Speaker, after consultation with the Committee—
- (a) must make regulations prescribing the petition form referred to in section 3(1)(a); and
 - (b) may make regulations, not inconsistent with this Act or the Standing Rules, regarding—
 - (i) the process and procedures for the submission of and dealing with petitions; and
 - (ii) in general, any matter necessary or convenient to be prescribed in order to achieve or promote the objectives of this Act.
- (2) The Secretary must—
- (a) as soon as practicable after regulations have been made under subsection (1), publish the regulations in the Provincial Gazette;
 - (b) whenever the regulations are amended, prepare a consolidated version; and
 - (c) provide a copy of the regulations or the consolidated version thereof, as the case may be, together with a copy of any relevant provisions of the Standing Rules relating to petitions, to any member of the public requesting such a copy.

Short title and commencement

9. This Act is called the Western Cape Petitions Act, 2006, and comes into effect on a date set by the Premier by proclamation in the *Provincial Gazette*.



Wes-Kaapse Provinsiale Parlement
Western Cape Provincial Parliament
Ipalamente yePhondo leNtshona Koloni

(ANNEXURE A)

PETITION FORM

Western Cape Petitions Act, 2006 (Act No 3 of 2006)

1. DETAILS OF PETITIONER

1.1 Full names: _____

1.2 Name of person or group the petitioner represents: _____

1.3 Address: _____

1.4 Telephone

Home: _____

Work: _____

Cellphone: _____

1.5 Fax Number: _____

1.6 Email address: _____

1.7 Identity Number / Registration number if legal entity: _____

2. DETAILS OF PETITION

The petitioner is required to provide a full description of the reasons for lodging the petition

3. STEPS TAKEN BY PETITIONER TO RESOLVE THE MATTER

The petitioner is requested to provide full details of steps taken to resolve the matter, apart from lodging this petition.

4. DESCRIPTION OF ANY EVIDENCE NOT IN PAPER FORM SUBMITTED WITH PETITION

5. TOTAL NUMBER OF PAGES APPENDED TO THIS PETITION FORM

6. TITLE AND NUMBER OF PAGES OF ANNEXURE TO THE PETITION FORM

7. NATURE OF ASSISTANCE REQUIRED BY PETITIONER TO SUBMIT THIS PETITION

8. DECLARATION OF PETITIONER

By signing this petition or making a mark on this petition, the petitioner declares that -

- (a) the contents of the petition are true and correct, and
- (b) the petition is not a matter-
 - (i) pertaining to any matter which forms the basis of a pending petition or a petition that was dealt with previously.
 - (ii) pending in court.
 - (iii) in respect of which court of law has given a final judgement or made a final ruling, and/or
 - (iv) pending before a commission of inquiry appointed in terms of the Western Cape Provincial Commissions Act, 1998 (Act No, 10 of 1998)

Signature or mark of Petitioner

Date

Place

Signature of witnesses where Petitioner affixed a mark



Wes-Kaapse Provinsiale Parlement
Western Cape Provincial Parliament
Ipalamente yePhondo leNtshona Koloni

WORKSHOP EVALUATION SHEET

Date of Workshop:

Name and Surname:

Name of your organisation:

1. What did you learn during the legislative educational programme?

2. How did content of the educational material help you understand legislative terms and concepts better?

3. How would you describe the presentation style of the facilitator(s)?

4. What were your general impressions of the workshop and what would you recommend to improve future workshops?

Thank you for your participation.

Contact Details

Address

7 Wale Street, Cape Town, 8001.

PO Box 648, Cape Town, 8000.

Telephone

021 487 1600

Email

info@wcpp.gov.za

Website

www.wcpp.gov.za

Where to find the Western Cape Provincial Parliament

