

PROVINCE OF WESTERN CAPE

PROVISIE WES-KAAP

Provincial Gazette

Buitengewone

Extraordinary

Provinsiale Koerant

4877

4877

Friday, 9 September 1994

Vrydag, 9 September 1994

Registered at the Post Office as a Newspaper

As 'n Nuusblad by die Poskantoor Geregistreer

OFFICE OF THE PREMIER
OF THE PROVINCE OF
WESTERN CAPE

KANTOOR VAN DIE PREMIER
VAN DIE PROVINSIE
WES-KAAP

No. 534 9 September 1994

Nr. 534 9 September 1994

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

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

No. 3 of 1994: Western Cape Law on the Payment of Members of the Provincial Legislature.

Nr. 3 van 1994: Wes-Kaapse Wet op die Betaling van Lede van die Provinsiale Wetgewer.

LAW

To provide for the payment of remuneration and allowances to members of the Western Cape Provincial Legislature and for matters incidental thereto.

*(Afrikaans text signed by the Premier.)
(Assented to 7 September 1994.)*

BE IT ENACTED by the Provincial Legislature of the province of Western Cape, as follows:—

Definition

1. In this Law, unless the context otherwise indicates—
 - (i) “committee” means any committee consisting of members of the Provincial Legislature and appointed for or in connection with the business and proceedings of the Provincial Legislature; 5
 - (ii) “Constitution” means the Constitution of the Republic of South Africa, 1993 (Act 200 of 1993);
 - (iii) “member of the Provincial Legislature” means a member of the Provincial Legislature, including the Premier and a member of the Executive Council, and “members of the Provincial Legislature” has a corresponding meaning; 10
 - (iv) “office-bearer” means an office-bearer of the Provincial Legislature referred to in section 2(1), and “office” has a corresponding meaning; 15
 - (v) “Premier” means the Premier of the Province acting in terms of section 147(2) of the Constitution;
 - (vi) “Province” means the province of Western Cape;
 - (vii) “Provincial Legislature” means the Provincial Legislature of the Province; 20
 - (viii) “Secretary” means the Secretary or provisional secretary of the Provincial Legislature appointed in terms of section 143 of the Constitution, and
 - (ix) “Speaker” means the Speaker of the Provincial Legislature elected in terms of section 131(1) of the Constitution. 25

Remuneration and allowances of members and office-bearers

2. (1) Members of the Provincial Legislature and such office-bearers as may be determined by the Premier by proclamation in the *Provincial Gazette* shall be paid such remuneration and allowances as may, in respect of such members and each such office-bearer, be so determined by the Premier, having due regard to the recommendations of the Commission on Remuneration of Representatives contemplated in section 207 of the Constitution. 30

(2) Notwithstanding subsection (1) a person who holds different offices at the same time shall be entitled to remuneration and allowances only in respect of such of the offices concerned as bears the highest remuneration. 35

(3)(a) Paragraph (d) of section 8(1) of the Income Tax Act, 1962 (Act 58 of 1962), shall apply to such portion of the remuneration of a member of the Provincial Legislature or an office-bearer as may be determined by the Premier, as if that portion were an allowance granted to the member or office-bearer as contemplated in that paragraph. 40

(b) Different portions may be determined under paragraph (a) in respect of different amounts of remuneration.

Deductions on account of absence

3. (1) Subject to the provisions of subsections (2) and (3), there shall be deducted from the amount payable by virtue of this Law to a member of the 45

WET

Om voorsiening te maak vir die betaling van besoldiging en toelaes aan lede van die Wes-Kaapse Provinsiale Wetgewer en vir aangeleenthede wat daarmee in verband staan.

(Afrikaanse teks deur die Premier geteken.)
(Bekragtig op 7 September 1994.)

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

Woordomskrywing

1. In hierdie Wet, tensy uit die samehang anders blyk, beteken—
- 5 (i) “ampsdraer” ’n ampsdraer van die Provinsiale Wetgewer in artikel 2(1) bedoel, en het “amp” ’n ooreenstemmende betekenis;
 - (ii) “Grondwet” die Grondwet van die Republiek van Suid-Afrika, 1993 (Wet 200 van 1993);
 - 10 (iii) “komitee” ’n komitee wat uit lede van die Provinsiale Wetgewer bestaan en vir of in verband met die werksaamhede en verrigtings van die Provinsiale Wetgewer aangestel is;
 - (iv) “lid van die Provinsiale Wetgewer” ’n lid van die Provinsiale Wetgewer, met inbegrip van die Premier en ’n lid van die Uitvoerende Raad, en het “lede van die Provinsiale Wetgewer” ’n ooreenstemmende betekenis;
 - 15 (v) “Premier” die Premier van die Provinsie handelende ingevolge artikel 147(2) van die Grondwet;
 - (vi) “Provinsiale Wetgewer” die Provinsiale Wetgewer van die Provinsie;
 - (vii) “Provinsie” die Provinsie Wes-Kaap;
 - 20 (viii) “Sekretaris” die Sekretaris of tussentydse sekretaris van die Provinsiale Wetgewer aangestel ingevolge artikel 143 van die Grondwet, en
 - (ix) “Speaker” die Speaker van die Provinsiale Wetgewer verkies ingevolge artikel 131(1) van die Grondwet.

Besoldiging en toelaes van lede en ampsdraers

25 **2. (1)** Lede van die Provinsiale Wetgewer en die ampsdraers wat die Premier by proklamasie in die *Provinsiale Koerant* bepaal, word die besoldiging en toelaes betaal wat aldus ten opsigte van sodanige lede en elke sodanige ampsdraer deur die Premier bepaal word, met behoorlike inagneming van die aanbevelings van die Kommissie op Besoldiging van Verteenwoordigers beoog

30 in artikel 207 van die Grondwet.
(2) Ondanks subartikel (1) is ’n persoon wat verskillende ampte gelyktydig beklee, geregtig op die besoldiging en toelaes slegs ten opsigte van daardie een van die betrokke ampte wat die hoogste besoldiging dra.

(3)(a) Paragraaf (d) van artikel 8(1) van die Inkomstebelastingwet, 1962 (Wet 35 58 van 1962), is op dié gedeelte, soos deur die Premier bepaal, van die besoldiging van ’n lid van die Provinsiale Wetgewer of ’n ampsdraer van toepassing, asof daardie gedeelte ’n toelae was wat aan die lid of ampsdraer toegeken is soos in daardie paragraaf bedoel.

40 (b) Verskillende gedeeltes kan kragtens paragraaf (a) ten opsigte van verskillende bedrae van besoldiging bepaal word.

Aftrekkings weens afwesigheid

3. (1) Behoudens die bepalings van subartikels (2) en (3) word daar van die bedrag wat uit hoofde van hierdie Wet aan ’n lid van die Provinsiale Wetgewer

Provincial Legislature (excluding the Premier and the Speaker), an amount of R100 for every day on which he or she fails to attend a meeting of—

- (a) the Provincial Legislature;
- (b) the Executive Council, if he or she is a member, or
- (c) a committee of which he or she is a member, 5

unless the meeting which is not attended by the member takes place at the same time as any other meeting referred to in paragraph (a), (b) or (c), which other meeting is attended by him or her.

(2) For the purposes of subsection (1), a member of the Provincial Legislature shall not be regarded as having attended a meeting of a committee unless he or she remained in attendance until the adjournment of the meeting or was excused from further attendance by the chairperson of the committee before the adjournment. 10

(3) No deduction shall be made in terms of subsection (1) on account of the failure of a member of the Provincial Legislature—

- (a) to attend any meeting referred to in that subsection, if the member's absence is due to— 15
 - (i) his or her illness or the summons or subpoena of a competent court with the exclusion of a summons to appear on a criminal charge upon which he or she is convicted;
 - (ii) the death or serious illness of his or her spouse or child, and such absence is condoned by the Speaker in the case of a meeting referred to in subsection (1)(a) and (c) and the Premier in the case of a meeting referred to in subsection (1)(b), or 20
 - (iii) his or her serving with the National Defence Force, or with any other force or service established by or under the Defence Act, 1957 (Act 44 of 1957), during a state of national defence; 25
- (b) to attend a meeting of the Provincial Legislature, referred to in subsection (1)(a), in respect of any further period of absence not exceeding 15 days during any calendar year in addition to any absence on account of circumstances referred to in paragraph (a), or 30
- (c) to attend a meeting of a committee referred to in subsection (1)(c), if his or her absence is not due to any circumstances referred to in paragraph (a) but is condoned by the Speaker, on good cause shown by him or her, even if such meeting is held during the 15 days referred to in paragraph (b). 35

Payment of remuneration and allowances

4. The Secretary shall pay to every member of the Provincial Legislature the remuneration and allowances to which he or she is entitled in terms of this Law, after deduction of any amounts contemplated in section 3 in monthly instalments, the first month to be reckoned— 40

- (a) in the case of a member designated in terms of item 16 of Schedule 2 to the Constitution, from the date of publication of the list of names of representatives as contemplated in subitem (3) of the said item, and
- (b) in the case of a member nominated in terms of section 133(2), read with section 44(2) of the Constitution, to fill a vacancy, from the date on which the previous member vacated his or her seat in the Provincial Legislature or the date of receipt of the nomination by the Speaker, whichever is the later date. 45

Charge to the Provincial Revenue Fund

5. The amount payable in respect of remuneration and allowances in terms of this Law shall be charged annually to the Provincial Revenue Fund, and the provisions of this section shall be deemed to be an appropriation of every such amount. 50

Savings

6. (1) Any remuneration or allowances paid to any member of the Provincial 55

(uitgesonderd die Premier en die Speaker) betaalbaar is, 'n bedrag van R100 afgetrek vir elke dag waarop hy of sy versuim om 'n vergadering by te woon van—

- (a) die Provinsiale Wetgewer;
- 5 (b) die Uitvoerende Raad, indien hy of sy 'n lid is, of
- (c) 'n komitee waarvan hy of sy 'n lid is,
- tensy die vergadering wat nie deur die lid bygewoon word nie, plaasvind op dieselfde tyd as 'n ander vergadering bedoel in paragraaf (a), (b) of (c), welke ander vergadering deur hom of haar bygewoon word.
- 10 (2) In die toepassing van subartikel (1) word 'n lid van die Provinsiale Wetgewer nie geag 'n vergadering van 'n komitee by te woon het nie tensy hy of sy tot die verdaging van die vergadering daarop aanwesig gebly het of voor die verdaging deur die voorsitter van die komitee van verdere bywoning verskoon is.
- (3) Geen aftrekking word ingevolge subartikel (1) gedoen nie weens die
- 15 versuim van 'n lid van die Provinsiale Wetgewer—
- (a) om enige vergadering bedoel in daardie subartikel by te woon, indien die lid se afwesigheid te wyte is aan—
- (i) sy of haar siekte of die dagvaarding of getuiedagvaarding van 'n bevoegde hof, uitgesonderd 'n dagvaarding om te verskyn op 'n
- 20 kriminele aanklag waarop hy of sy skuldig bevind word;
- (ii) die dood of ernstige siekte van sy of haar gade of kind, en sodanige afwesigheid deur die Speaker in die geval van 'n vergadering bedoel in subartikels (1)(a) en (c) en die Premier in die geval van 'n vergadering bedoel in subartikel (1)(b) verskoon word, of
- 25 (iii) sy of haar diens in die Nasionale Weermag, of in 'n ander mag of diens by of kragtens die Verdedigingswet, 1957 (Wet 44 van 1957), ingestel, gedurende 'n staat van nasionale verdediging;
- (b) om 'n vergadering van die Provinsiale Wetgewer, bedoel in subartikel (1)(a), by te woon ten opsigte van 'n verdere tydperk van afwesigheid,
- 30 wat 15 dae gedurende enige kalenderjaar nie te bowe gaan nie, bykomend tot enige afwesigheid weens omstandighede bedoel in paragraaf (a), of
- (c) om 'n vergadering van 'n komitee bedoel in subartikel (1)(c) by te woon, indien sy of haar afwesigheid nie aan 'n omstandigheid in
- 35 paragraaf (a) bedoel, te wyte is nie, maar deur die Speaker verskoon word by aanvoering van goeie gronde deur hom of haar, selfs al word die vergadering gehou gedurende die 15 dae bedoel in paragraaf (b).

Betaling van besoldiging en toelaes

4. Die Sekretaris betaal aan elke lid van die Provinsiale Wetgewer, in

40 maandelikse paaiemente, die besoldiging en toelaes waarop hy of sy ingevolge hierdie Wet geregtig is na aftrekking van enige bedrae beoog in artikel 3, en die eerste maand word gereken—

- (a) in die geval van 'n lid aangewys ingevolge item 16 van Bylae 2 van die Grondwet, vanaf die datum van die publisering van die lys van name
- 45 van verteenwoordigers soos beoog in subitem (3) van daardie item, en
- (b) in die geval van 'n lid benoem ingevolge artikel 133(2), gelees met artikel 44(2) van die Grondwet, om 'n vakature te vul, vanaf die datum waarop die vorige lid sy of haar setel in die Provinsiale Wetgewer ontruim het of die datum van ontvangs van die benoeming deur die
- 50 Speaker, watter ook al die laaste datum is.

Las teen Provinsiale Inkomstefonds

5. Die bedrag wat ten opsigte van besoldiging en toelaes ingevolge hierdie Wet betaalbaar is, maak 'n jaarlikse las teen die Provinsiale Inkomstefonds uit, en die

55 bepaling van hierdie artikel word geag 'n bewilliging van elke sodanige bedrag te wees.

Voorbehoude

6. (1) Enige besoldiging of toelaes wat na 27 April 1994, maar voor die

Legislature or to an office-bearer by the Secretary after 27 April 1994, but before the commencement of the first proclamation under section 2(1) of this Law, and purporting to have been remuneration or allowances as contemplated in section 135(4) or 149(10) of the Constitution shall be deemed to have been determined under this Law. 5

(2) Notwithstanding the provisions of section 4(a) of this Law, the remuneration and allowances referred to in that section shall be deemed to have become payable with effect from 27 April 1994 to those persons who, in pursuance of the first election under the Constitution, were designated as members of the Provincial Legislature in terms of item 16 of Schedule 2 to the Constitution. 10

Short title and commencement

7. This Law shall be called the Payment of Members of the Western Cape Provincial Legislature Law, 1994, and shall be deemed to have come into operation on 27 April 1994.

inwerkingtreding van die eerste proklamasie kragtens artikel 2(1) van hierdie Wet, deur die Sekretaris aan 'n lid van die Provinsiale Wetgewer of aan 'n ampsdraer betaal is, en wat voorgee besoldiging of toelaes soos beoog in artikel 135(4) of 149(10) van die Grondwet te wees, word geag kragtens hierdie Wet 5 bepaal te wees.

(2) Ondanks die bepalings van artikel 4(a) van hierdie Wet word die besoldiging en toelaes in daardie artikel bedoel geag met ingang van 27 April 1994 betaalbaar te geword het aan dié persone wat, na aanleiding van die eerste verkiesing kragtens die Grondwet, ingevolge item 16 van Bylae 2 van die 10 Grondwet as lede van die Provinsiale Wetgewer aangewys is.

Kort titel en inwerkingtreding

7. Hierdie Wet heet die Wet op die Betaling van Lede van die Wes-Kaapse Provinsiale Wetgewer, 1994, en word geag op 27 April 1994 in werking te getree het.