

**NORTH-WEST PROVINCIAL LEGISLATURE'S POWERS,
PRIVILEGES AND IMMUNITIES ACT**

NO. 5 OF 1994

[ASSENTED TO 18 AUGUST, 1994] [DATE OF COMMENCEMENT: 19 AUGUST, 1994]

(English text signed by the Premier)

ACT

To confer certain powers, privileges and immunities upon the Provincial Legislature; to provide for certain matters in connection with the proceedings of the Provincial Legislature; and to provide for matters incidental thereto.

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

"**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;

"**Constitution**" means the Constitution of the Republic of South Africa, 1993 (Act 200 of 1993);

"**journals**" means the minutes of proceedings of the Provincial Legislature;

"**member**" means a member of the Provincial Legislature and includes a member of the Executive Council;

"**officer of the Provincial Legislature**" means the Secretary to the Provincial Legislature, and any other person who may be appointed to the staff of the Provincial Legislature;

"**Provincial Legislature**" means the Provincial Legislature mentioned in section 125 of the Constitution;

"**Secretary**" means the Secretary to the Provincial Legislature or the person acting as such on the authority of the Speaker;

"**Speaker**" means the person elected in terms of section 131 (1) of the Constitution to be the Speaker or Deputy Speaker of the Provincial Legislature;

"**standing orders**" means the rules and orders made by the Provincial Legislature in connection with the conduct of its business and proceedings under section 137 (1) of the Constitution.

2. Freedom of speech and debate.—(1) Subject to the standing orders there shall be freedom of speech and debate in or before the Provincial Legislature and any committee, and such freedom shall not be impeached or questioned in any court.

(2) Anything said by any member in or before the Provincial Legislature or a committee, whether as a member or as a witness, shall be deemed to be a matter of privilege as contemplated in section 7.

(3) The provisions of subsection (1) shall not apply to any person, other than a member, giving evidence before the Provincial Legislature or any committee.

3. Power to regulate internal affairs.—The Provincial Legislature shall have full power to control, regulate and dispose of its internal affairs.

4. Powers and jurisdiction of Provincial Legislature.—For the purposes of this Act the Provincial Legislature shall, subject to the provisions of this Act, possess such powers and jurisdiction as may be necessary for enquiring into, judging and pronouncing upon the commission of any act, matter or thing herein declared to be a contravention of this Act, and imposing and carrying into execution the punishment provided therefor by this Act.

5. Rights and privileges of Provincial Legislature sitting as court.—The Provincial Legislature sitting as a court shall, subject to the provisions of this Act, have all such rights and privileges of a court of law as may be necessary for the purpose of summarily enquiring into and punishing any act, matter or thing herein declared to be a contravention of this Act.

6. Speaker or committee may act on behalf of Provincial Legislature.—(1) Any act which may under a provision of this Act be performed by the Provincial Legislature, may be performed by the Speaker or a committee consisting of members of the Provincial Legislature, if authorized thereto by the Provincial Legislature.

(2) For the purposes of the performance of an act by the Speaker or any such committee under subsection (1), the Speaker or such committee shall have the powers, rights, privileges and jurisdiction with which the Provincial Legislature is vested in terms of this Act for the performance of that act.

7. Stay of proceedings in connection with matter of privilege.—At any stage of any civil or criminal proceedings instituted for or on account of or in respect of any matter of privilege, upon production to the court or judge by the defendant or accused, of a certificate by the Speaker stating that the matter in question is one which concerns the privilege of the Provincial Legislature, that court or judge shall immediately stay such proceedings, which shall thereupon be deemed to be finally determined.

8. Members and officers exempted from certain obligations.—(1) No member or officer of the Provincial Legislature shall be required, while in attendance on the Provincial Legislature, to attend as a witness in any civil proceedings in any court unless that court holds its sittings at the seat of the Provincial Legislature.

(2) No civil proceedings in which a member or officer of the Provincial Legislature is a defendant shall, while that member or officer is in attendance on the Provincial Legislature, be brought to trial in a court that holds its sittings elsewhere than at the seat of such legislature.

(3) A certificate by the Speaker stating that a member or officer of the Provincial Legislature is in attendance on the Provincial Legislature shall be sufficient proof of such attendance.

9. Members not liable to proceedings.—Notwithstanding the provisions of this or any other Act, no member shall be liable to any civil or criminal proceedings, arrest, imprisonment or damages by reason of anything which he or she has said, produced or submitted in or before or to the Provincial Legislature or any committee thereof or by reason of anything which may have been revealed as a result of what he or she has said, produced or submitted in or before or to the Provincial Legislature or any committee thereof.

10. Persons not liable for acts done under authority of Provincial Legislature.—No person shall be liable in damages or otherwise for any act done under the authority of the Provincial Legislature and within its legal powers, or under any warrant issued by virtue of those powers.

11. Provincial Legislature empowered to punish for contempt.—(1) The Provincial Legislature may, for or in respect of any offence mentioned in subsection (3), whether committed by a member or by any other person, summarily impose a penalty for contempt by a fine or otherwise as provided by the standing orders of the Provincial Legislature or by this Act.

(2) If any fine or penalty imposed in terms of subsection (1) is not immediately paid or undergone the offender shall be committed to the custody of the person in charge of any prison or of an officer of the Provincial Legislature in such place as the Provincial Legislature may direct, for a period ending not later than the last day of the current session or until the payment is made or the punishment is undergone.

(3) The offences referred to in subsection (1) shall be—

- (a) disobedience to any order made by the Provincial Legislature or any committee duly authorized thereto, for the attendance before or the production of any paper, book, record or document to the Provincial Legislature or committee, except where the person concerned has been excused from such attendance or production in terms of section 21;
- (b) refusing to be examined before, or to answer any lawful and relevant question put to the Provincial Legislature or any committee unless such refusal has been excused in terms of section 21;
- (c) willful failure or refusal to obey any rule, order or resolution of the Provincial Legislature;
- (d) offering to or acceptance by any member or officer of the Provincial Legislature of a bribe to influence him in his conduct as such member or officer, or offering to or acceptance by any member or officer of the Provincial Legislature of any fee, compensation, gift or reward for or in respect of the promotion of or opposition to any Bill, resolution, matter, rule or thing submitted or proposed to be submitted to the Provincial Legislature or any committee;
- (e) assaulting, obstructing or insulting any member proceeding to or going from the Provincial Legislature, or on account of his conduct in the Provincial Legislature, or endeavouring to compel any member by force, insult or menace to declare himself in favour of or against any proposition or matter pending or expected to be brought before the Provincial Legislature;
- (f) assault upon, interference with or resistance to an officer of the Provincial Legislature in the execution of his duty or while proceeding to or going from the Provincial Legislature in the course of or in connection with his official duties;
- (g) sending any threatening letter to a member or challenging him to fight on account of his conduct in the Provincial Legislature;
- (h) while the Provincial Legislature is sitting, creating or joining in any disturbance in the Provincial Legislature or in the vicinity of the Provincial Legislature, whereby the proceedings of the Provincial Legislature are or are likely to be interrupted;
- (i) tampering with, deterring, threatening, beguiling or in any way unduly influencing any witness in regard to evidence to be given by him or her before the Provincial Legislature or any committee;
- (j) presenting to the Provincial Legislature or any committee any false, untrue, fabricated or falsified document with intent to deceive the Provincial Legislature or committee;
- (k) prevarication or other misconduct as a witness before the Provincial Legislature or any committee;
- (l) the publication of any false or scandalous libel on any member touching his conduct as a member; and
- (m) any contempt from time to time set forth, and declared to be such, in the standing orders.

12. Member not to vote upon any matter in which he has direct pecuniary interest.—(1) Subject to the provisions of subsection (3), a member shall not in or before the Provincial Legislature or any committee vote upon or take part in the discussion of any matter in which he has a direct pecuniary interest.

(2) Any member who contravenes the provisions of subsection (1) may be found guilty of contempt of the Provincial Legislature and be liable to the penalties provided in this Act for such contempt.

(3) The provisions of subsection (1) shall not apply to any vote or discussion concerning any remuneration or allowance to be received by members in their capacity as such, or to any interest which a member may have in any matter in common

with the public generally or with any class or section thereof.

13. Issue of warrant for arrest and imprisonment.—For the purposes of any punishment for any of the contempts of the Provincial Legislature mentioned in this Act the Speaker may issue a warrant under his hand for the arrest and imprisonment of any person sentenced to imprisonment or who fails to pay a fine or undergo a punishment to which he has been sentenced.

14. Form of warrant.—(1) Every warrant referred to in section 13 shall contain a statement that the person contemplated therein has been found guilty of contempt of the Provincial Legislature and shall specify the nature of such contempt.

(2) Any such warrant shall be sufficient if it can be reasonably inferred therefrom that the person contemplated therein has been found guilty of any of the contempts of the Provincial Legislature mentioned in this Act, and it shall not be necessary to observe any particular form in any such warrant.

15. Arrest without warrant.—Any person creating or joining in any disturbance in the Provincial Legislature during its actual sitting may be arrested without warrant on the verbal order of the Speaker, and may be kept in the custody of an officer of the Provincial Legislature designated by the Speaker until a warrant can be issued for his imprisonment.

16. Execution of warrants and verbal orders.—Every sheriff and his deputies and their officers and all police officers, constables and other persons shall assist in the arrest and detention of any person in pursuance of any such verbal order as is referred to in section 15 and shall aid and assist in the execution of any warrant issued in terms of section 13 or 30 and where any such warrant directs that the person mentioned therein shall be imprisoned in any gaol or other place, the person in charge thereof shall on production to him of such warrant receive such person into his custody in the said gaol or other place and there imprison him according to the tenor of the warrant.

17. Breaking open of doors and searching of premises in execution of warrants.—Any person charged with or assisting in the execution of any warrant under the hand of the Speaker may, in day time, break open any door or search any premises in which the person for whose arrest such warrant was issued may be or may reasonably be suspected of being concealed.

18. Order to attend before Provincial Legislature or committee.—(1) The Provincial Legislature or any committee authorized to require the attendance of persons or the production of documents or papers, may order any person to attend before the Provincial Legislature or committee and to produce any paper, book, record or document in his possession or under his control.

(2) No member or officer of Parliament shall in pursuance of any request—

(a) in the case of a member or officer of the Senate, attend before the Provincial legislature or a committee thereof without the consent or order of the Senate or during an adjournment of the Senate, of the President or, in his absence or other incapacity, the Deputy President; or

(b) in the case of a member or an officer of the National Assembly, attend before the Provincial Legislature or a committee thereof without the consent or order of the National Assembly or, during an adjournment of the National Assembly of the Speaker.

19. Summoning of witnesses.—(1) An order to attend or to produce any document before the Provincial Legislature or any committee shall be notified to the person required to attend or to produce the document by a summons under the hand of the Secretary issued on the direction of the Speaker.

(2) In every summons referred to in subsection (1), there shall be stated the time and the place at which the person summonsed is required to attend, and the particular document, if any, which he is required to produce.

(3) A summons referred to in subsection (1) shall be served on the person contemplated therein either by delivering to him in person a copy thereof or by leaving such copy with some adult person at such first-mentioned person's usual or last known place of residence in the Republic.

(4) A person summonsed in terms of subsection (3) may be paid such sum of money for his expenses as may be approved

by the Speaker in accordance with the standing orders.

20. Examination of witnesses.—(1) The Provincial Legislature or any committee may require that any fact, matter or thing relating to the subject of enquiry before the Provincial Legislature or that committee be verified or otherwise ascertained by the oral examination of any witness, and may cause any such witness to be examined upon oath which the Speaker, the chairman of such committee or a person specially designated by the Speaker for that purpose, may administer: Provided that any person who is in terms of any provision of this Act required to make and subscribe an oath may in lieu of such oath make and subscribe a solemn affirmation in a corresponding form.

(2) The rules relating to privileged evidence which are observed by the Supreme Court of South Africa shall be observed in the case of evidence before the Provincial Legislature or any committee.

21. Refusal to answer questions or to produce documents.—If any person ordered to attend or to produce any paper, book, record or document before the Provincial Legislature or any committee, refuses to answer any question that may be put to him or to produce any such paper, book, record or document, on the ground that it is of a private nature and does not affect the subject of enquiry, the Speaker or the chairman of such committee, as the case may be, may report such a refusal with the reasons therefor, and the Provincial Legislature may thereupon excuse such person from answering that question or producing that paper, book, record or document, or order that he be required to answer that question or produce that paper, book, record or document.

22. False answers to questions.—Any person who, after being duly cautioned as to his liability to punishment under this section, whether or not he has been sworn or has made a solemn affirmation, wilfully and corruptly gives before the Provincial Legislature or any committee a false answer to any question which is material to the subject of enquiry and which may be put to him in the course of any examination, shall be guilty of an offence and liable on conviction by any court of competent jurisdiction to the penalties prescribed by law for perjury.

23. Stay of proceedings for anything said by witness or anything done by witness and disclosed by his evidence.—(1) If, a witness before the Provincial Legislature or any committee in the opinion of the presiding officer, answers fully and faithfully all questions put to him by the Provincial Legislature or committee and his replies are relevant to such questions, he shall be entitled on application to receive a certificate under the hand of the presiding officer and did so answer all such questions: Provided that in the case of a witness before a committee, such certificate may be signed by the Speaker.

(2) (a) On production of such certificate in any court of law, such court shall stay any civil or criminal proceedings, except for a charge of perjury, against such witness for anything said by him in the course of giving evidence before the Provincial Legislature or any committee or for any act or thing done by him before that time and revealed by his evidence, and may in its discretion award to such witness the expenses to which he may have been put in consequence of such civil or criminal proceedings.

(b) Proceedings which have been so stayed shall thereupon be deemed to be finally determined.

24. Giving of evidence elsewhere of proceeding before Provincial Legislature or committee.—(1) No member, officer of the Provincial Legislature or reporter employed to take minutes of evidence given before the Provincial Legislature or any committee, shall give evidence elsewhere in respect of the contents of any evidence given or of any manuscript or document laid before the Provincial Legislature or any committee, or in respect of any or examination at the Bar of the Provincial Legislature or before any committee, without first having obtained the special leave of the Provincial Legislature.

(2) After a dissolution or during a recess or an adjournment of the Provincial Legislature such leave may be given by the Speaker.

25. Certain persons prohibited from receiving compensation for promotion of or opposition to proceedings in Provincial Legislature.—(1) No member and no attorney, law agent or Parliamentary agent who in the practice of his profession is a partner or in the service of any member, shall accept or receive, either directly or indirectly, a fee, compensation, gift or reward for or in respect of the promotion of or opposition to any Bill, resolution, matter, rule or thing submitted or proposed to be submitted to the Provincial Legislature or any committee for its consideration.

(2) Any person who contravenes the provisions of subsection (1) shall be guilty of an offence and liable on conviction by

a court of competent jurisdiction to a penalty not exceeding five thousand rand and in addition to repay the amount or the value or the fee, compensation, gift or accepted or received by him.

26. Admissibility.—Upon any enquiry relating to or affecting the powers, privileges and immunities of the Provincial Legislature or of any member, any copy of the journals printed or purporting to have been printed by order of the Provincial Legislature or the Speaker, shall be admitted as evidence of such journals in all courts and places in the Republic without any proof being given that such copy was so printed.

27. Penalty for printing or tendering in evidence matter falsely purporting to have been printed under authority of Provincial Legislature.—Any person who prints or causes to be printed as purporting to have been printed by the Government Printer or the Printer of the Provincial Legislature or by order or under the authority of the Provincial Legislature, any committee or the Speaker, a copy of any law in force or a copy of any report, paper, minutes or minutes of proceedings of Parliament or any committee that have not been so printed, or who tenders in evidence any such copy as purporting to have been so printed, knowing that it was not so printed, shall be guilty of an offence and liable upon conviction by a court of competent jurisdiction to imprisonment for a period not exceeding three years.

28. Protection as regards publications of Provincial Legislature.—A defendant or an accused in civil or criminal proceedings instituted for or on account or in respect of the publication by him or his servant, by order or under the authority of the Provincial Legislature, any committee or the Speaker, of any report, paper, minutes or minutes of proceedings, may, on giving to the plaintiff or the prosecutor, as the case may be, twenty four hours' written notice of his intention to do so, bring before the court in which such civil or criminal proceedings are being held, a certificate under the hand of the Speaker or the Deputy Speaker stating that the report, paper, minutes or minutes of proceedings in respect of which such proceedings have been instituted, were published by such person or his servant by order or under the authority of the Provincial Legislature, any committee or the Speaker, together with an affidavit verifying such certificate, and such court shall thereupon immediately stay such civil or criminal proceedings which, together with every process issued therein, shall thereupon be deemed to be finally determined.

29. Protection as regard publishing of extracts from publications of the Provincial Legislature.—If in any civil or criminal proceedings instituted for publishing any extract from or abstract of any report, paper, minutes or minutes of proceedings referred to in section 28, the court is satisfied that such extract or abstract was published *bona fide* and without malice, shall be entered for the defendant or accused.

30. Imprisonment for contravention of Act.—(1) Any person found guilty of a contravention of this Act may, in addition to any other penalty to which he is liable under this Act or any other law, be sentenced to imprisonment for such period during the then current session of the Provincial Legislature as the Provincial Legislature may determine.

(2) A person imprisonment in terms of subsection (1) shall be imprisoned under warrant given under the hand of the Speaker

(3) The provisions of sections 14 and 15 shall *mutatis mutandis* apply to warrants given under this section.

31. Prosecution before courts of law for contravention of Act and recovery of penalties.—(1) The attorney-general within whose area of jurisdiction a contravention of or offence under this Act has taken place may, if requested to do so by resolution of the Provincial Legislature cause any person accused of such contravention or offence to be summonsed for preparatory examination before the court of competent jurisdiction over such person for such examination with a view to prosecution before the appropriate provincial or local division of the Supreme Court of South Africa, and any such division shall in such a case have and exercise the powers and jurisdiction conferred by this Act or any other law.

(2) All penalties and other moneys payable under this Act may be recovered in the provincial or local division of the Supreme Court of South Africa having jurisdiction, at the suit of the Secretary if authorized by the Provincial Legislature to take proceedings for the recovery thereof.

(3) Any sum or recovered and any fine imposed for a contravention of or offence under this Act which is recovered shall be paid into the Consolidated Revenue Fund.

32. Application of Act in case of committee meeting beyond seat or during recess of Provincial Legislature.—In so far as may be necessary for the achievement of the objects of this Act in the case of a committee which in terms of any

authority conferred upon it performs its functions beyond the seat of the Provincial Legislature or while the Provincial Legislature is prorogued, the provisions of this Act shall apply as if the premises in which the committee meets for the performance of its functions were within the precincts of the Provincial Legislature, or as if the Provincial Legislature were in session, as the case may be.

33. Removal of Secretary from office.—The Secretary shall be removed from office only in accordance with a resolution adopted by the Provincial Legislature.

34. Extent of privileges and powers of Provincial Legislature, members and officers.—Save as is otherwise expressly provided by this Act, the Provincial Legislature, a member and an officer of the Provincial Legislature, respectively, shall have all such powers, privileges and immunities as at the time of the promulgation of the Constitution were applicable in the case of the House of Assembly referred to in the Republic of South Africa Constitution Act, 1961 (Act 32 of 1961), and any member or officer thereof, and also such privileges, immunities and powers as are from time to time conferred by any law of Parliament or the Provincial Legislature.

35. Privileges and powers to be part of law.—The privileges, immunities and powers of the Provincial Legislature, a member and an officer of the Provincial Legislature respectively, shall be part of the law of the Republic, and it shall not be necessary to plead them, but they shall be judicially noticed in all the courts of the Republic.

36. Short title.—This Act shall be called the North West Provincial Legislatures Powers, Privileges and Immunities Act, 1994.