

COMPARING CODES OF CONDUCT FOR EXECUTIVE, PARLIAMENT, PROVINCIAL LEGISLATURES AND MUNICIPALITIES 9 JUNE 2015

EXECUTIVE MEMBERS ETHICS ACT	CODE OF ETHICAL CONDUCT FOR MEMBERS OF PARLIAMENT	CODE OF CONDUCT FOR MEMBERS OF PROVINCIAL LEGISLATURES WESTERN CAPE E CAPE N CAPE FREE STATE LIMPOPO MPUMALANGA KWAZULU NATAL	CODE OF CONDUCT FOR COUNCILLORS: SCHEDULE 1 MUNICIPAL SYSTEMS ACT
PUBLIC DISCLOSURE			
<ul style="list-style-type: none"> • Shares and Financial Interests • Directorships and Partnerships • Gifts and Hospitality exceeding R350 • Travel paid for by outside sources • Benefits • Sponsorships • Land and Property • Pensions 	<ul style="list-style-type: none"> • Shares and Financial Interests • Remunerated Employment • Directorships and Partnerships • Consultancies (including earnings) • Gifts and Hospitality exceeding R1500 • Travel paid for by outside sources • Benefits • Sponsorships • Land and Property • Pensions • Trusts • Public Contracts or Tenders 	<p>All Legislature require</p> <ul style="list-style-type: none"> • Shares and Financial Interests • Remunerated Employment • Directorships and Partnerships • Consultancies (including earnings) • Gifts and Hospitality exceeding R1500 • Travel paid for by outside sources • Benefits • Sponsorships • Land and Property • Pensions <p>N Cape</p> <ul style="list-style-type: none"> • Details of Liabilities exceeding R50 000 	<ul style="list-style-type: none"> • Shares and Securities • Memberships of any close corporation • Interests in any trust • Directorships • Partnerships • Other financial Interests in any business undertaking • Employment and remuneration • Full time Councillors may not undertake paid work
CONFIDENTIAL DISCLOSURES			
<p><u>Spouse, companion and minor children</u></p> <ul style="list-style-type: none"> • Shares and Financial Interests 	<p><u>Members spouse, dependents or permanent companion</u></p> <ul style="list-style-type: none"> • Shares and Financial Interests 	<p><u>Spouse, permanent companion and minor children</u></p> <ul style="list-style-type: none"> • Shares and Financial Interests • Directorships and Partnerships 	<p>Council determines what is public and what is confidential</p> <ul style="list-style-type: none"> • No requirement for

GENERAL STANDARDS			
<ul style="list-style-type: none"> • Directorships and Partnerships (including earnings) • Gifts and Hospitality exceeding R1500 • Travel paid for by outside sources • Land and Property • Value of interests in a corporate entity, confidential travel, address of private residences, and liabilities 	<ul style="list-style-type: none"> • Directorships and Partnerships • Consultants (including earnings) • Gifts and Hospitality exceeding R1500 • Travel paid for by outside sources • Benefits • Sponsorships • Land and Property • Contract or tender awarded • Trusts • Encumbrances 	<ul style="list-style-type: none"> • Perform and exercise duties diligently • Fulfill all obligations imposed by law • Act in good faith and in the best interests of good governance • Act in all respects in a manner that is consistent with the integrity of their office 	<ul style="list-style-type: none"> • Uphold the law • Act in accordance with public trust • Discharge obligations in terms of the constitution • Maintain public trust in the integrity of Parliament • Committed to the eradication of all forms of discrimination.
<ul style="list-style-type: none"> • Perform functions of office in good faith, honestly and in a transparent manner • At all times in the best interests of the municipality in a manner that the integrity of the municipality is not compromised • Attend all meetings 	<ul style="list-style-type: none"> • All levels of government must promote accountability, responsibility and openness; MPLs are accountable to the electorate and have a duty to maintain public trust in democratic institutions; Perform their duties with honesty and integrity • Individually and collectively abide by the principles of the Code 	<ul style="list-style-type: none"> • Abide by the Obligations of the Code • Discharge obligations in terms of the Code 	<ul style="list-style-type: none"> • All levels of government must promote accountability, responsibility and openness; MPLs are accountable to the electorate and have a duty to maintain public trust in democratic institutions; Perform their duties with honesty and integrity • Individually and collectively abide by the principles of the Code • Abide by the Obligations of the Code • Discharge obligations in terms of the Code

		<p>of the Constitution</p> <ul style="list-style-type: none"> • Uphold the law • Act in accordance with the public trust placed upon MPLs • Maintain public trust and confidence in the legislature • Avoid improper use of facilities • Not use information for self-enrichment • Ensure that the conduct is in line with the principles of the Code <p><u>E Cape</u></p> <ul style="list-style-type: none"> • Human Dignity, achievement of equality and advancement of human rights • Non racialism and non-sexism • Supremacy of the Constitution and the rule of Law • Universal adult suffrage, a national common voters roll regular elections and a multi-party system of democracy to ensure accountability • Loyalty to the constitution • Uphold the Rules of the Legislature • Must base conduct on the consideration of public interest • Must not engage in criminal activity • Member may not use his/her position to seek sexual 	
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	<p>favours, or sexually harass any person. Gauteng, Mpumalanga, North West, KwaZulu Natal</p> <ul style="list-style-type: none"> • The Constitution requires that all levels of government promote accountability, responsibility and openness • MPLs have a duty to maintain public trust in democratic institutions • Members have an obligation to perform their duties with honesty, integrity and regard to the common good 		
VALUES			
	<p><u>Free State</u></p> <ul style="list-style-type: none"> • Respect for the Law and System of Government • Respect for Persons • Integrity • Diligence • Economy and Efficiency • Proper exercise of influence • Accountability • Openness <p><u>Northern Cape</u></p> <ul style="list-style-type: none"> • Selflessness • Integrity • Objectivity • Openness • Honesty • Leadership 	<ul style="list-style-type: none"> • Selflessness, Integrity, Objectivity, Honesty and Leadership 	

		<ul style="list-style-type: none"> • Professionalism • Loyalty to the Constitution <p><u>E Cape</u> Member must act with the highest degree of integrity</p> <p><u>Gauteng, Mpumalanga, North West and Kwa Zulu Natal</u></p> <ul style="list-style-type: none"> • Selflessness • Integrity • Accountability • Openness • Honesty • Leadership <p><u>Limpopo</u> Members should maintain highest standards of Honesty Accountability Openness Integrity</p>	
ETHICAL PROVISIONS			
<p>Executive Members may not:</p> <ul style="list-style-type: none"> • Wilfully mislead the legislature to which they are accountable • Wilfully mislead the President or Premier as the case may be • Act in the way that is inconsistent with their position • Use their position or 	<ul style="list-style-type: none"> • Member may not lobby for remuneration • Must Disclose when making representations 	<p>All Legislatures</p> <ul style="list-style-type: none"> • Member may not lobby for remuneration • Must Disclose when making representations <p><u>E Cape</u></p> <ul style="list-style-type: none"> • A Member may not accept any benefit to promote a bill, motion or decision of the legislature • A Member may not influence 	<ul style="list-style-type: none"> • May not use the position for private gain or to improperly benefit another person • A Councillor may not be a beneficiary under a contract for provision of goods and services, the performance of work

<ul style="list-style-type: none"> • other than a councillor, councilor, financial interests in any business of the municipality • May not obtain a financial interests in any business of the municipality • Appear for a fee on behalf of any other person • Full time councillors may not undertake any other work • A councillor may not request, solicit or act reward for making any decision, persuading any forum, disclosing information or making representation. • A councillor may not disclose confidential or privileged information • A councillor may not interfere in the administration or encourage any conduct which would constitute maladministration. 	<p>a decision of any structure for Member or the Members family or friends.</p> <ul style="list-style-type: none"> • Appointments to be made on a non-partisan basis in the best interests of the legislature • Disclose relationships with any person who is appointed or to be appointed. • Contracts to be awarded in terms of procurement policy, any relations with persons to whom tenders are awarded must be disclosed. <p><u>KwaZulu Natal, Gauteng, Mpumalanga, North West and Western Cape</u></p> <ul style="list-style-type: none"> • A Member may not take a decision to benefit himself or herself or his or her family. • Exercise his or her duty with dignity and integrity • appropriate t his or her office Not place him/herself under financial or other obligations that might improperly influence him/her in the performance of duty • Make choices on merit in carrying our public business, including public contracts, 		<ul style="list-style-type: none"> • information entrusted to them, to enrich themselves or improperly benefit any other person • use information received in confidence in the course of their duties otherwise then in connection with the discharge of their duties • expose themselves to any situation involving the risk of a conflict between their official responsibilities and their private interests • receive remuneration for any work or service other than for the performance of their functions as members of the executive • make improper use of allowance or payment properly made to them, or
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<p>disregard the administrative rules which apply to such allowances or payments</p> <ul style="list-style-type: none"> Prohibits Members of the Executive from undertaking any other paid work. 		<p>awarding contracts, or recommending individuals for reward or benefit</p> <p><u>Limpopo</u></p> <ul style="list-style-type: none"> Take decisions solely in the public interest. They must not do so in order to gain financial or other material interests for themselves or their friends. 	
<p>CONFLICT OF INTERESTS</p>			
<ul style="list-style-type: none"> Disclosure of interests when the Executive Member participates in any forum, cabinet Committee or Executive Council. Withdrawal from proceedings of the forum Disclosure of interests when making representations to another Executive Members. Disclose interests to the President or Premier when making a decision or adjudicating on a matter. Seek the permission of the President or 	<ul style="list-style-type: none"> Resolve conflict in favour of public interest Declare and recuse Not accept any gift which creates a conflict of interest Not improperly use his/her influence or private benefit Not access confidential official information for private benefit Declare interests before any Parliamentary or other forums Withdraw from proceedings Permission from the Member's political party for remunerated employment outside Parliament 	<p>All Legislatures</p> <ul style="list-style-type: none"> Disclosure and recusal in the event of a conflict, unless the interest is trivial Permission from the Member's political party for remunerated employment outside Parliament <p><u>Free State</u></p> <ul style="list-style-type: none"> Resolve conflict real or apparent in the public interests Not use influence improperly to advantage private entities in their dealings with government <p><u>E Cape</u></p> <ul style="list-style-type: none"> Avoid conflict between public and private interests Balance public and private interests Subsume personal interests to public interests <p><u>Limpopo</u></p>	

	<p>A member must not place him/herself in a position that conflicts with his/her responsibility, nor may he/she benefit improperly from the Office of a Member</p> <p>A Member may not put him/herself in a position which puts them under any financial obligations to outside individuals in the performance of their duties.</p> <p><u>Kwa Zulu Natal, Gauteng, Mpumalanga, North West and Western Cape</u></p> <ul style="list-style-type: none"> • Take steps to resolve conflict of interests in a manner that protects the public interests • A member shall not utilize influence to improperly give advantage to private entities or persons in their dealings with government • Refrain from using inside information to advance private interests <p><u>Gauteng, western Cape and North West</u></p> <ul style="list-style-type: none"> • Post tenure employment restrictions 		<p>Premier to decide or adjudicate upon the matter</p> <ul style="list-style-type: none"> • If a member has an interest which gives rise to a conflict of interests in the performance of the member's function as Member of the Executive, the member must within two months dispose of the interests <p>1. Place the administration of the interest under the control of an independent and professional person or agency</p> <p>2. A member may not solicit or accept any gift which is in return for any benefit received from the member in his/her official capacity; constitutes an improper influence on the member; an attempt to influence a member in performance of his/her duties</p>
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3. Permission to be sought from President or Premier to retain gift exceeding value of R1000.			
IMPLEMENTATION OF CODE			
<p>Disclosure to the Secretary to Cabinet</p> <p>Complaints to the Public Protector</p> <p>President must submit report to Parliament which includes action taken.</p>	Registrar and Implemented by the Committee	<p><u>Free State, N Cape, Limpopo, E Cape and W Cape</u> Discloses to the Registrar and is implemented by the Committee</p> <p><u>Kwa Zulu Natal</u> Complaint to the Speaker for investigation by the Disciplinary Committee</p> <p><u>Mpumalanga</u> Registrar and Ethics Committee</p> <p>Gauteng and North west Privileges and Ethics Committee</p>	Chairperson of Municipal Council must investigate and report outcomes to the MEC.
SANCTIONS			
		<p><u>N Cape, Free State, E Cape , Limpopo and W Cape</u> Maximum Fine 30 days and suspension of privileges and seat for 15 days.</p> <p><u>Kwa Zulu Natal</u> In terms of 12(5) of Powers, Privileges</p> <p>Gauteng and North West Integrity Commissioner makes findings to the Privileges and Ethics Committee</p>	Maximum penalty remove the councilor from office.

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CODE OF ETHICS

FOR

MEMBERS OF THE LEGISLATURE

PROVINCE OF THE EASTERN CAPE

As adopted on 18 July 2000

CODE OF ETHICS FOR MEMBERS OF THE LEGISLATURE OF THE PROVINCE OF THE EASTERN CAPE

PART I INTRODUCTORY PROVISIONS

1. INTRODUCTION

"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."

This first founding provision of the Constitution of the Republic of South Africa provides the rationale for the Code of Conduct for Members of the Legislature of the Province of the Eastern Cape.

Elected Members must maintain the highest ethical standard without improper personal gain as public representatives to achieve the standards contained in the Constitution.

Members have consulted the public at large, experts and colleagues by way of public hearings, seminars and debate to arrive at a set of rules that will ensure that the conduct of Members of the Legislature meets with the highest ethical standards required to carry out the duties of public representatives in conformity with the principles and spirit of the Constitution.

2. DEFINITIONS

In this Code, unless the context indicates otherwise, the following words mean -

"House Ethics Committee" means the House Ethics Committee established by Clause 3 of this Code;

"interest" mean an interest as described in clause 10;

"Legislature/ Parliament used interchangeable" means the Legislature of the Province of the Eastern Cape;

"Member" means an elected Member of the Legislature elected in terms of section 105 of the Constitution and a Permanent Delegate to the National Council of

Provinces appointed by the Legislature in terms of section 61 of the Constitution;

“Register” means the Register of Members’ Interests; and

“this Code” means the Code of Ethics for Members of the Legislature of the Province of the Eastern Cape

3. HOUSE ETHICS COMMITTEE

There is a House Ethics Committee consisting of 3 members of the Legislature appointed by way of resolution of the House.

4. APPLICATION

This Code applies to Members elected in terms of section 105 of the Constitution and Permanent Delegates to the National Council of Provinces appointed by the Legislature in terms of section 61 of the Constitution.

PART II GENERAL CONDUCT

5. THE CONSTITUTION

- (1) A Member must be faithful to, and uphold the principles of the Constitution and act within the parameters set by the Constitution.
- (2) A Member may not contravene, or promote the contravention of any provision of the Constitution.

6. INTEGRITY OF THE LEGISLATURE

- (1) A Member must maintain and strengthen the integrity of the Legislature and refrain from any act or omission which would bring the Legislature into disrepute.
- (2) A Member must respect and uphold the Standing Rules and policies of the Legislature.
- (3) A Member may not contravene a Standing Rule or adopted policy of the Legislature.

7. PUBLIC INTEREST

A Member must-

- (1) base a Member’s conduct on considerations of the public interest;

- (2) avoid conflict between personal and public interest;
- (3) balance personal and public interest; and
- (4) subsume personal interest to public interest.

8. INTEGRITY

A Member must act with the highest degree of integrity and honesty.

PART III FINANCIAL INTERESTS

9. DISCLOSURE OF MEMBER'S INTERESTS

- (1) A Member must disclose the interests contained in paragraph 10 to the House Ethics Committee for entering in either the Public or Confidential part in the Register.
- (2) Where any doubt or discretion exists in respect of the disclosure of an interest, a Member must act in good faith.
- (3) A Member may not evade disclosure of the interests contained in paragraph 10 by using the name of a Member's spouse, permanent companion and dependant child as holder of such interest: Provided that this clause shall not mean that a spouse, permanent companion and dependant child are bound by this Code to disclose their own interests.

10. INTERESTS FOR DISCLOSURE

The following interests of a Member must be disclosed to the House Ethics Committee -

(1) Shares and other Financial Interests

The number, nature, nominal value and company of any type of shares in any public or private company, closed corporation, or any other corporate body recognised by law.

(2) Remunerated employment outside Parliament

The employment for remuneration and the name and type of business activity of the employer of any Member outside Parliament, which must be sanctioned by the political party to which the Member concerned belongs and which must not be incompatible with that Member's function as an elected public representative.

(3) Directorships and Partnerships

The holding of office of a directorship in any corporate body and the membership of any partnership recognised by law and the name and type of business activity of the corporate body or partnership where the receipt of remuneration is a consequence of or associated with holding such office or being such a member.

(4) Consultancies

The holding of a consultancy or retainership of any kind, the name and type of business activity of organisation concerned, and the value of any benefits derived as a result.

(5) Sponsorships

The source, description and extent of the provision of financial sponsorships or assistance directly to a Member from non-party sources.

(6) Gifts and Hospitality

The receipt, description, value and source of any gift with a value in excess of a value to be determined by the Committee from time to time or gifts from a single source which cumulatively exceed the value of be determined by the Committee from time to time in any calendar year or hospitality intended as a gift in kind, including such gifts and hospitality from an external source to a Member, but personal gifts within the family and hospitality of a specifically traditional or cultural nature need not be disclosed.

(7) Benefits

The receipt and source of any other benefit of a material nature, provided that the value of such benefit must be disclosed in the Confidential Part of the Register;

(8) Foreign Travel

The undertaking of all travel abroad (including a brief description of the journey and sponsor), other than personal visits paid for entirely by the Member, business visits unrelated to the Member's role as a public representative, or formal visits paid for by the Member's political party.

(9) Land and Property

Any interest in immovable property, including private residences, vacation homes and any other landholding.

(10) Pensions

The receipt and source of a pension of any description whether funded privately or publicly.

11. CONFIDENTIALITY

The following Members' interests must be entered in the Confidential Part of the Register-

- (1) interests in a corporate body recognised by law other than a public or private company;
- (2) the extent of a Member's remuneration and any income from employment outside the Legislature;
- (3) the extent of a Member's remuneration and any income for a directorship or partnership;
- (4) details of a Member's private residences;
- (5) the extent of a pension received by a Member; and
- (6) if the House Ethics Committee so directs after the request of a Member.

12. KEEPING OF A REGISTER

- (1) The House Ethics Committee must keep a Register of Members' Interests.
- (2) The House Ethics Committee must ensure that-
 - (a) Members' interests which are not confidential in terms of clause 11 are entered in the Public Part of the Register; and
 - (b) Members' interests which are confidential in terms of clause 11 are entered in the Confidential Part of the Register;

13. REGISTRAR

- (1) The Executive Management of the Legislature must appoint a senior official from amongst the officials of the Legislature as Registrar to serve the House Ethics Committee.
- (2) The Registrar must perform the duties entrusted by this Code with the highest level of confidentiality, integrity and impartiality.
- (3) The Registrar must-
 - (a) advise Members on the operation of this Code;
 - (b) perform the administrative duties required by this Code;
 - (c) open, compile and keep the Register up to date;

- (d) arrange, minute and report on meetings of the House Ethics Committee in consultation with the Chairperson of the House Ethics Committee.

PART IV ETHICAL STANDARDS

14. FINANCIAL GAIN

- (1) A Member may not accept any fee, compensation, reward, benefit, or bribe to promote or oppose a Bill, or part of a Bill, motion, decision, or matter before the Legislature, a Committee, or any structure of the Legislature.
- (2) A Member may not take a decision, or influence a decision by any structure of the Legislature to take a decision, to gain material or other financial benefits for such Member or such Member's family or friends.
- (3) If a Member, or Member's family has a financial or material interest in a motion, decision, or matter before the Legislature, a Committee, or any structure of the Legislature, and that financial or material interest cannot be reconciled with the normal duties and functions of a Member, that Member must-
 - (a) declare the financial or material interest; and
 - (b) recuse himself or herself when the Legislature, a Committee or any structure of the Legislature considers and decides on the Bill, motion, or matter.

15. APPOINTMENT AND PROMOTION

A Member, personally, or as a member of a Committee or structure of the Legislature, or the government, must-

- (a) appoint or promote persons on a non-partisan basis in accordance with the appointment or promotion policies; and
- (b) disclose any relationship to a person who is considered for appointment or promotion, and recuse himself or herself from such a Committees or structure.

16. PROCUREMENT OF GOODS OR SERVICES

A Member, personally, or as a member of a Committee or structure of the Legislature, or the government, must-

- (a) award contracts for the procurement of services or goods on a non-partisan basis in accordance with the procurement policies; and
- (b) disclose any relationship to a person or business who is considered for the

contract, and recuse himself or herself from such a Committee or structure.

17. CRIMINAL ACTIVITIES

A Member may not engage in any criminal activity.

18. CONDUCT TOWARDS OTHER MEMBERS

- (1) A Member must treat other Members with respect.
- (2) A Member may not hide behind parliamentary privilege, and knowingly make false or unsubstantiated accusations or allegations towards another Member or Members.

19. GENDER SENSITIVITY

- (1) A Member must be gender sensitive in performing the duties and functions of a Member.
- (2) A Member may not-
 - (a) use a member's position and status to seek sexual favours;
 - (b) enforce unwanted bodily contact; and
 - (c) make oral or written sexually provocative or offensive requests, remarks, comments, or gestures.

20. LOBBYING

A Member may not receive any remunerations, reward or benefit from any person lobbying for any cause.

PART V ENFORCEMENT OF THE CODE

21. COMPLAINTS

- (1) A person who wishes to file a complaint that a Member contravened this Code must submit a complaint in writing, stating the alleged contravention in sufficient detail to the Registrar.
- (2) The Registrar must register the complaint in a complaints register, and inform the Member and the Chairperson of the House Ethics Committee of the complaint.

22. PROCEDURE OF HOUSE ETHICS COMMITTEE

- (1) The House Ethics Committee, acting on its own or on a complaint by a person, must investigate with due expedition any alleged contravention of this Code.

- (2) The Standing Rules of the Legislature applicable to meetings and procedure are mutatis mutandis applicable to any investigation of the House Ethics Committee.
- (3) The House Ethics Committee must hear at least the complainant and the Member in respect of whom the complaint is lodged.
- (4) The House Ethics Committee must make a full and considered finding supported by reasons on the validity of any complaint at the conclusion of its investigations.
- (5) If the House Ethics Committee found that a Member has contravened this Code, it must recommend the imposition of one or more of the following sanctions-

a reprimand;

a fine to the maximum of the value of that Member's salary for one month;

a reduction of salary or allowances to the maximum of the value of that Member's salary for one month;

the suspension of privileges for a maximum of 15 days;

the suspension of a Member's right to take his or her seat in Legislature for a maximum of 15 days; or

such other sanction as the Committee deems fit.

- (6) The House Ethics Committee must devise mechanisms and systems to both protect whistle blowers and deal with whoever harass or deal improperly with whistle blowers.
- (7) The House Ethics Committee must report its findings and recommendations on an appropriate sanction to the House on the first sitting day after the period of 30 days of the lodging of a complaint

23. PROCEDURE IN THE LEGISLATURE

The House must confirm or vary any such report, with or without debate by a free vote, or refer the matter back to the House Ethics Committee for further consideration.

24. PROCEDURE AFTER CONFIRMATION

If the House has confirmed the House Ethics Committee's report, the Speaker must impose the confirmed sanction with due expedition.



DISCLOSURE FORM

FULL NAMES OF MEMBER: _____

I the undersigned do hereby disclose the financial interests to the House Ethics Committee for entering into a Register as required by the Code of Ethics of the Eastern Cape Provincial Legislature.

The following interests must be kept in the Confidential Part of the Register as required by the Code of Ethics:

1. Interests in a corporate body recognised by law other than a public or private company;
2. the extent of a Member's remuneration and any income from employment outside the Legislature;
3. the extent of a Member's remuneration and any income for a directorship or partnership;
4. details of a Member's private residences;
5. the extent of a pension received by a Member; and
6. if the House Ethics Committee so directs after the request of a Member.

SIGNATURE

DATE

NOTES FOR COMPLETION OF FORM!!

- Members must fill in their full names and sign the form.
- Sections that are not applicable to a Member need not be completed and will be regarded as a nil return.
- Members who need assistance with completion or clarity on any issue may approach the Chief Parliamentary Officer, who is the Registrar of the House Ethics Committee, and is bound by an oath of confidentiality.
- Examples are added in the first row of each section to assist Members. The typed information is fictitious and serves merely as an example.
- If space is inadequate, please use a separate sheet of paper.
- **The completed forms must be deposited to the Registrar in a sealed envelope.**

DISCLOSURE FORM

1. SHARES AND OTHER FINACIAL INTERESTS

The number, nature, nominal value and company of any type of shares in any public or private company, closed corporation, or any other corporate body recognised by law.

Number of shares	Nature	Nominal value	Name of public/ private company or cc
100	Ordinary	R15,00	SANLAM

2. REMUNERATED EMPLOYMENT OUTSIDE THE LEGISLATURE

The employment for remuneration and the name and type of business activity of the employer of any Member outside the Legislature, which must be sanctioned by the political party to which the Member concerned, belongs and which must not be incompatible with that Member's function as an elected public representative.

The extent will be entered in the Confidential Part of the Register

Name of employer	Type of business	Annual amount of remuneration
ABC Enterprises	Financial consultants	R60 000,00 p.a

- (2) The Standing Rules of the Legislature applicable to meetings and procedure are mutatis mutandis applicable to any investigation of the House Ethics Committee.
- (3) The House Ethics Committee must hear at least the complainant and the Member in respect of whom the complaint is lodged.
- (4) The House Ethics Committee must make a full and considered finding supported by reasons on the validity of any complaint at the conclusion of its investigations.
- (5) If the House Ethics Committee found that a Member has contravened this Code, it must recommend the imposition of one or more of the following sanctions-
 - a reprimand;
 - a fine to the maximum of the value of that Member's salary for one month;
 - a reduction of salary or allowances to the maximum of the value of that Member's salary for one month;
 - the suspension of privileges for a maximum of 15 days;
 - the suspension of a Member's right to take his or her seat in Legislature for a maximum of 15 days; or
 - such other sanction as the Committee deems fit.
- (6) The House Ethics Committee must devise mechanisms and systems to both protect whistle blowers and deal with whoever harass or deal improperly with whistle blowers.
- (7) The House Ethics Committee must report its findings and recommendations on an appropriate sanction to the House on the first sitting day after the period of 30 days of the lodging of a complaint

23. PROCEDURE IN THE LEGISLATURE

The House must confirm or vary any such report, with or without debate by a free vote, or refer the matter back to the House Ethics Committee for further consideration.

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If the House has confirmed the House Ethics Committee's report, the Speaker must impose the confirmed sanction with due expedition.

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DISCLOSURE FORM

FULL NAMES OF MEMBER: _____

I the undersigned do hereby disclose the financial interests to the House Ethics Committee for entering into a Register as required by the Code of Ethics of the Eastern Cape Provincial Legislature.

The following interests must be kept in the Confidential Part of the Register as required by the Code of Ethics:

1. Interests in a corporate body recognised by law other than a public or private company;
2. the extent of a Member's remuneration and any income from employment outside the Legislature;
3. the extent of a Member's remuneration and any income for a directorship or partnership;
4. details of a Member's private residences;
5. the extent of a pension received by a Member; and
6. if the House Ethics Committee so directs after the request of a Member.

SIGNATURE

DATE

NOTES FOR COMPLETION OF FORM!!

- Members must fill in their full names and sign the form.
- Sections that are not applicable to a Member need not be completed and will be regarded as a nil return.
- Members who need assistance with completion or clarity on any issue may approach the Chief Parliamentary Officer, who is the Registrar of the House Ethics Committee, and is bound by an oath of confidentiality.
- Examples are added in the first row of each section to assist Members. The typed information is fictitious and serves merely as an example.
- If space is inadequate, please use a separate sheet of paper.
- **The completed forms must be deposited to the Registrar in a sealed envelope.**

DISCLOSURE FORM

1. SHARES AND OTHER FINACIAL INTERESTS

The number, nature, nominal value and company of any type of shares in any public or private company, closed corporation, or any other corporate body recognised by law.

Number of shares	Nature	Nominal value	Name of public/ private company or cc
100	Ordinary	R15,00	SANLAM

2. REMUNERATED EMPLOYMENT OUTSIDE THE LEGISLATURE

The employment for remuneration and the name and type of business activity of the employer of any Member outside the Legislature, which must be sanctioned by the political party to which the Member concerned, belongs and which must not be incompatible with that Member's function as an elected public representative.

The extent will be entered in the Confidential Part of the Register

Name of employer	Type of business	Annual amount of remuneration
ABC Enterprises	Financial consultants	R60 000,00 p.a

3. DIRECTORSHIPS AND PARTNERSHIPS

The holding of office of a directorship in any corporate body and the membership of any partnership recognised by law and the name and type of business activity of the corporate body or partnership where the receipt of remuneration is a consequence of or associated with holding such office or being such a member.

The extent of a Member's remuneration and any income for a directorship or partnership will be entered in the Confidential Part of the Register.

Name of company or partnership	Directorship/ Partnership	Name and type of business activity	Remuneration or income
XYZ (Pty)(Ltd)	Director	Dada dancing Entertainment	R5 000,00 p.a

4. CONSULTANCIES OR RETAINERSHIPS

The holding of a consultancy or retainership of any kind, the name and type of business activity of organisation concerned, and the value of any benefits derived as a result thereof.

Name of organisation	Member's involvement	Type of business and activity	Value of any benefits
BBB Consultants	Retained as consultant	Political advisors	R3000,00 per annum

9. LAND AND PROPERTY

Any interest in immovable property, vacation homes and any other landholding, **excluding private residences**

Description of property	Location area	Extent of property	Type of property
Portion 25 of the farm Lekkerboer	Situated in the District of Dordrecht	1000 ha	Farm

10. PENSIONS

The receipt and source of a pension of any description whether funded privately or publicly. The extent of a pension received by a Member will be kept in the Confidential Part of the Register.

Source	Public/private funded	Amount of pension received
Parliamentary Pension Fund	Public	R72 500, 00 p.a

11. **INTERESTS IN A CORPORATE BODY RECOGNISED BY LAW OTHER THAN A PUBLIC OR PRIVATE COMPANY**

Interests in a corporate body recognised by law other than a public or private company. This will be kept in the Confidential Part of the Register.

Corporate body	Description of business of corporate body	Description of interest
Zee Family Trust	Investment body for family assets	Trustee and 20% beneficiary

12. **DETAILS OF PRIVATE RESIDENCES**

Details of a Member's private residences will be kept in the Confidential Part of the Register.

Description of property	Location area	Extent of property	Type of property
Erf 521	East London	1000 sq meters	Family home

13. DETAILS OF ANY FINANCIAL INTEREST, INCOME OR PRPERTY TO BE PUT IN THE CONFIDENTIAL PART OF THE REGISTER AT REQUEST OF MEMBER

A Member may request that the details of any financial interest, income or property be put in the Confidential Part of the Register if good reasons exist and if the House Ethics Committee so directs it will be in the Confidential part.

Description of financial interest, income or property	Extent of interest, income or value of property	Reasons for request
50% interest in Flat 200, Seeview Flats, Durban	50% of R100 000,00	This is a residence used by my child and public knowledge is not desirable.

14. EXTRAORDINARY INTERESTS OR BENEFITS

Members are requested to declare any interest or benefit that does not fit in any of the headings above under this item.

Description of interest or benefit	Source	Extent and values of interest, income or benefit
Participation at a workshop or seminar at a fee	XYZ promotions (Pty)(Ltd)	R2000,00 per hour for 3 hours plus flight tickets to Jhb.

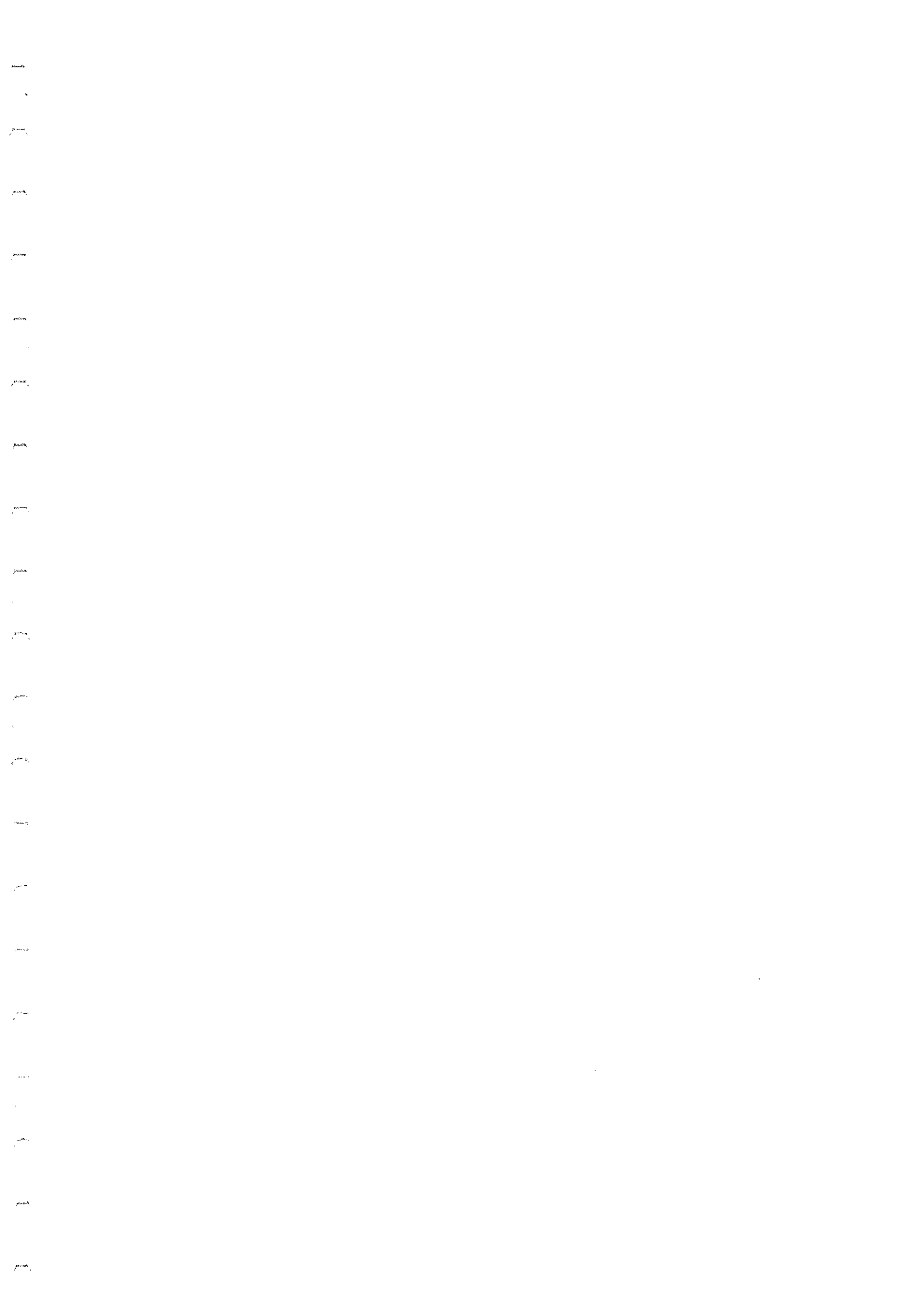
VOLUNTARY DISCLOSURE

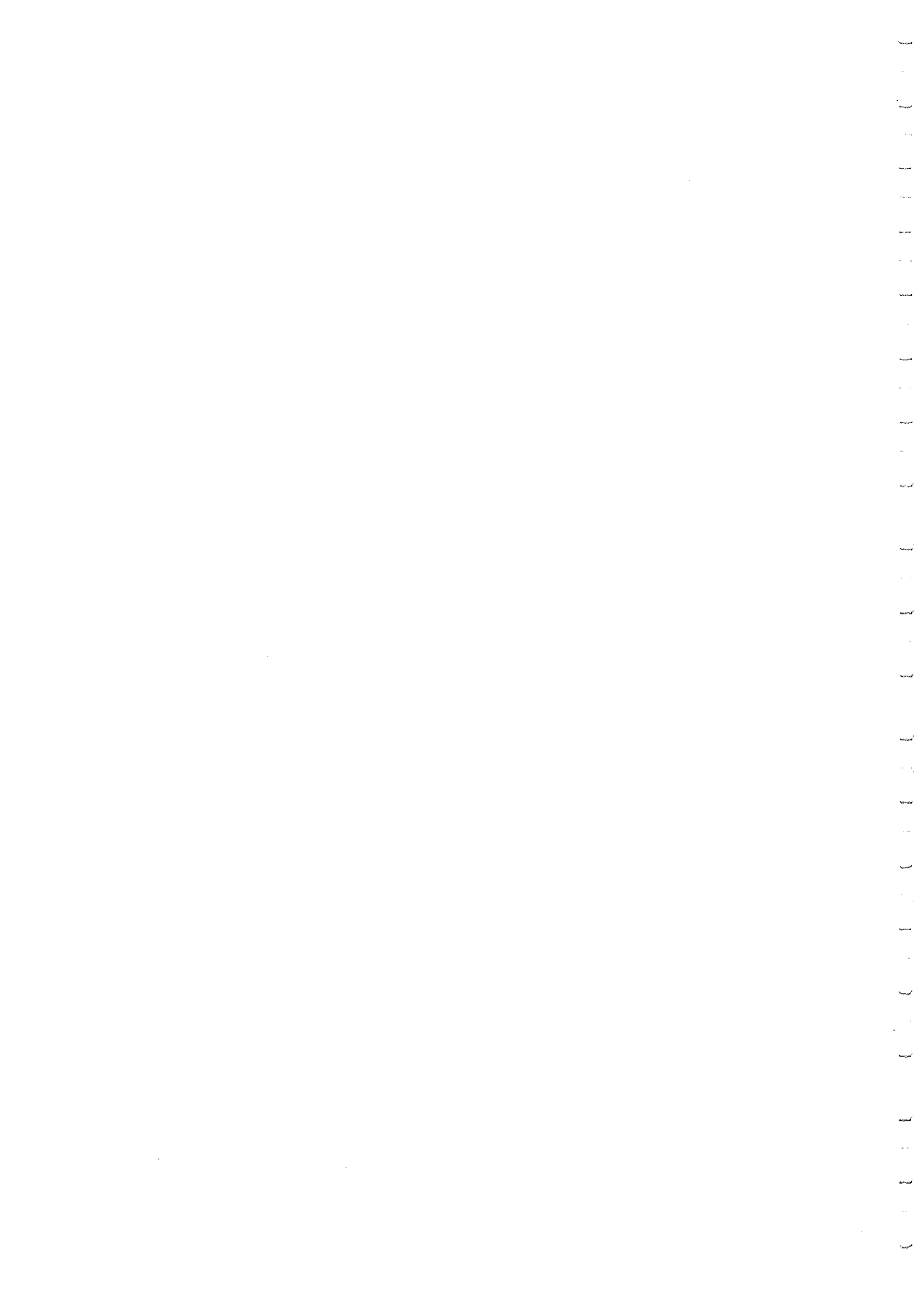
15. VOLUNTARY DISCLOSURE ANY FINANCIAL INTEREST, INCOME OR PROPERTY OF IMMEDIATE FAMILY MEMBERS

Disclosure of financial interest, income or property of immediate family members of Members is not compulsory. However, Members may wish to disclose those details to prevent future questions or accusations and these details will be kept in the Confidential Part of the Register.

Description of financial interest, income or property	Extent of interest, income or value of property	Name and relationship of immediate family member
Erf 123, Umtata, 100 square meters	App R100 000,00	Registered in the name of my wife A B Zee.

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FREE STATE PROVINCIAL LEGISLATURE

SCHEDULE ONE

[Read in conjunction with Rules 83, 203, 204, 205, 206 and 208 of the Standing Rules and Orders]

CODE OF CONDUCT AND ETHICS FOR MEMBERS OF THE FREE STATE PROVINCIAL LEGISLATURE

1. Preamble

We, the Members of the Free State Provincial Legislature:

- 1.1 Noting that whereas the Constitution of the Republic of South Africa requires that all levels of government promote accountability, responsibility and openness;
- 1.2 Recognizing that Members of the Provincial Legislature are accountable to the electorate and have a duty to maintain public trust in democratic institutions;
- 1.3 Affirming that Members of the Legislature have an obligation to perform their duties with honesty, integrity, and regard to the common good;
- 1.4 Therefore agree, individually and collectively, to abide by the principles, rules and obligations of this Code of Conduct and Ethics.

2. Definitions

- 2.1 In this Code of Conduct and Ethics, unless the context otherwise indicates, the following words or phrases mean-

"Code":	means the document concerning disclosure of certain financial interests as amended from time to time
"Committee":	means the Committee on Ethics and Members' Interests in terms of the Rule 206(2)(b) of the Standing Rules and Orders of the Free State Legislature
"Member"	means a Member of the Free State Legislature
"permanent companion"	means a person who is publicly acknowledged by a Member as that Member's permanent companion
"registrable interests"	means financial interests listed in item 13, and in relation to a Member, includes the financial interest of that Member's spouse, dependent child and permanent companion
"Registrar"	means the Registrar of Members' Interest appointed in terms of item 9.
"Register"	means the Register of Members' Interests opened in terms of item 11.
"remuneration:	means receipt of benefits in cash or in kind

- 2.2 Where any doubt exists as to the scope, application or meaning of any aspect of this Code, the good faith of the Member concerned must be the guiding principle.

Part One – Principles

3. Principles

A Member of the Free State Provincial Legislature shall adhere to the following principles:

3.1 Respect of the Law and the System of Government

A Member must be loyal to the Republic of South Africa and its people. He or she must uphold the laws of the Republic of South Africa and act with respect towards the institution of the Legislature. A Member must ensure that his or her conduct, whether in a personal or official capacity does not bring the Legislature into disrepute, or damage public confidence in the system of government.

3.2 Respect for persons

A Member must treat all other Members, members of the public and officials honestly and fairly, and with proper regard for their rights, entitlements, duties and obligations, and must at all times act responsibly in the performance of his or her duties.

3.3 Integrity

A Member must at all times seek to advance the common good of the community, which he or she serves, in recognition that public offices involves a public trust. In particular, a Member must ensure that his or her official powers or positions are not used improperly for personal advantage and that any conflict between personal interests and public duty, which may arise, is resolved in favour of public interest.

3.4 Diligence

A Member must exercise due diligence, care and attention, and must at all times seek to achieve the highest standards practicable in relation to his or her duties and responsibilities in his or her official capacity as a Member of the Legislature.

3.5 Economic efficiency

A Member must avoid waste, abuse and extravagance in the provision or use of public resources, and must expose fraud and corruption of which the Member is aware.

3.6 Proper Exercise of Influence

- a) A Member must exercise the influence gained from his or her public office to advance the public interest. A Member must not obtain improperly any property or benefit, whether for themselves or another or affect improperly any process undertaken by officials or members of the public.
- b) A Member must declare any personal or financial interest that the Member, or his or her Family or business associate, may have in a matter before the House or a Committee of which he or she is a member.

3.7 Accountability

A Member is accountable for his or her decisions and actions to the public and must submit himself or herself to whatever scrutiny is appropriate to his or her office.

3.8 Openness

A Member should be as open as possible about all the decisions that he or she takes. A Member should give reasons for decisions and restrict information only when the wider public interest clearly demands.

3.9 Register of Members Interest

A Member shall fulfill conscientiously the requirements of the Standing Rules in respect of registration of interests in the Register and must always draw attention to any relevant interest in any proceedings of the House or its Committees, in any communications with Members of the Executive Council, departments or other executive entities.

Part Two – Ethical Conduct

4. Declaration of private interests in Committees

4.1 A Member shall declare any personal or private financial or business interest that that Member or spouse, permanent companion or business partner of that Member may have, in a matter before a Committee; and

4.2 A Member must withdraw from the proceedings of that Committee when that matter is considered, unless that committee decides that the Member's interest is trivial or not relevant.

5. Declaration of private interests when making presentations

If a Member makes representations as a Member to a Member of the Executive Council or any other organ of state with regard to a matter in which that Member or any spouse, permanent companion or business partner of that Member has a personal or private financial interest or business interest, that Member must declare that interest to that Member of the Executive Council or organ of state.

6. Remunerated employment outside the Legislature

A Member may only engage in remunerated employment outside the Legislature when such employment is:

- a) sanctioned by the political party to which the Member belongs and
- b) compatible with that Member's function as a public representative.

7. Lobbying for Remuneration

No Member may lobby for remuneration.

Part Three – Disclosure of Registrable Interests

8. Role of Committee

The Committee performs the functions mentioned in Rule 208(4) of the Standing Rules and Orders.

9. Registrar of Members' Interests

- 9.1 The Committee must be served by a senior official on the staff of the Legislature appointed by the Speaker, after consulting the leaders of parties represented in the House.
- 9.2 The Registrar must be assisted by staff assigned by the Secretary for the work of the Committee.

10. Registrar's functions

- 10.1 The Registrar must-
- a) open and keep a register for the purposes of this Code, called the Register of Members' Interests; and
 - b) record in the Register particulars of members' registrable interests;
 - c) amend any entries in the Register when necessary; and
 - d) perform the other duties in connection with the implementation of this Code as required by the Committee.
- 10.2 The Registrar perform the functions of office in accordance with the directions of the Committee.

11. Register of Members' Interests

- 11.1 The Register must-
- a) have a confidential part and a public part;
 - b) contain the information regarding the Members' registrable interests as the Committee may determine and
 - c) be in a format approved by the Committee.

12. Disclosure of registrable interests

- 12.1 Members must disclose to the Registrar, on the form prescribed for this purpose by the Committee, particulars of all their registrable interests.
- 12.2 The first disclosure must not be later than 30 April of each year or appointment as a Member. If a Member has no registrable interests, a "nil" return must be submitted.
- 12.3 After the first disclosure, Members must disclose annually at a time determined by the Committee.

13. Kinds of Interests to be disclosed

- 13.1 The following kinds of financial interests are registrable interests:
- a) shares and other financial interests are registrable interests;
 - b) remuneration employment outside the Legislature;
 - c) directorships and partnerships
 - d) consultancies;

- e) sponsorships;
- f) gifts and hospitality from a source other than a family member or permanent companion;
- g) any other benefit of a material nature;
- h) foreign travel (other than personal visits paid for by the Member, business visits unrelated to the Member's role as a public representative and official and formal visits paid for by the Legislature or the Member's political party);
- i) ownership and other interests in land and property; and
- j) pensions.

14. Details of registrable interests to be disclosed

14.1 The following details of registrable interests must be disclosed:

- a) Shares and other financial interests in companies and other corporate entities:
 - i) The number, nature and nominal value of shares of any type in any public or private company;
 - ii) the name of that company; and
 - iii) the nature and value of any other financial interests held in a private or public company or any other corporate entity.
- b) Remunerated employment outside the Legislature
 - i) The type of employment;
 - ii) the name, and type of business activity, of the employer; and
 - iii) the amount of the remuneration received for such employment.
- c) Directorships and partnerships
 - i) The name and type of business activity of the corporate entity or partnership; and
 - ii) the amount of any remuneration received for such directorship or partnership.
- d) Consultancies
 - i) The name of the consultancy or any retainership of any kind;
 - ii) the name and type of business activity of the client concerned; and
 - iii) the amount of any remuneration or other benefits received for such consultancy or retainership.
- e) Sponsorships
 - i) The source and description of direct financial sponsorship or assistance from non-party sources; and
 - ii) the value of the sponsorship or assistance.
- f) Gifts and hospitality
 - i) A description and the value and source of a gift with a value in excess of R1000;
 - ii) a description and the value of gifts from a single source which cumulatively exceed the value of R1000 in any calendar year; and
 - iii) hospitality intended as a gift in kind.
- g) Benefits
 - i) The nature and source of any other benefit of a material nature; and
 - ii) the value of that benefit.

- h) Foreign travel
 - i) A brief description of the journey abroad; and
 - ii) particulars of the sponsor.
- i) Land and property
 - i) A description and extent of the land or property;
 - ii) area in which it is situated; and
 - iii) nature of interest.
 - iv) properties outside the state
- j) Pensions
 - i) The source of the pension; and
 - ii) The value of the pension

15. Entries in the Register

15.1 The Registrar may record all details of registrable interests in the public part of the Register, except the following which must be recorded in the confidential part:

- a) The value of financial interests in a corporate entity other than a private or public company.
- b) The amount of any remuneration for any employment outside the Legislature.
- c) The amount of any remuneration for any directorship or partnership.
- d) Details of foreign travel when the nature of the visit requires those details to be confidential.
- e) Details of private residences.
- f) The value of any pensions.
- g) Details of all financial interests of a Member's spouse, dependent child or permanent companion to the extent the Member is aware of.

15.2 Where any doubt exists as to whether any financial interests must be disclosed, the Member concerned must act in good faith.

15.3 Despite subitem (1), the Committee may on good cause instruct the Registrar to record any details of any of a Member's registrable interests in the confidential part of the register.

16. Confidential part of the Register

16.1 Only a Committee member, the Registrar and staff assigned to the Committee has access to the confidential part of the Register.

16.2 No person who has access to the confidential part of the Register may, except when a court so orders, disclose particulars on any entry in the confidential part to anyone other than the Member concerned or another person who has such access.

16.3 A Committee Member who contravenes subitem (2)-

- a) is liable to a reduction of up to 30 days' salary; and
- b) becomes ineligible to continue as a Committee member.

16.4 The Registrar or a staff member who contravenes subitem (2) is subject to disciplinary action applicable to Legislature staff, including dismissal.

17. Public part of Register

- 17.1 Any person has access to the public part of the Register on a working day during office hours.
- 17.2 The Registrar must publish the public part of the Register during April of each year in a manner determined by the Committee.

Part Four – Breaches of the Code

18. What constitutes a breach

- 18.1 A Member breaches the Code if the Member-
- a) contravenes or fails to comply with a provision of this Code;
 - b) when disclosing registrable interests, willfully provides the Registrar with incorrect or misleading details.

19. Investigations by Committee

- 19.1 The Committee, acting on its own or on a complaint by any person through the office of the Registrar, may investigate any alleged breach by a member of this Code.
- 19.2 The Committee may determine its own procedure when investigating any alleged breach but must at least hear the complainant and the Members against whom the complaint is lodged.
- 19.3 If the matter concerns a registrable interest recorded in the confidential part of the Register or which is regarded as confidential by the Committee, the proceedings of the Committee may be held in closed session.

20. Findings

- 20.1 At the conclusion of its investigation, the Committee must make a finding supported by reasons, on the alleged breach of this Code.
- 20.2 The finding and the reasons for the finding must be made public.
- 20.3 If the hearing was in closed session, a summary of the facts must be disclosed.

21. Penalties

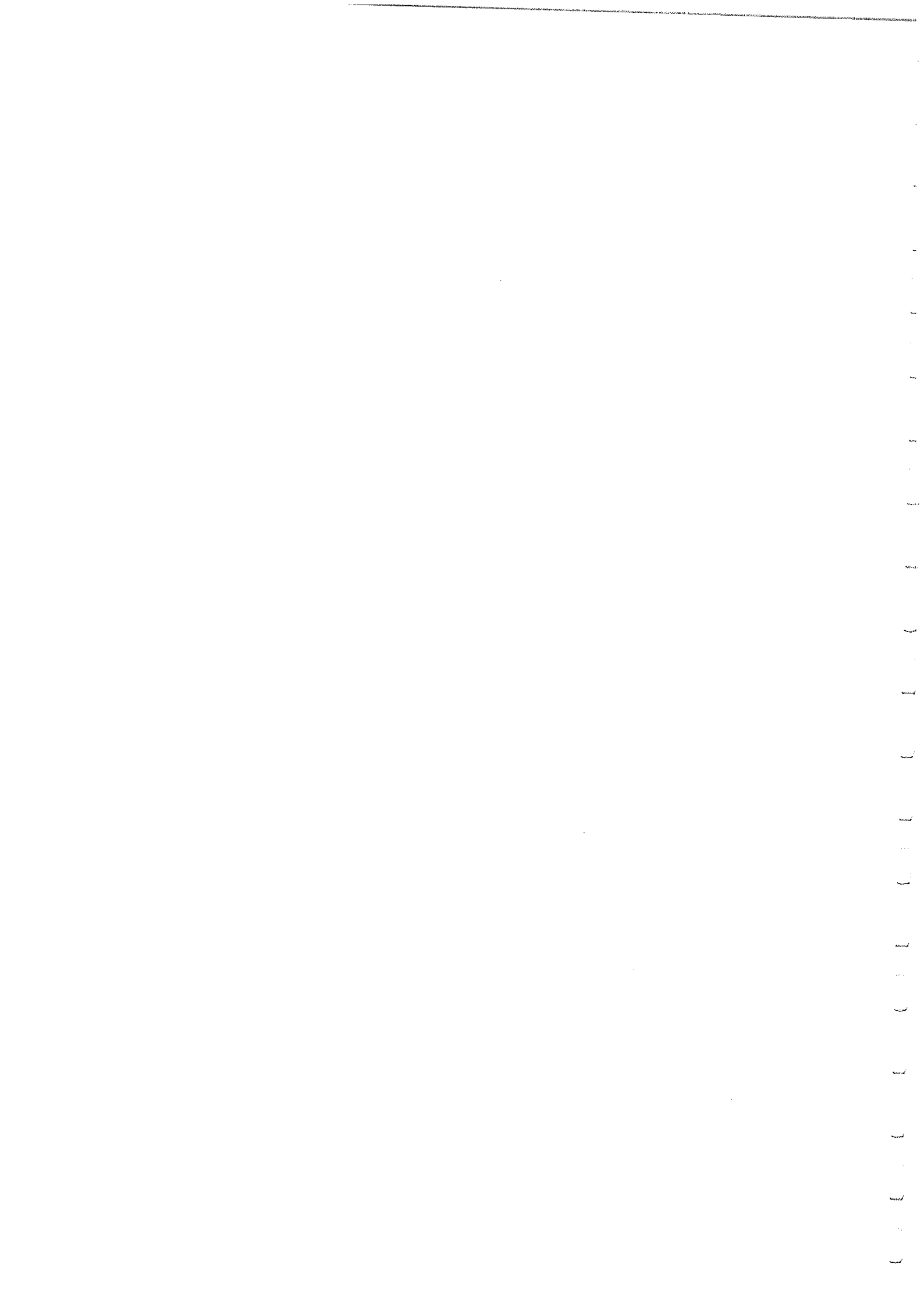
- 21.1 The Committee must recommend the imposition of one or more of the following penalties when it has found that a Member has breached a provision in this Code-
- a) a reprimand;
 - b) a fine not exceeding the value of 30 days' salary;
 - c) a reduction of salary and allowances for a period not exceeding 15 days; or
 - d) the suspension of privileges or a Member's right to a seat in the Legislature's debates or committees for a period not exceeding 15 days.

22. Committee to report to the House

- 22.1 Within 30 days of commencing its investigation, the Committee must report its finding and its recommendation as to penalties, if any, to the House.

- 22.2 If the Committee recommends a penalty, the House must either-
- a) accept or reject the recommendation; or
 - b) refer the matter back to the Committee for further consideration.
- 22.3 If the House has accepted the Committee's recommendation, the Speaker must act on such decision promptly.





CODE OF CONDUCT AND ETHICS FOR MEMBERS
OF
THE GAUTENG PROVINCIAL LEGISLATURE

1. Preamble

We, the Members of the Gauteng Provincial Legislature:

- Noting, that whereas the Constitution of the Republic of South Africa requires that all levels of government promote accountability, responsibility and openness;
- Recognising that Members of the Provincial Legislature are accountable to the electorate and have a duty to maintain public trust in democratic institutions;
- Affirming that Members of the legislature have an obligation to perform their duties with honesty, integrity, and regard to the common good;
- Therefore agree, individually and collectively, to abide by the principles, rules and obligations of this Code of Conduct and Ethics;

2. Definitions

In this Code of Conduct and Ethics, unless the context otherwise indicates, the following words or phrases mean –

"Committee"	means the Privileges and Ethics Committee of the Gauteng Provincial Legislature.
"Constitutional body or office"	means an office or body established in terms of the Republic of South Africa Constitution Act 108 of 1996, as amended.
"Family"	means a Member's spouse or <i>permanent</i> companion and dependant children.
"Government"	means the Provincial Government of the Gauteng Province
"Integrity Commissioner"	means an Integrity Commissioner appointed in terms of this Code of Conduct and Ethics.
"Legislature structure"	means any body or committee established to conduct the business of the Legislature in terms of the laws, Standing Rules resolutions of the House, or policies that govern the Legislature.
"Member"	means a Member of the Gauteng Provincial Legislature.

“Permanent companion” means a person who is acknowledged by a Member as a permanent companion.

“Registrable interest” means financial interests required to be disclosed in terms of 12 herein

PART I – PRINCIPLES

3. Principles

A Member of the Gauteng Provincial Legislature shall adhere to the following principles:

(1) Selflessness

A Member shall take decisions only in the interest of the public.

(2) Integrity

A Member shall ensure at all times that the integrity of the Legislature and the Provincial Government is maintained.

(3) Accountability

A Member is accountable to the public for his or her decisions and actions.

(4) Openness

A Member shall exercise his or her public duties in an open and transparent manner.

(5) Honesty

A Member shall act honestly and in the public interest at all times.

(6) Leadership

A Member shall promote these principles by leadership and example.

PART II - ETHICAL CONDUCT

4. General obligations

A Member shall, at all times, in the exercise of his or her duties adhere to the principles as set out in Part I of the Code and shall, inter alia –

- (1) Not take decisions in order to gain financial or other material benefit for himself or herself, his or her family, or his or her friends;
- (2) Exercise his or her duties and conduct himself or herself with dignity and integrity appropriate for his or her office;

- (3) Not place himself or herself under financial or other obligations to outside individuals or organisations that might improperly influence him or her in the performance of his or her duties;
- (4) Ensure that his or her personal conduct is consistent with the dignity and integrity of the Legislature and the Provincial Government;
- (5) Make choices on merit in carrying out public business, including making public appointments, awarding contracts, or recommending individuals for reward or benefit;
- (6) Subject himself or herself to any form of scrutiny appropriate to his or her office;
- (7) Declare any private interest relating to his or her official duties;
- (8) Declare, in the Members' Register of Interest located in the Integrity Commissioner's office, all the interests as required; and
- (9) Take steps to resolve any conflict of interest that may arise in a manner that protects the public interest.

5. Declaration of private interests in Committees and Proceedings of the Legislature

- (1) A Member shall declare any personal or private financial or business interest that a Member or spouse, permanent companion or business partner of that Member may have, in a matter before a Standing Committee or ad hoc Committee or Legislature structure in which that Member serves.

- (2) A Member shall withdraw from the proceedings of that Committee or Legislature structure when a matter referred to in section 5 (1) is considered, unless that Standing Committee or Legislature structure decides that the Members' interest is immaterial.

6. Declaration of private interests when making representations

If a Member makes representations, in his or her capacity as a public representative, to a Member of the Executive or any other organ of state with regard to a matter in which that Member or any spouse, permanent companion or business partner of that Member has a personal or private financial interest or business interest, that Member must declare that interest to that Cabinet Member or organ of state.

7. Lobbying for reward

No Member shall lobby for reward in cash or kind.

8. Remunerated employment outside the Legislature

A Member may only engage in remunerated employment outside the Legislature when such employment is –

- (1) sanctioned by the political party to which the Member belongs; and
- (2) compatible with that Members' function as a public representative.

9. Proper exercise of influence

A Member shall not utilise the influence he or she derives from public office to improperly give advantage to private entities or persons in their dealings with the government, where this will result in pecuniary gain for such entities or persons.

10. Refrain from using 'insider' information

A Member shall not use non-public government information or information obtained in the course of exercising a public duty to advance a private interest.

11. Post-tenure employment restrictions

After tenure, a former Member shall not act in such a manner, which would take improper advantage of his/her previous employment.

PART III – DISCLOSURE OF REGISTRABLE INTERESTS

12. Disclosure of registrable interests

- (1) A Member shall disclose to the Integrity Commissioner, (See Part IV: Enforcement) on the form prescribed for this purpose by the Speaker, particulars of all his or her registrable interests.

- (2) The first disclosure shall be within 60 days of adoption of the Code of Conduct and Ethics.
- (3) Thereafter, the disclosure shall be within 30 days after the opening of Legislature or appointment the Member. If a Member has no registrable interests he or she must indicate this in writing to the Integrity Commissioner.

13. Establishment of a Register of Members Interest

- (1) The Integrity Commissioner shall establish a Register of Members Interests divided into public and confidential sections.
- (2) A Member must disclose to the Integrity Commissioner, on the form prescribed for this purpose by the Speaker, particulars of all their registrable interests.

14. Confidentiality

- (1) The Integrity Commissioner must record all details of registrable interests in the public section of the Register of Members' Interest, except the following which must be recorded in the confidential section:
 - (a) The value of the financial interests in a corporate entity other than a private or public company.
 - (b) The amount of any remuneration for any employment outside the Legislature.
 - (c) The amount of any remuneration for any directorship or partnership.

- (d) Details of foreign travel when the nature of the visit requires those details to be confidential.
 - (e) Details of private(s) residences.
 - (f) The value of any pensions.
 - (g) Details of all financial interests of a Member's spouse or permanent companion, dependant child to the extent that the Member is aware of.
- (2) Where any doubt exists as to whether any financial interests must be disclosed, the Member concerned may seek advice from the Integrity Commissioner.
 - (3) Only the Committee, the Integrity Commissioner and his or her staff shall have access to the confidential part of the Register of Members' Interest.

15. Disclosure of the Register of Members' Interest

- (1) Members of the public shall have access to the public part of the Register on working days and at times prescribed by the Speaker.
- (2) The Integrity Commissioner shall publish the public section of the Register during April of each year in a manner prescribed by the Speaker.
- (3) The Committee, the Integrity Commissioner and support staff shall not disclose information that is in the confidential section of the Register to anyone, unless otherwise directed by a Court order.
- (4) A Member who contravenes section 15 (3) is in breach of the Code and shall be ineligible to continue as Member of the Committee.

- (5) A staff member who contravenes section 15 (3) is in breach of the Code and shall be disciplined by the Provincial Secretary or a person delegated by him or her.
- (6) No person shall gain access to the confidential part of the Register, except through a court order.

16. Registrable Financial Interests

Members shall register the following financial interest in the Register of Members' Interest:

- (1) Shareholdings and financial interests in companies and other corporate entities
 - (i) The number, nature and nominal value of shares of any type in any public or private company;
 - (ii) The name of that company; and
 - (iii) The nature and value of any other financial interests held in a private or public company or any corporate entity.
- (2) Ownership of land or property
 - (i) A description and extent of land or property;
 - (ii) Area in which it is situated;
 - (iii) The nature of the interest;
 - (iv) Properties outside the state.
- (3) Pension
 - (i) The source of the pension; and
 - (ii) The value of the pension.

- (4) Any other benefit or of material nature
- (i) The nature and source of any other benefit of a material nature;
 - (ii) The value of that benefit;
- (5) Employment outside the Legislature
- (i) The type of employment;
 - (ii) The name, and type of business activity, of the employer; and
 - (iii) The amount of remuneration received for such employment.
- (6) Consultancies
- (i) The nature of the consultancy or any retainership of any kind;
 - (ii) The name, and type of business activity, of the client concerned; and
 - (iii) The amount of any remuneration or other benefits received for such a consultancy or retainership.
- (7) Directorship and partnerships
- (i) The name and type of business activity, of the corporate entity or partnership;
 - (ii) The amount of any remuneration received for such directorship or partnership.
- (8) Sponsorship
- (i) The source and description of direct financial sponsorship or assistance from non-party sources; and
 - (ii) The value of the sponsorship or assistance.

- (9) Gifts and hospitality received by a Member as a public from a source other than a family member or permanent companion
- (i) A description, value, and source of a gift with a value in excess of R 500.00 and or gifts from a single source which cumulatively exceed the value of R 500.00 in any calendar year; and
 - (ii) Hospitality intended as a gift of any kind.
- (10) Foreign travel (other than personal visits paid for by the Member, business visits unrelated to the Member's role as a public representative and official and formal visits paid for by the state or the Member's party).
- (i) A brief description of the journey abroad; and
 - (ii) Particulars of the sponsor.

PART IV – ENFORCEMENT

17. Integrity Commissioner

- (1) Appointment, term and remuneration of the Integrity Commissioner
- (a) The Speaker shall, through the Provincial Secretary, call for nominations of persons from Members of the public to fill the position of Integrity Commissioner.
 - (b) The person to occupy the position of Integrity Commissioner shall be a person of integrity and honesty, possess knowledge of law, public policy, politics and socio-economic issues.

- (c) The Speaker, through the Provincial Secretary, and after consultation with the leaders of the parties represented in the Legislature, shall appoint a person to be the Integrity Commissioner.
- (d) The Speaker shall present the appointment of the Integrity Commissioner to the House for adoption by a two-thirds majority. The removal of the Integrity Commissioner due to misconduct or abuse of power, shall be subject to the same procedure.
- (e) The tenure of the Integrity Commissioner shall terminate if he or she is unable to perform his or her task due to resignation, incapacity or death.
- (f) The Integrity Commissioner shall be assisted by a staff Member, assigned by the Provincial Secretary, for the work of the Committee.
- (g) The Speaker shall, after consultation with the Provincial Secretary, determine the remuneration and conditions of service of the Integrity Commissioner.

(2) Independence and Impartiality

- (a) The Integrity Commissioner shall act independently and impartially.

(3) Integrity Commissioner

- (a) The Integrity Commissioner may on his or her own accord investigate any alleged violation of the Code of Conduct and Ethics.

- (b) Should the Integrity Commissioner find evidence of a violation, he or she must report the facts and conclusions to the Privileges and Ethics Committee established in terms of rule 5.4(1) of the Standing Rules.
- (c) The Integrity Commissioner shall:
 - (i) Open and keep a register for the purposes of this Code, called the Register of Members' Interests;
 - (ii) Record in the Register particulars of Member's registrable interests;
 - (iii) Amend any entries in the Register when necessary; and
 - (iv) Perform other duties as specified in this Code.

(4) Advice and Counsel to Members

- (a) A Member may approach the Integrity Commissioner to obtain personal advice and counsel, if he or she suspects that he or she may have committed a violation.
- (b) All sessions of advice and counsel between the Integrity Commissioner and the Member shall be confidential.
- (c) The Integrity Commissioner shall report to the Committee the number of times he has had advice and counselling sessions over a given time period.
- (d) When the Integrity Commissioner realises a violation that is committed by a Member during the advice and counselling session, the Integrity Commissioner shall reserve the right to keep the matter confidential,

provided the violation is amended within the agreed time period.

18. Submission of a complaint

- (1) A Member, or official of the government or state organ, or a Member of the public who reasonably believes that a Member of the Legislature has violated the Code of Conduct and Ethics may make a written submission to the Integrity Commissioner.
- (2) The Integrity Commissioner shall assist any person wishing to report a breach and needs assistance.
- (3) The Integrity Commissioner shall register all submissions received.

19. Investigation and report

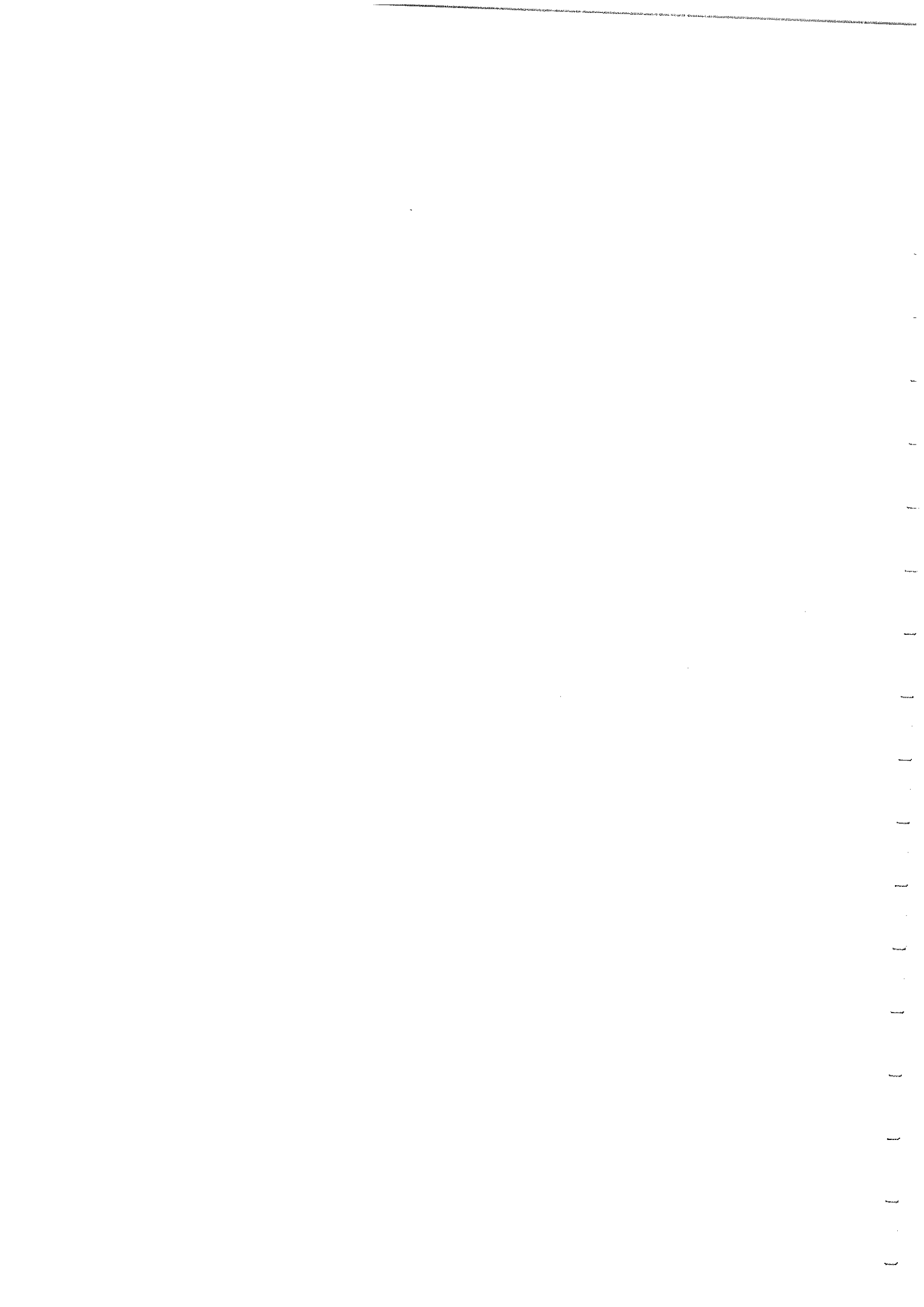
- (1) The Integrity Commissioner shall commence an investigation into the matter after registration of the submission.
- (2) The Member implicated in the violation shall make himself or herself accessible to the Integrity Commissioner for the purpose of the investigation.
- (3) The Integrity Commissioner shall produce a report of his/her findings, detailing both the merits and demerits of the case brought forth once the investigation has been finalised.
- (4) The Integrity Commissioner shall produce a report that includes detailed recommendations for action in the matter and that report shall be submitted to the Privileges and Ethics Committee for consideration.
- (5) The Integrity Commissioner shall have the power to request documentation from a Member, or an official of the

government or provincial state organ or a Member of the public in order to further his/her investigation.

20. Access to information

A member or members of the public shall gain access to information on matters already decided upon by the Committee or as prescribed by the Republic of South Africa Constitution Act 108 of 1996, the Promotion of Access to Information Act 2 of 2000 or as otherwise provided by any other law.





SCHEDULE 1

CODE OF CONDUCT

PREAMBLE -

We, the Members of the KwaZulu-Natal Legislature –

Noting, that whereas the Constitution of the Republic of South Africa requires that all levels of government promote accountability, responsibility and openness;

Recognising that Members of the Legislature are accountable to the electorate and have a duty to maintain public trust in democratic institutions;

Affirming that Members of the Legislature have an obligation to perform their duties with honesty, integrity and regard to the common good;

Therefore agree, individually and collectively, to abide by the principles, rules and obligations of this Code of Conduct.

Part 1: Ethical Conduct

1. Principles

A Member of the Legislature must adhere to the following principles when acting in his or her representative capacity –

(a) Selflessness

A Member must take decisions only in the interests of the public.

(b) Integrity

A Member must ensure at all times that the integrity of the Legislature is maintained.

(c) Accountability

A Member is accountable to the public for his or her decisions and actions.

(d) Openness

A Member must exercise his or her public duties in an open and transparent manner.

- (e) Honesty

A Member must act honestly and in the public interest at all times.

- (f) Leadership

A Member must promote these principles by leadership and example.

2. General obligations

A Member must at all times –

- (a) when acting in his or her representative capacity, not take any decision or decisions in order to gain financial or other material benefit for himself or herself or for his or her family;
- (b) exercise his or her duties and conduct himself or herself with dignity and integrity appropriate to his or her office;
- (c) not place himself or herself under financial or other obligations to outside individuals or organisations that might improperly influence him or her in the performance of his or her duties;
- (d) make choices on merit in carrying out public business, including making public appointments, awarding contracts, or recommending individuals for reward or benefit;
- (e) declare any private interest relating to his or her official duties;
- (f) declare, in the Register of Members' Interests, all interests as required in Part 2 hereof; and
- (g) take steps to resolve any conflict of interest that may arise in a manner that protects the public interest.

3. Declaration of private interests in committees and forums

A Member must –

- (a) declare any personal or private financial or business interest that the Member or any spouse, permanent companion or business partner of that Member may have in a matter for consideration or decision before a Committee or other parliamentary forum of which that Member is a member; and
- (b) withdraw from the proceedings of that committee or forum when that matter is considered or decided, unless that committee or forum decides that the Member's interest is trivial or not relevant.

4. Declaration of private interests when making representations

If a Member makes representations as a member to an MEC or the Premier or any organ of state with regard to a matter in which that Member or any spouse, permanent companion or business

partner of that Member has a personal or private financial or business interest, that Member must declare that interest to that MEC or the Premier or organ of state.

5. Lobbying for reward

In the exercise of his or her functions as a public representative, a Member may not lobby for and accept reward in cash or kind.

6. Remunerated employment outside the Legislature

A Member may only engage in remunerated employment outside the Legislature when such employment is –

- (a) sanctioned by the political party to which the Member belongs; and
- (b) compatible with that Member's function as a public representative.

7. Improper exercise of influence

A Member may not utilise the influence he or she derives from public office to obtain an improper advantage for private entities or persons in their dealings with the provincial government, where this will result in pecuniary gain for such entities or persons.

8. Refrain from using 'insider' information

A Member may not use information obtained in the course of exercising a public duty to advance a private interest.

Part 2: Disclosure of Registrable Interests

9. Registrar of Members' Interests

- (1) The Registrar is a senior official on the staff of the Legislature, appointed by the Speaker.
- (2) The Registrar is responsible for the implementation of Part 2: Disclosure of Registrable Interests of the Code of Conduct.
- (3) The Registrar must be assisted by other staff members assigned by the Secretary for the work of the Registrar.

- (4) The Registrar and the staff members referred to in sub-item (3) must swear or affirm before the Speaker to comply with the requirements of confidentiality under the Code.

10. Registrar's functions

The Registrar must –

- (a) open and keep a register for the purposes of Part 2 of the Code of Conduct, called the Register of Members' Interests;
- (b) record in the Register particulars of Members' registrable interests;
- (c) amend any entries in the Register when necessary;
- (d) perform any other duties in connection with the implementation of Part 2 of the Code of Conduct as may be required by the Disciplinary Committee; and
- (e) promptly report any alleged breach of Part 2 of the Code of Conduct by a Member to the Disciplinary Committee.

11. Register of Members' Interests

The Register must –

- (a) have a confidential part and a public part;
- (b) contain the information regarding the Members' registrable interests as required by Part 2 of the Code of Conduct; and
- (c) be in a format approved by the Disciplinary Committee.

12. Disclosure of registrable interests

- (1) Members must disclose to the Registrar, on the form prescribed for this purpose by the Disciplinary Committee, particulars of all their registrable interests.
- (2) The first disclosure must be within 30 days of the opening of the Legislature after an election.
- (3) After the first disclosure, Members must annually disclose particulars of their registrable interests by the 30th of April every year, and also within 30 days of a material change in a Member's registrable interests.
- (4) If a Member has no registrable interests, a "nil" return must be submitted.

13. Kinds of interests to be disclosed

The following kinds of financial interests are registrable interests –

- (a) shares and other financial interests in companies and other corporate entities, including close corporations and business trusts;
- (b) remunerated employment outside the Legislature;
- (c) directorships, membership of close corporations, partnerships and sole proprietorships;
- (d) consultancies and retainerships;
- (e) sponsorships;
- (f) gifts and hospitality from a source other than a family member or permanent companion;
- (g) any other benefit of a material nature or not ordinarily available to a member of the public;
- (h) foreign travel (other than personal visits paid for by the Member, business visits unrelated to the Member's role as a public representative and official and formal visits paid for by the state or the Member's party);
- (i) ownership and other interests in land and immovable property; and
- (j) pensions.

14. Details of registrable interests to be disclosed

The following details of registrable interests must be disclosed –

- (a) Shares and other financial interests in companies and other corporate entities, including close corporations and business trusts –
 - (i) the number, nature and nominal value of shares of any type in any public or private company;
 - (ii) the name of that company or other corporate entity; and
 - (iii) the nature and value of any other financial interests held in any other corporate entity.
- (b) Remunerated employment outside the Legislature –
 - (i) the type of employment;
 - (ii) the name and type of business activity of the employer; and
 - (iii) the amount of remuneration received for such employment.
- (c) Directorships, membership of close corporations, partnerships and sole proprietorships –
 - (i) the name and type of business activity of the company, close corporation partnership or sole proprietorship; and
 - (ii) the amount of remuneration received for such directorship, membership, partnership or sole proprietorship.
- (d) Consultancies and retainerships –

- (i) the nature of the consultancy or retainership of any kind;
 - (ii) the name and type of business activity of the client concerned; and
 - (iii) the amount of any remuneration or other benefits received for such consultancy or retainership.
- (e) Sponsorships –
- (i) the source and description of direct financial sponsorship or assistance from non-party sources; and
 - (ii) the value of the sponsorship or assistance.
- (f) Gifts and hospitality -
- (i) a description and the value and source of a gift with a value in excess of R500;
 - (ii) a description and the value of gifts from a single source which cumulatively exceed the value of R500 in any calendar year; and
 - (iii) hospitality intended as a gift in kind.
- (g) Benefits -
- (i) the nature and source of any other benefit of a material nature or not ordinarily available to a member of the public; and
 - (ii) the value of that benefit.
- (h) Foreign travel –
- (i) a brief description of the journey abroad; and
 - (ii) particulars of the sponsor.
- (i) Land and immovable property, including land and immovable property outside the Republic –
- (i) a description and extent of the land or immovable property;
 - (ii) the area in which it is situated;
 - (iii) the nature of the interest; and
 - (iv) the value of the interest.
- (j) Pensions –
- (i) the source of the pension; and
 - (ii) the value of the pension.

15. Entries in Register

- (1) The Registrar must record all details of registrable interests in the public part of the Register, except the following which must be recorded in the confidential part –
- (a) the value of any shares or other financial interests in any corporate entity, including a company, close corporation, partnership, business trust or sole proprietorship;
 - (b) the amount of any remuneration for any employment outside the Legislature;

- (c) the amount of any remuneration for any directorship, membership of a close corporation, partnership, sole proprietorship, consultancy or retainership;
 - (d) details of foreign travel when the nature of the visit requires those details to be confidential;
 - (e) the value of any interest in land and immovable property;
 - (f) the value of pensions;
 - (g) details of all financial interests of a Member's spouse, dependent child or permanent companion, to the extent that the member is aware of those financial interests.
- (2) Where any doubt exists as to whether any financial interests must be disclosed, the Member concerned must act in good faith.
- (3) Despite sub-item (1) the Disciplinary Committee may on good cause instruct the Registrar to record any details of any Member's registrable interests in the confidential part of the Register.

16. Confidential part of Register

- (1) Except for purposes of an investigation by the Disciplinary Committee as contemplated in Item 20, only the Registrar and staff assigned to the Registrar have access to the confidential part of the Register. For purposes of an investigation in terms of Item 20, members of the Disciplinary Committee and staff assigned to the Committee have access only to those sections of the confidential part of the Register that are relevant to the enquiry.
- (2) No person who has access to the confidential part of the Register may, except when a court so orders, disclose particulars of any entry in the confidential part to anyone other than the Member concerned or another person who has such access.
- (3) A member of the Disciplinary Committee who contravenes sub-item (2) becomes ineligible to continue as a member of the Committee, in addition to any penalty that may be imposed on the Member by the House in terms of Rule 161(1)(c).
- (4) The Registrar or staff member who contravenes sub-item (2) is subject to disciplinary action applicable to staff of the Legislature, including dismissal.

17. Access to public part of Register

- (1) Any person has access to the public part of the Register on a working day during office hours, by appointment with the Registrar.
- (2) The Registrar must keep a record of all persons -
 - (a) who have requested access to the Register; and
 - (b) who have been given access to the public part of the Register.

Part 3: Breach of the Code

18. Conduct constituting breach

A Member breaches this Code if the Member –

- (a) contravenes or fails to comply with a provision of this Code; or
- (b) when disclosing registrable interests, wilfully provides the Registrar with incorrect or misleading details.

19. Submission of a complaint

- (1) Any Member, official of the Provincial Government or organ of state, or a member of the public who reasonably believes that a Member has breached the Code of Conduct may make a written complaint in regard thereto to the Speaker.
- (2) The complaint must –
 - (a) state the complainant's name and address;
 - (b) state the name of the Member who is the subject of the complaint;
 - (c) set out the facts relevant to the conduct complained about; and
 - (d) be supported by documentary evidence, if available.
- (3) Where a complaint has been submitted to the Speaker, he or she must immediately refer the complaint to the Disciplinary Committee for investigation as contemplated by Item 20.

20. Investigations by Disciplinary Committee

- (1) The Committee, acting on its own or on receipt of a complaint from the office of the Registrar or the Speaker as contemplated by Item 19 of this Code, or at the request of the

Speaker as contemplated under Rule 160, must, investigate any alleged breach of this Code by a Member.

- (2) The Disciplinary Committee may determine its own procedure when investigating any alleged breach, but must at least hear the complainant and the Member against whom the complaint is lodged.
- (3) If the matter concerns a registrable interest recorded in the confidential part of the Register or which is regarded as confidential by the Disciplinary Committee, the proceedings of the Committee must be held in closed session.

21. Findings

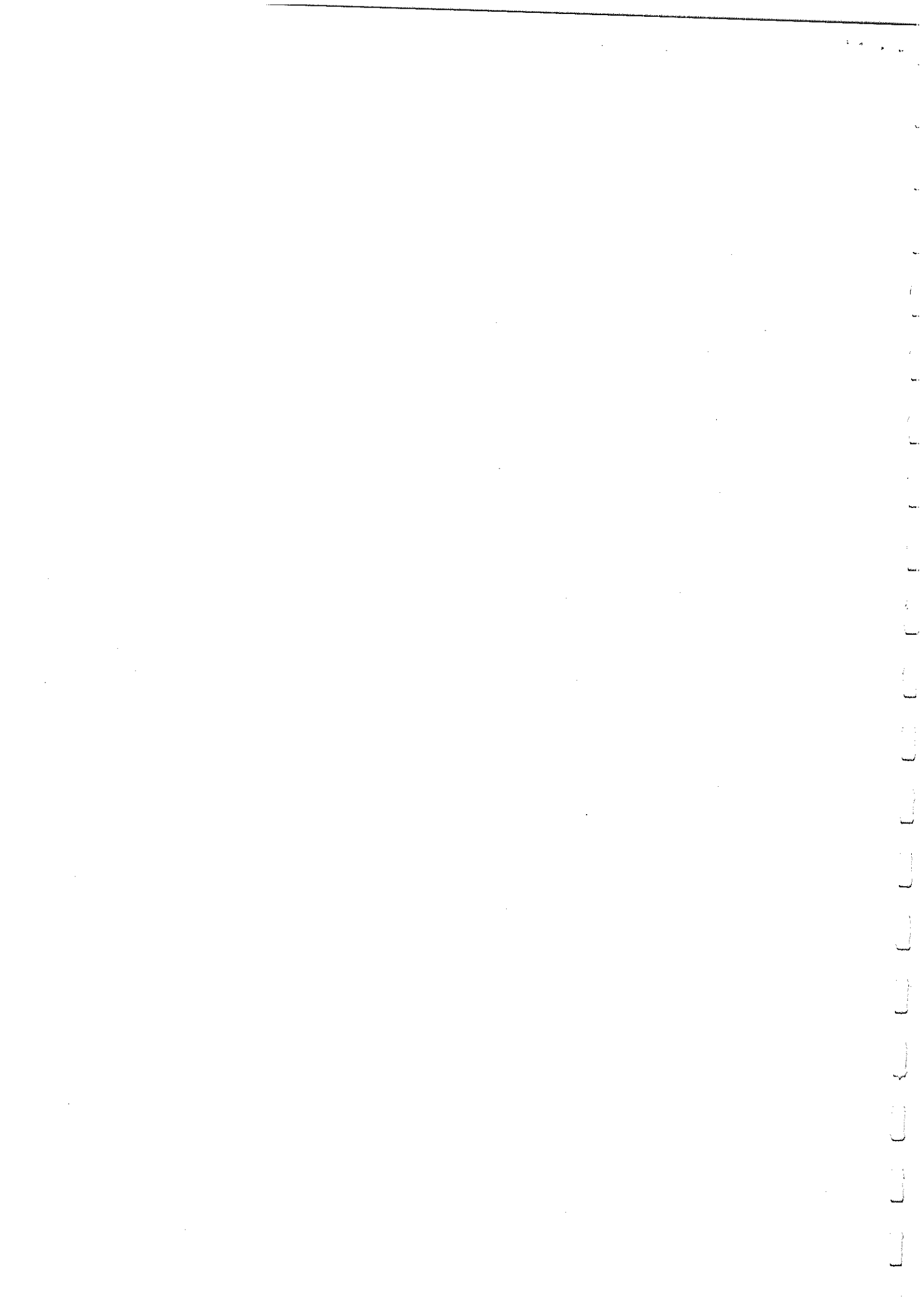
- (1) At the conclusion of its investigation, the Disciplinary Committee must make a finding, supported by reasons, on the alleged breach of this Code.
- (2) The finding and the reasons for the finding must be made public.
- (3) If the hearing was in closed session, a summary of the facts must be disclosed.

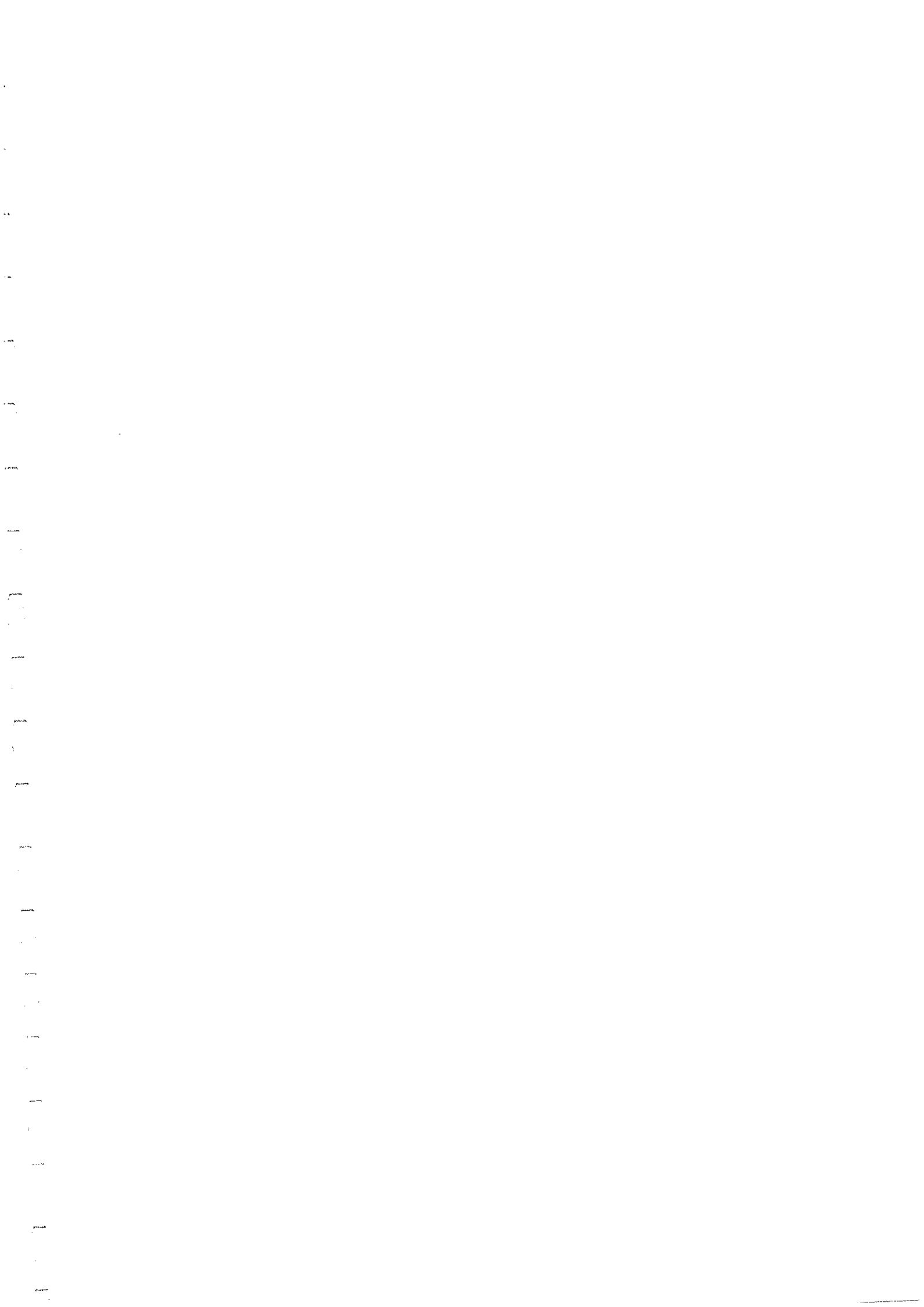
22. Penalties

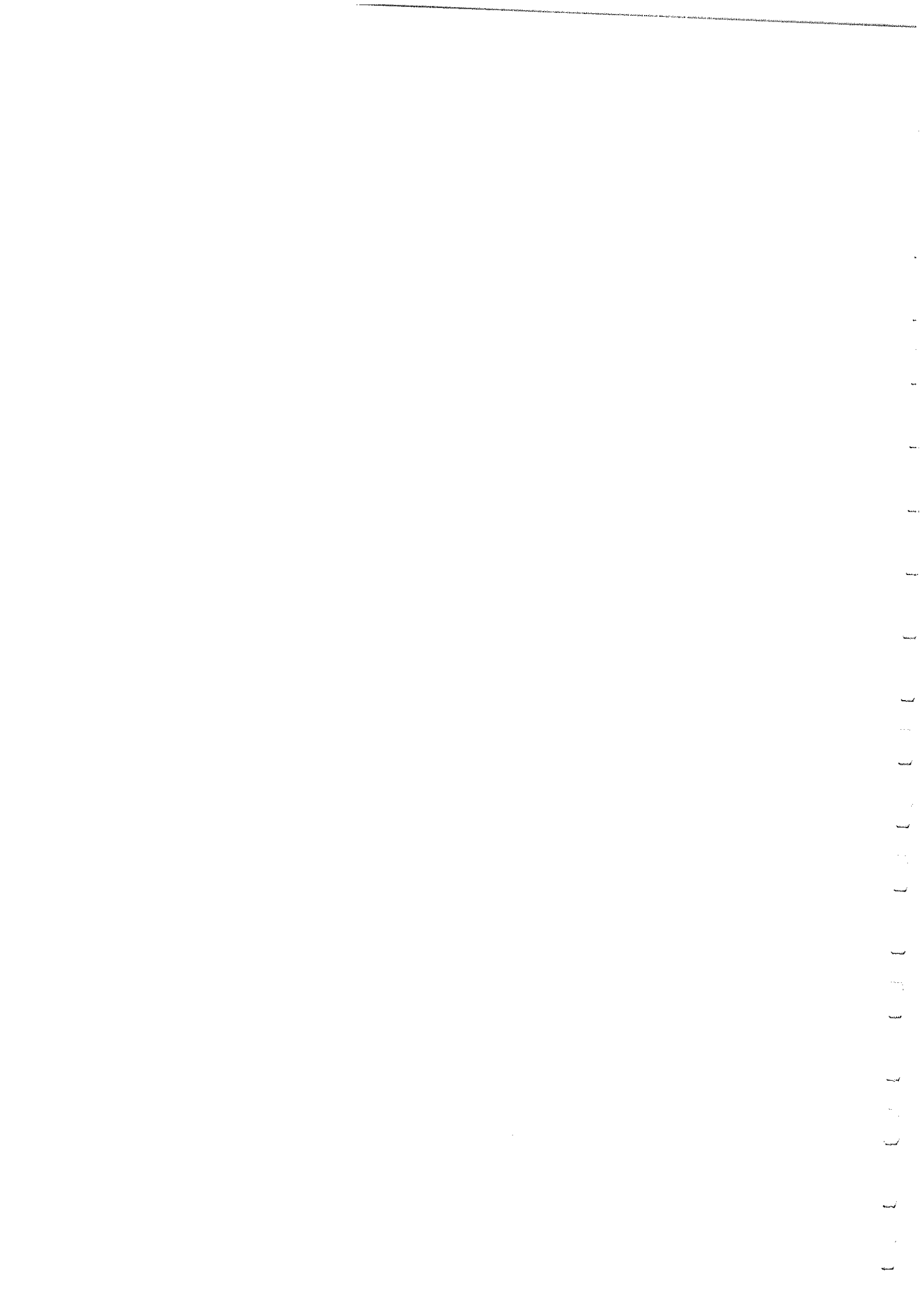
The Disciplinary Committee may recommend the imposition of one or more of the penalties provided for in section 12(5) of the Powers, Privileges and Immunities of Parliament and Provincial Legislatures Act, 2004, where it has found that a Member has breached a provision of this Code.

23. Committee Report

On completion of its investigation, the Disciplinary Committee must report its finding and its recommendation as to penalties, if any, to the House, as contemplated in Rule 160.







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CODE OF CONDUCT

FOR

MEMBERS OF THE LEGISLATURE

AS ADOPTED BY THE HOUSE ON:

2000 -10- 0 3

Code of Conduct For Members of the Legislature

2. Purpose of the Code in respect of financial interests

- Members must maintain the highest standard of honesty, accountability, openness and integrity to ensure that their conduct strengthens the public's trust and confidence in the Legislature.
- Members of the Legislature should take decisions solely in terms of the public interest. They must not do so in order to gain financial or other material interests for themselves, their families or their friends.
- A member must not place himself or herself in a position that conflicts with his or her responsibility, nor may he or she take an improper benefit, profit or advantage from the office of a Member.
- A member may only engage in remunerated employment outside the Legislature when such employment is sanctioned by the political party to which the member belongs, and is compatible with the member's function as a public representative.
- In the event of a conflict or a perceived conflict of interest, a member must declare all personal or private financial or business interest that the member, the member's spouse(s), permanent companion(s), business partner(s) or dependant child may have. The member must withdraw from the proceedings of that committee or forum where that matter is considered, unless that committee or forum decides that the member's interests is trivial or not relevant.
- If a member makes representation to an MEC or any other organ of state in a matter in which the member, or any spouse(s), permanent companion(s), business partner(s) or dependant child of that member has a personal or private financial or business interest, that member must declare that interest to that MEC or organ of state.
- No member may lobby for remuneration.
- Members may not put themselves under any financial or other obligations to outside individuals or organisations that may influence them in the performance of their duty.
- Members should fulfill the requirements of the House in respect of the registration of interests in the Register of Members' Interests.

SCHEDULE

CODE OF CONDUCT FOR MEMBERS OF THE LEGISLATURE

Definitions

1. (1) In this Schedule, unless the context otherwise indicates -

"Committee" means the Committee on Ethics and Members' Interests;

"member" means a member of the Legislature

"permanent companion" means a person who is publicly acknowledged by member as that member's permanent companion;

"registrable interests" means financial interests listed in item 15, and, in relation to a member, includes the financial interests of that member's spouse, dependent child and permanent companion;

"Registrar" means the Registrar of Members' Interests appointed in terms of item 11;

"Register" means the Register of Members' Interests opened in terms of item 13;

"remuneration" means receipt of benefits in cash or in kind;

"Code" means the document concerning disclosure of certain financial interests as amended from time to time.

- (2) Where any doubt exists as to the scope, application or meaning of any aspect of this Code, the good faith of the member concerned must be the guiding principle.

PART 1: Committee on Ethics and Members' Interests'

Establishment

3. There is a Committee on Ethics and Members' Interests.

Composition

4. (1) The Committee is constituted using the criteria used in constituting committees of the House.
- (2) The Committee must be composed in such a way that the majority party in the Legislature has one member more than the combined total of members representing all other parties in the Committee.

Chairperson and deputy chairperson

5. (1) The Chairperson of the Committee on Ethics and Members' Interests shall be appointed by the Speaker.
- (2) The chairperson is not entitled to remuneration.
- (3) The chairperson presides at meetings of the Committee.
- (4) If the chairperson is unable to perform his or her function the Committee shall appoint one of its members to perform the functions of the chairperson.

Functions

6. (1) The Committee on Ethics and Members' Interests must-
 - (a) implement the Code of Conduct for members set out herein;
 - (b) develop standards of ethical conduct for members;
 - (c) serve as an advisory and consultative body, both generally and to members, concerning the implementation and interpretation of the Code;
 - (d) regularly review the Code and make recommendations for its amendment; and
 - (e) perform the other functions and exercise the other powers reasonably assigned to the committee in the Code and in terms of resolutions adopted by the House.
- (2) The Committee must report to the House at least annually on the operation and effectiveness of the Code.

Public access

7. Meetings of the Committee on Ethics and Members' Interests must be held in closed session when the Committee considers a matter affecting a specific member and the Committee regards that matter to be confidential.

Decisions

8. A question before the Committee on Ethics and Members' Interests is decided when there is agreement on the question among the majority of the members present, provided at least half of its members are present.

Confidentiality

9. (1) Each member or alternate member of the Committee on Ethics and Members' Interests must swear or affirm, before the Speaker, to comply with the requirements of confidentiality set out in the Code.
- (2) The Registrar appointed in terms of the Code and each member of the staff assigned for the work of the Committee must swear or affirm, before the Speaker, to comply with the requirements of confidentiality set out in the Code.

PART 2: DISCLOSURE OF REGISTRABLE INTERESTS

Role of Committee

10. The Committee performs its functions in accordance with this Code.

Registrar of Members' Interests

11. (1) The Committee must be served by a senior official on the staff of the Legislature appointed by the Speaker after consulting the leaders of parties represented in the House.
- (2) The Registrar must be assisted by staff assigned by the Secretary for the work of the Committee.

Registrar's functions

12. (1) The Registrar must -
 - (a) open and keep a register for the purposes of this Code, called the Register of Members' Interests; and

- (b) record in the Register particulars of members' registrable interests;
- (c) amend any entries in the Register when necessary; and
- (d) perform the other duties of this Code as required by the Committee.

(2) The Registrar performs the functions of office in accordance with the directions of the Committee.

Register of Members' Interests

13. The Register must -

- (a) have a confidential part and a public part;
- (b) contain the information regarding the members' registrable interests as the Committee may determine; and
- (c) be in a format approved by the Committee.

Disclosure of registrable interests

14. (1) Members must disclose to the Registrar, on the form prescribed for this purpose by the Committee, particulars of all their registrable interests.
- (2) The first disclosure must be within 30 days of the opening of the Legislature or appointment as a member. If a member has no registrable interests, a "nil" return must be submitted.
- (3) After the first disclosure members must annually disclose particulars of their registrable interests annually at a time determined by the Committee.

Kinds of interests to be disclosed

15. The following kinds of financial interests are registrable interests:
- (a) shares and other financial interests in companies and other corporate entities;
 - (b) remunerated employment outside the Legislature;
 - (c) directorships and partnerships;
 - (d) consultancies;
 - (e) sponsorships;

Page 5

- (f) gifts and hospitality from a source other than a family member or permanent companion;
- (g) any other benefit of a material nature;
- (h) foreign travel (other than personal visits paid for by the member, business visits unrelated to the member's role as a public representative and official and formal visits paid for by the state or the member's party);
- (i) ownership and other interests in land and property; and
- (j) pensions.

Details of registrable interests to be disclosed

16. The following details of registrable interests must be disclosed:

- (a) Share-holding and other financial interests in companies and other corporate entities:
 - (i) The number, nature and nominal value of shares of any type in any public or private company;
 - (ii) the name of that company; and
 - (iii) the nature and value of any other financial interests held in a private or public company or any other corporate entity.
- (b) Remunerated employment outside the Legislature
 - (i) The type of employment;
 - (ii) The name, and type of business activity, of the employer; and
 - (iii) The amount of the remuneration received for such employment.
- (c) Directorships and partnerships:
 - (i) The name, and type of business activity, of the corporate entity or partnership; and
 - (ii) the amount of any of remuneration received or such directorship or partnership.
- (d) Consultancies:
 - (i) The nature of the consultancy or any retainership of any kind;
 - (ii) The name, and type of business activity, of the client concerned; and
 - (iii) The amount of any remuneration other benefits received for such consultancy or retainership.

- (e) Sponsorships:
 - (i) The source and description of direct financial sponsorship or assistance from non-party sources; and
 - (ii) The value of the sponsorship or assistance.
- (f) Gifts and hospitality:
 - (i) A description and the value and source of a gift with a value in excess of R350
 - (ii) A description and the value of gifts from a single source which cumulatively exceed the value of R350 in any calendar year; and
 - (iii) Hospitality intended as a gift in kind.
- (g) Benefits:
 - (i) The nature and source of any other benefit of a material nature; and
 - (ii) the value of that benefit.
- (h) Foreign travel:
 - (i) A brief description of the journey abroad; and
 - (ii) particulars of the sponsor.
- (i) Land and property:
 - (i) A description and extent of the land or property;
 - (ii) Area in which it is situated;
 - (iii) Nature of interest;
 - (iv) Properties outside the state.
- (k) Pensions:
 - (i) The source of the pension; and
 - (ii) The value of the pension.

Entries in Register

- 17. (1) The Registrar may record all details of registrable interests in the public part of the Register, except the following which must be recorded in the confidential part:
 - (a) The value of financial interests in a corporate entity other than a private or public company.
 - (b) The amount of any remuneration for any directorship or partnership.

- (c) The amount of any remuneration for any employment outside the Legislature.
 - (d) The amount of any remuneration for any directorship or partnership.
 - (e) Details of foreign travel when the nature of the visit requires those details to be confidential.
 - (f) Details of private residences.
 - (g) The value of any pensions.
 - (h) Details of all financial interests of a member's spouse, dependent child or permanent companion to the extent that a member is aware of.
- (2) Where any doubt exists as to whether any financial interests must be disclosed, the member concerned must act in good faith.
 - (3) Despite subitem (1) the Committee may on good cause instruct the Registrar to record any details of any of a member's registrable interests in the confidential part of the register.

Confidential part of Register

- 18. (1) Only a Committee member, the Registrar and staff assigned to the Committee has access to the confidential part of the Register.
- (2) No person who has access to the confidential part of the Register may, except when a court so orders, disclose particulars of any entry in the confidential part to anyone other than the member concerned or another person who has such access.
- (3) A Committee member who contravenes subitem (2) -
 - (a) is liable to a reduction of up to 30 days' salary; and
 - (b) becomes ineligible to continue as a Committee member.
- (4) The Registrar or a staff member who contravenes subitem (2) is subject to disciplinary action applicable to Legislature staff, including dismissal.

Public part of Register

- 19. (1) Any person has access to the public part of the Register on a working day during office hours.
- (2) The Registrar must publish the part of the Register during April of each year in a manner determined by the Committee.

PART 3: Ethical conduct

Declaration of private interests to Legislature committees and forums

20. A member must -

- (a) declare any personal or private financial or business interest that member or any spouse(s), permanent companion(s) or business partner(s) or dependant child of that member may have in a matter before a joint committee, committee or other Legislature forum of which that member is a member; and
- (b) Withdraw from the proceedings of that committee or forum when that matter is considered, unless that committee or forum decides that the member's interest is trivial or not relevant.

Declaration of private interests when making representations

21. If a member makes representations as a member to an MEC or any other organ of state with regard to a matter in which that member or any spouse(s), permanent companion(s), business partner(s), dependant child of that member has a personal or private financial or business interest, that member must declare that interest to that MEC or organ of state.

Lobbying for remuneration

22. No member may lobby for remuneration

Remunerated employment outside the Legislature

23. A member may only engage in remunerated employment outside the Legislature when such employment is -
- (a) sanctioned by the political party to which the member belongs; and
 - (b) is compatible with that member's function as a public representative.

PART 4: Breaches of the Code

What constitutes a breach

24. A member breaches this Code if the member -

- (a) contravenes or fails to comply with a provision of this Code.
- (b) When disclosing registrable interests, willfully provides the Registrar with incorrect or misleading details.

- (c) The amount of any remuneration for any employment outside the Legislature.
 - (d) The amount of any remuneration for any directorship or partnership.
 - (e) Details of foreign travel when the nature of the visit requires those details to be confidential.
 - (f) Details of private residences.
 - (g) The value of any pensions.
 - (h) Details of all financial interests of a member's spouse, dependent child or permanent companion to the extent that a member is aware of.
- (2) Where any doubt exists as to whether any financial interests must be disclosed, the member concerned must act in good faith.
- (3) Despite subitem (1) the Committee may on good cause instruct the Registrar to record any details of any of a member's registrable interests in the confidential part of the register.

Confidential part of Register

18. (1) Only a Committee member, the Registrar and staff assigned to the Committee has access to the confidential part of the Register.
- (2) No person who has access to the confidential part of the Register may, except when a court so orders, disclose particulars of any entry in the confidential part to anyone other than the member concerned or another person who has such access.
- (3) A Committee member who contravenes subitem (2) -
- (a) is liable to a reduction of up to 30 days' salary; and
 - (b) becomes ineligible to continue as a Committee member.
- (4) The Registrar or a staff member who contravenes subitem (2) is subject to disciplinary action applicable to Legislature staff, including dismissal.

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- (a) contravenes or fails to comply with a provision of this Code.
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Investigations by Committee

25. (1) The Committee, acting on its own or on a complaint by any person through the office of the Registrar, may investigate any alleged breach by a member of this Code.
- (2) The Committee may determine its own procedure when investigating any alleged breach but must at least hear the complainant and the member against whom the complaint is lodged.
- (3) If the matter concerns a registrable interest recorded in the confidential part of the Register or which is regarded as confidential by the Committee, the proceedings of the Committee may be held in closed session.

Findings

26. (1) At the conclusion of its investigation, the Committee must make a finding supported by reasons, on the alleged breach of this Code.
- (2) The finding and the reasons for the finding must be made public
- (3) If the hearing was in closed session a summary of the facts must be disclosed.

Penalties

27. (1) The Committee must recommend the imposition of one or more of the following penalties where it has found that a member has breached a provision of this Code -
 - (a) a reprimand;
 - (b) a fine not exceeding the value of 30 days salary;
 - (c) a reduction of salary or allowances for a period not exceeding 15 days;
or
 - (d) the suspension of privileges or a member's right to a seat in Parliamentary debates or committees for a period not exceeding 15 days.

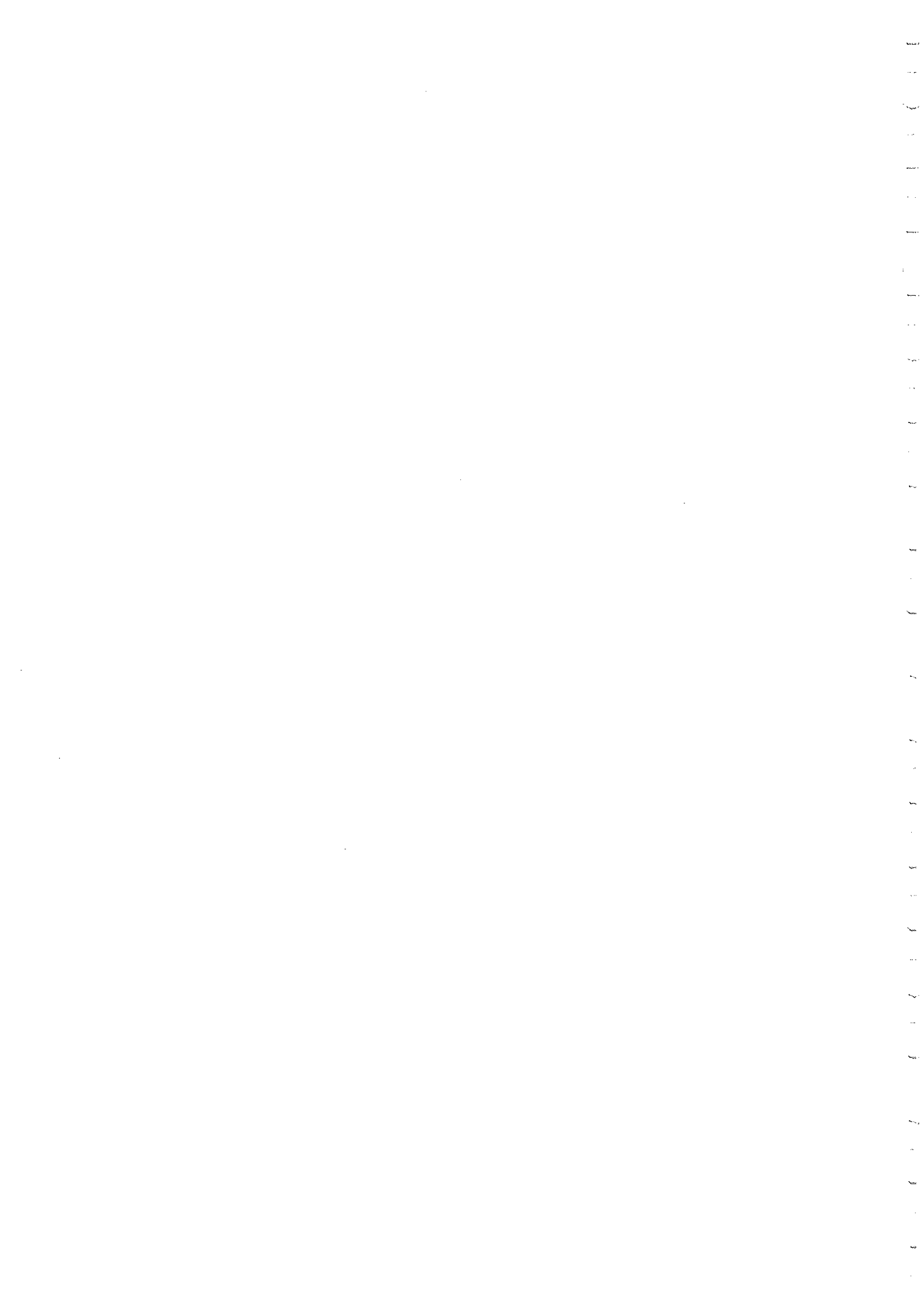
Committee to report to the House

28. (1) Within 30 days of commencing its investigation, the Committee must report its finding and its recommendation as to penalties, if any, to the House.
- (2) If the Committee recommends a penalty, the House must either -
 - (a) accept or reject the recommendation; or

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- (b) refer the matter back to the Committee for further consideration.
- (3) If the House has accepted the Committee's recommendation, the Speaker must act on such decision promptly.





CODE OF CONDUCT AND ETHICS FOR MEMBERS OF THE MPUMALANGA PROVINCIAL LEGISLATURE

1. Preamble

We, the Members of the Mpumalanga Provincial Legislature:

- Noting, that whereas the Constitution of the Republic of South Africa requires that all levels of government promote accountability, responsibility and openness;
- Recognising that Members of the Provincial Legislature are accountable to the electorate and have a duty to maintain public trust in democratic institutions;
- Affirming that Members of the legislature have an obligation to perform their duties with honesty, integrity, and regard to the common good;
- Therefore agree, individually and collectively, to abide by the principles, rules and obligations of this Code of Conduct and Ethics.

2. Definitions

In this Code of Conduct and Ethics, unless the context indicates otherwise, the following words or phrases mean –

- "Business partner" means a person who is engaged in trade or commerce with a Member;
- "Code" means this Code;
- "Committee" means a committee, other than the Ethics Committee, established in terms of the Rules and Orders of Mpumalanga Provincial Legislature;
- "Company or corporate entity" means any public or private company, any close corporation and any trust, other than charitable trust, but does not include a charitable organisation or an association not for gain (section 21 company);
- "Constitutional body or office" means a body or an office established in terms of the Republic of South Africa Constitution Act 108 of 1996, as amended;
- "Ethics Committee" means a select committee on Ethics established in terms of Rule 127(h) of the Rules and Orders of the Mpumalanga Provincial Legislature;
- "Family" means a Member's parent, spouse or permanent companion and children;

- "Legislature" means Mpumalanga Provincial Legislature
- "Legislature structure" means a body or committee established to conduct the business of the legislature in terms of the laws, Rules and Orders of the Legislature, or policies that govern the Legislature;
- "Member" means Member of the Mpumalanga Provincial Legislature elected in terms of section 105 of the Constitution;
- "Permanent companion" means a person who is acknowledged by a Member as a permanent companion;
- "Registrar" means Registrar appointed in terms of this Code of Conduct and Ethics;
- "Registrable interest" means financial interests stated in clause 18 and includes financial interests of that Members' family.
- "Register" means the Register of Members' Interests;
- "Secretary" means the Secretary to the Legislature; and

"Speaker" means the Speaker to the Legislature.

PART I – GENERAL STANDARD OF CONDUCT

3. Principles

A Member shall adhere to the following principles:

(1) Faithfulness

A Member shall be faithful to, and uphold the principles of the Constitution and act within the parameters set by the Constitution.

(2) Selflessness

A Member shall take decisions only in the interest of the public and subsume personal interest to public interest.

(3) Integrity

A Member shall at all times maintain and strengthen the integrity of the Legislature and the Provincial Government, and refrain from any act or omission which would bring the Legislature and provincial government into disrepute.

(4) Openness

A Member shall exercise his or her public duties in an open and transparent manner.

(5) Honesty

A Member shall act honestly and in the public interest at all times.

(6) Leadership

A Member shall promote these principles by leadership and example.

PART II - ETHICAL STANDARDS

4. General obligations

A Member shall, at all times, in the exercise of his or her duties adhere to the principles as set out in Part I of the Code and shall, inter alia –

- (1) Not take decisions in order to gain financial or other material benefit for himself or herself, his or her family, or his or her friends;
- (2) Not use information received in confidence in the course of his or her duties otherwise than in connection with the discharge of his or her duties;
- (3) Not make improper use of any allowance or payment properly made to him or her, or disregard the

administrative rules which apply to such allowance or payments;

- (4) Exercise his or her duties and conduct himself or herself with dignity and integrity appropriate for his or her office;
- (5) Not place himself or herself under financial or other obligations to outside individuals or organisations that might improperly influence him or her in the performance of his or her duties;
- (6) Ensure that his or her personal conduct is consistent with the dignity and integrity of the Legislature and the provincial government;
- (7) Make choices on merit in carrying out public business, including making public appointments, awarding contracts, or recommending individuals for reward or benefit;
- (8) Declare any private interest relating to his or her official duties;
- (9) Declare, in the Register all the interests as required by this Code; and
- (10) Take steps to resolve any conflict of interest that may arise in a manner that protects the public interest.

5. Oath and affirmation of Members

Each Member or alternative member of the Ethics Committee, if any, must swear or affirm before the Speaker to comply with the requirements of confidentiality set out in the Code.

6. Registrar of Members' Interests

- (1) The Secretary shall be the Registrar of Members' Interest and shall be assisted by an employee designated by him or her.
- (2) The Registrar and any other employee designated by him or her must swear or solemnly affirm in the presence of the Speaker that he/she will maintain the confidentiality of the information entrusted to him/her relating to the member's interest and shall not use the information in his/her possession to the detriment of either the Legislature or Members nor shall he/she divulge such information to anybody without the permission of the Legislature or the member concerned.
- (3) The Registrar and any other employee designated by him or her must perform their duties entrusted to them by this Code with the highest level of confidentiality, integrity and impartiality.

7. Duties of the Registrar

The Registrar shall perform the following duties:

- (a) open and keep a register for the purpose of this Code, called the Register;
- (b) record in the Register particulars of Members registrable interests;
- (c) amend any entries in the Register when necessary; and
- (d) perform other duties as specified in this Code.

8. Register of Members' Interests

The Register must –

- (a) have a confidential part and a public part;
- (b) contain the information regarding the Member's registrable interest; and
- (c) be in a format approved by the Speaker.

9. Declaration of private interests in Committees and Proceedings of the Legislature

- (1) Notwithstanding the provisions of clause 18, a Member shall declare any personal or private financial or business interest that a Member or Member's family or business partner of that Member may have, in a matter before a Committee or ad hoc Committee or Legislature structure in which that Member serves.
- (2) A Member shall withdraw from the proceedings of that committee or Legislature structure when a matter referred to in clause 9 (1) is considered, unless that committee or Legislature structure decides that the Member's interest is immaterial.

10. Declaration of private interests when making representations

If a Member makes representations, in his or her capacity as a public representative, to a member of the Executive Council, the Legislature or any other organ of state with regard to a matter in which that Member or Member's family or business partner of that Member has a personal or private financial interest or business interest, that Member must declare that interest to that Member of the Executive Council, the Legislature or that organ of state.

11. Lobbying for reward

No Member shall lobby for reward in cash or kind.

12. Remunerated employment outside the Legislature

A Member may only engage in remunerated employment outside the Legislature if such employment is –

- (1) sanctioned by the political party to which the Member belongs;
- (2) sanctioned by the Speaker; and
- (3) is compatible with that Member's function as a public representative.

13. Proper exercise of influence

A Member shall not utilise the influence he or she derives from public office to improperly give advantage to private entities or persons in their dealings with the Legislature or government, where this will result in pecuniary gain for such entities or persons or to the Member or his or her family.

14. Refrain from using 'insider' information

A Member shall not use confidential Legislature or government information or information obtained in the course of exercising a public duty to advance a private interest.

PART III – DISCLOSURE OF REGISTRABLE INTERESTS

15. Disclosure of registrable interests

- (1) A Member shall disclose to the Registrar, on the form prescribed for this purpose by the Speaker, particulars of all his or her registrable interests.
- (2) The first disclosure shall be within 30 days after the Member has been sworn in.
- (3) Thereafter, the disclosure shall be at the end of each financial year.
- (4) Subsequent disclosure shall be made as and when the interests change. If a Member has no registrable interests he or she must indicate this in writing to the Registrar.

16. Confidentiality

- (1) The Registrar must record all details of registrable interests in the public section of the Register, except the following which must be recorded in the confidential section:
 - (a) The value of the financial interests in a corporate entity other than a private or public company.
 - (b) The amount of any remuneration for any employment outside the Legislature.
 - (c) The amount of any remuneration for any directorship or partnership.
 - (d) Details of foreign travel when the nature of the visit requires those details to be confidential.
 - (e) Details of private residences.
 - (f) The value of any pensions.
 - (g) Details of all financial interests of a Member's family to the extent that the Member is aware thereof.
- (2) Where any doubt exists as to whether any financial interests must be disclosed, the Member concerned may seek advice from the Registrar.
- (3) Only the Speaker, Ethics Committee and the Registrar shall have access to the confidential part of the Register.

17. Disclosure of the Register of Members' Interest

- (1) Members of the public shall have access to the public part of the Register on working days and at times prescribed by the Speaker.
- (2) The Registrar shall publish the public section of the Register during April of each year in a manner prescribed by the Speaker.
- (3) The Ethics Committee, Registrar and member of staff assigned for the work of the Ethics Committee shall not disclose information that is in the confidential section of the Register to anyone, unless otherwise directed by an order of the Court or with the permission of the Member concerned.
- (4) A Member who contravenes clause 17 (3) is in breach of the Code and shall not be eligible to continue as a member of the Ethics Committee.
- (5) A staff member who contravenes section 17 (3) is guilty of misconduct.

18. Registrable Financial Interests

Members shall register the following financial interest in the Register:

- (1) Shareholdings and financial interests in companies and other corporate entities

- (i) The number, nature and nominal value of shares of any type in any public or private company;
 - (ii) The name of that company; and
 - (iii) The nature and value of any other financial interests held in a private or public company or any corporate entity.
- (2) Ownership of land or property
- (i) A description and extent of land or property;
 - (ii) Area in which it is situated;
 - (iii) The nature of the interest; and
 - (iv) Properties outside the Republic of South Africa.
- (3) Pension
- (i) The source of the pension; and
 - (ii) The value of the pension.
- (4) Any other benefit of a material nature
- (i) The nature and source of any other benefit of a material nature; and
 - (ii) The value of that benefit.
- (5) Employment outside the Legislature
- (i) The type of employment;
 - (ii) The name, and type of business activity of the employer; and
 - (iii) The amount of remuneration received for such employment.

- (6) Consultancies
 - (i) The nature of the consultancy or any retainership of any kind;
 - (ii) The name, and type of business activity of the client concerned; and
 - (iii) The amount of any remuneration or other benefits received for such a consultancy or retainership.

- (7) Directorship and partnerships
 - (i) The name and type of business activity of the corporate entity or partnership; and
 - (ii) The amount of any remuneration received for such directorship or partnership.

- (8) Sponsorship
 - (i) The source and description of direct financial sponsorship or assistance from non-party sources; and
 - (ii) The value of the sponsorship or assistance.

- (9) Gifts and hospitality received by a Member from a source other than a Member's family
 - (i) A description, value, and source of a gift with a value in excess of a value to be determined by the Committee from time to time and or gifts from a single source which cumulatively exceed the value to be determined by the

Committee from time to time in any calendar year; and

(ii) Hospitality intended as a gift of any kind.

(10) Foreign travel (other than personal visits paid for by the Member, business visits unrelated to the Member's role as a public representative and official and formal visits paid for by the state or the Member's party).

(i) A brief description of the journey abroad; and

(ii) Particulars of the sponsor.

PART IV – ENFORCEMENT

19. Powers and Functions of the Ethics Committee

(a) The Ethics Committee shall:

(i) implement the Code for the Legislature;

(ii) develop standards of ethical conduct;

(iii) regularly review the Code and make recommendations for its amendments;

(iv) perform other functions and exercise other powers assigned to it by this Code and resolutions adopted by the House; and

(v) report to the House at least annually on its operations and the effectiveness of this Code.

20. Meetings of the Ethics Committee

- (i) All the meetings of the Ethics Committee shall be open unless the Chairperson or the Ethics Committee decides otherwise.
- (ii) All reports and minutes of the Ethics Committee shall be kept confidential.
- (iii) All material acquired during the Ethics Committee meeting shall be kept confidential.

21. Submission of a complaint

- (1) A Member, or official of the government or state organ, or a member of the public who reasonably believes that a Member has violated this Code may make a written complaint to the Registrar.
- (2) The Registrar shall assist any person wishing to report a breach and needs assistance.
- (3) The Registrar shall register all complaints received and must submit them to the Chairperson of the Ethics Committee.

22. Requirements for submission of a complaint

The Ethics Committee may refuse to consider a complaint if a complaint –

- (1) is not legible;
- (2) is not in writing;

- (3) does not reflect the name and contact details of the complainant;
- (4) is not signed by the complainant or a person authorised by the complainant if the complainant cannot write;
- (5) concerns a matter that is before a commission of enquiry or pending in a court of law; and
- (6) is libellous, malicious or vexatious.

23. Powers of the Ethics Committee

- (1) The Ethics Committee, acting on its own or on a complaint by any person through the office of the Registrar, may investigate any alleged breach of this Code by a Member.
- (2) The Ethics Committee may determine its own procedure when investigating any alleged breach but must at least hear the complainant and the Member against whom the complaint is lodged.
- (3) If the matter concerns a registrable interest recorded in the confidential part of the Register or which the Ethics Committee regards as confidential, the proceedings of the Ethics Committee may be held in closed session.

24. Investigation and report

- (1) The Registrar shall on the instruction of the Ethics Committee commence an investigation into the matter after registration of the complaint.

- (2) The Member against whom a complaint has been filed shall make himself or herself accessible to the Registrar for the purpose of the investigation.
- (3) The Registrar shall have the power to request documentation or other evidence from a Member, or a complainant or an official of the government or state organ or a Member of the public in order to further his/her investigation.
- (4) The Registrar shall compile a report of the outcome of his/her investigation once the investigation has been finalised.
- (5) The report must be submitted to the Ethics Committee for consideration.

25. Deliberations of the Ethics Committee

- (i) The Ethics Committee shall consider a complaint submitted to it and may call for further evidence from any other person relevant to the matter under consideration.
- (ii) The presence of at least one third of the members constitutes a quorum.
- (iii) At least one third of the members must be present before a vote may be taken on any other question before the Ethics Committee.
- (iv) A question before the Ethics Committee is decided when there is an agreement among the majority of members present.

- (v) Should any member of the Ethics Committee be the subject of an investigation, that member should recuse himself or herself from the Ethics Committee's deliberations on that investigation.

26. Findings

- (1) At the conclusion of its deliberation, the Ethics Committee must make a finding supported by reasons, on the alleged breach of this Code.
- (2) The Ethics Committee must inform the Member and the complainant of the finding and the reasons for the finding.
- (3) If the hearing was in closed session a summary of the facts must be disclosed.

27. Penalties

The Ethics Committee may recommend the imposition of one or more of the following penalties where it has found that a Member has breached a provision of this Code -

- (1) A reprimand.
- (2) A fine not exceeding R5 000.00, which fine may be recovered by deducting a specified amount in instalments from the Member's remuneration.

- (3) The suspension of a Member's right to seat in parliamentary debates and committees for a period not exceeding 20 working days of the Legislature.
- (4) The Secretary must recover all fines.

28. Report to the House

- (1) The Ethics Committee must report its finding and its recommendation as to penalties imposed, if any, to the House within 30 days after it has concluded its deliberations.
- (2) If the Ethics Committee recommends a penalty, the House may either –
 - (a) accept or reject the recommendation; or
 - (b) refer the matter back to the Ethics Committee for further consideration.
- (3) If the House has accepted the Ethics Committee's recommendation, the Speaker must act on such decision promptly.

29. Breaches of the Code

A member breaches this Code if the Member –

- (1) Contravenes or fails to comply with a provision of this Code.

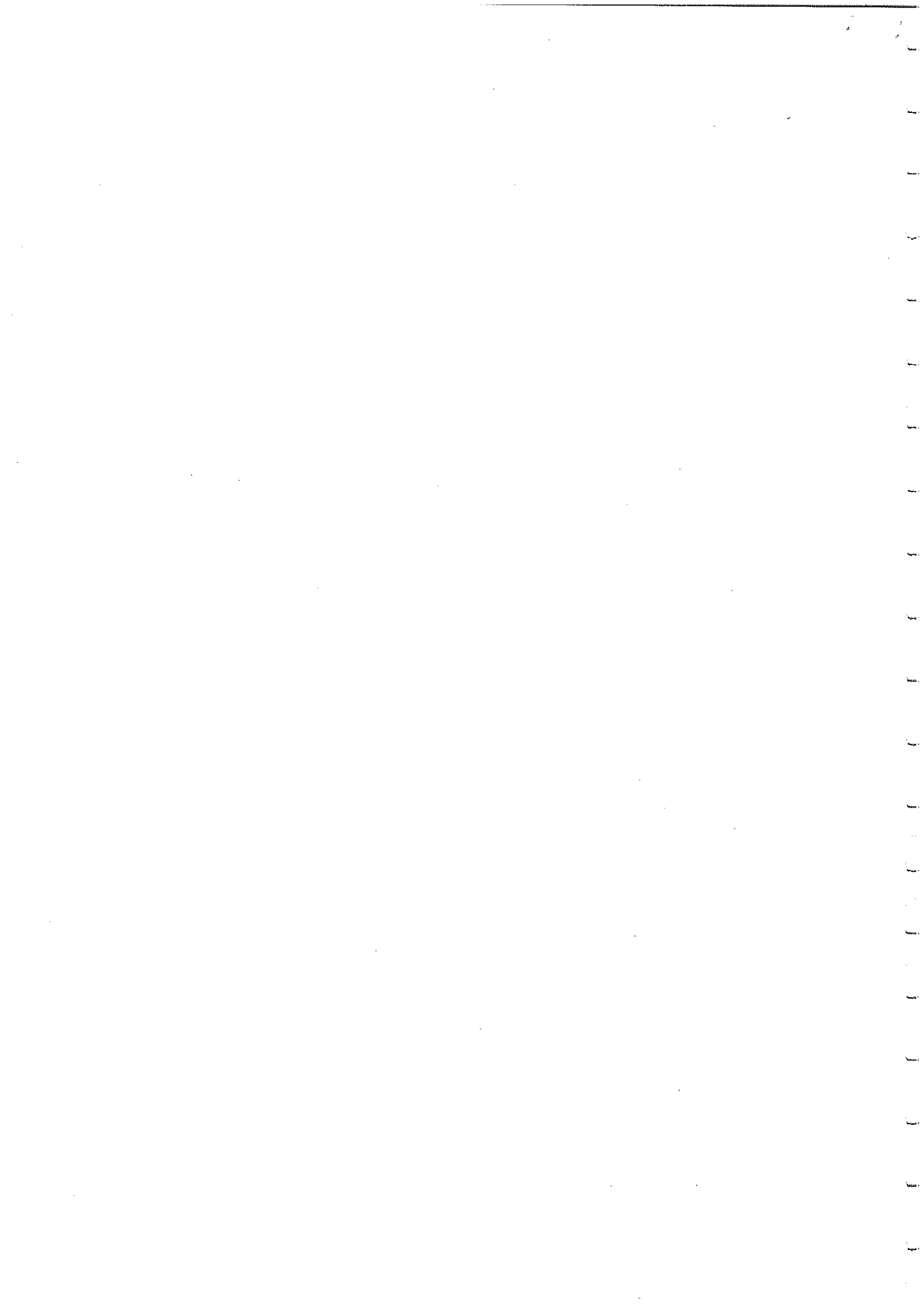
- (2) Wilfully provides the Registrar with incorrect or misleading details.

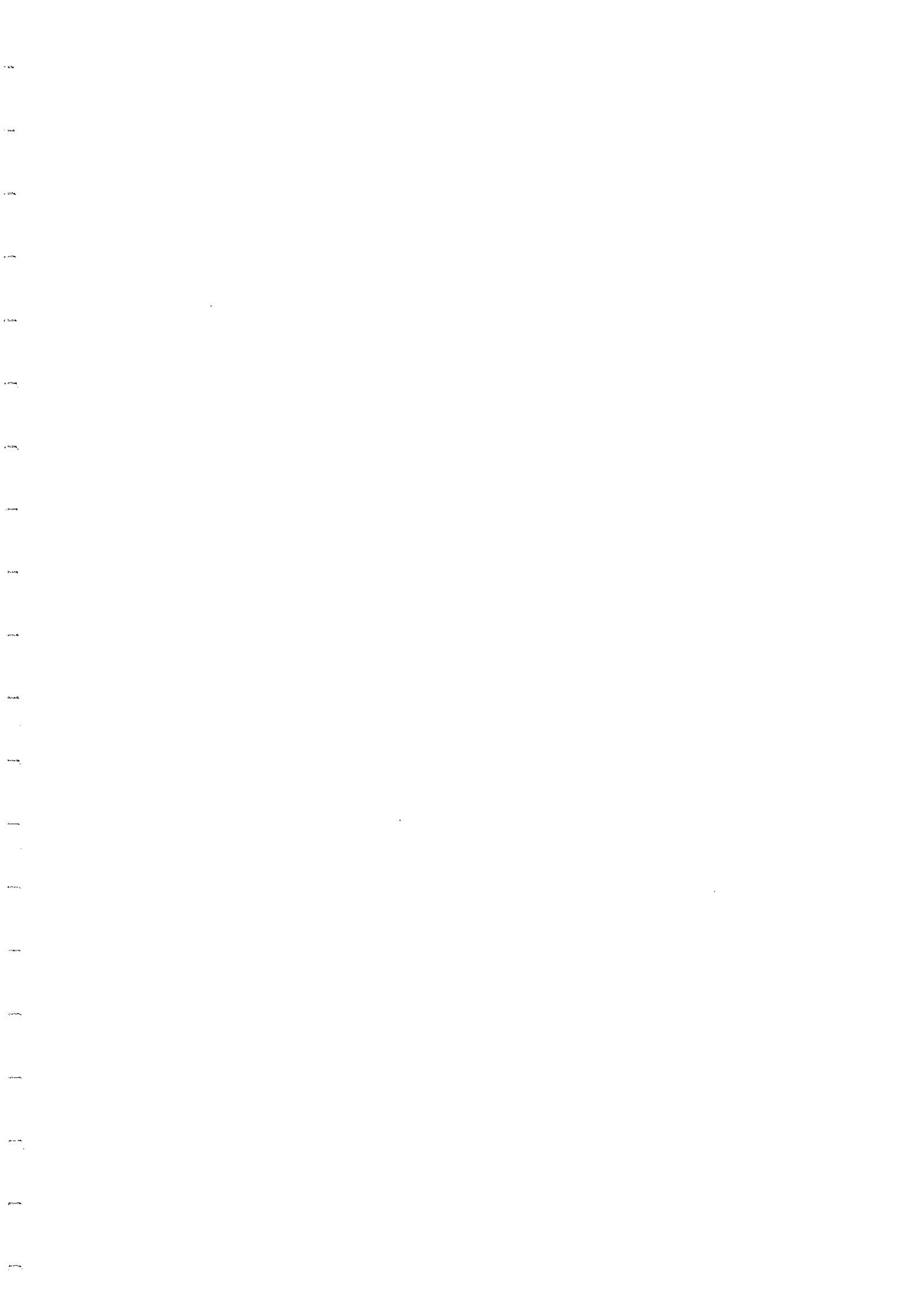
30. Access to information

A Member or members of the public shall gain access to information on matters already decided upon by the Ethics Committee or as prescribed by the Republic of South Africa Constitution Act 108 of 1996, the Promotion of Access to Information Act, 2000 (Act No. 2 of 2000) or as otherwise provided for by any other law.

31. Short title and commencement

This Code shall be called Code of Conduct and Ethics for Members of the Mpumalanga Provincial Legislature, and comes into operation on adoption by the House.







NORTHERN CAPE PROVINCIAL LEGISLATURE



Code of Ethics

Members of the Northern Cape Provincial
Legislature and the Executive Council

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Chapter 1: Introduction and Background

The Code Of Conduct for Members of the Northern Cape Provincial Legislature emanates from the Legislative framework of the Executive Members' Ethics Act, 1998 (Act 82 of 1998) and the Promotion of Access to Information Act, 2000 (Act 2 of 2000). In addition, the policies and spirit of Accountability, Transparency and Integrity is reflected in the Code of Conduct for Members of the Northern Cape Provincial Legislature (hereafter referred to as the Code).

The Code seeks to provide a framework of reference for Members of the Provincial Legislature in fulfilling their duties as public representatives in terms of ethical standards, conduct and propriety and is based on the standards of behaviour that the public can expect from those people that they have elected to represent them.

The Code seeks to establish a peer review body called the Committee on Ethics and Conduct, which will ensure implementation and adherence of the Code through the administrative support of a Registrar of Members' Interests.

The Code is not too specific in its stipulations, mainly due to the broad nature of behaviour and possible ethical problems. The Committee on Ethics and Conduct should develop over time, terms of reference to evaluate and interpret specific instances.

The Code is based on the following values and principles against which any matter brought before the Committee should be measured:

Public Interest:

Selflessness: take decisions solely in terms of the public interest with no regard for personal financial or other material benefits for themselves, their families or their friends;

Integrity: steadfastly avoid placing themselves under any financial or other obligation to any outside individual or organisation where this creates a conflict of interest with his/her role as a Member of the Legislature;

Objectivity: in carrying out public business, including making public appointments, do so only on the basis of merit;

Accountability:

Openness: Members should be as open as possible about all decisions and actions, bearing in mind the constitutional obligation for openness and transparency;

Honesty: Members must declare private Interests relating to public duties and resolve any conflict that may arise in the interest of the public;

Service Delivery:

Leadership: Promote and support ethical behaviour and work ethics by leadership and example;

Professionalism: Promote professionalism through the efficient and diligent carrying out of the Constitutional Obligations of a Member of the Provincial Legislature as conferred in Chapter 6 of the Constitution of the Republic of South Africa Act, 1996 (Act 108 of 1996).

Loyalty: To display, in word and deed, loyalty to the Constitution, the Republic of South Africa, the Northern Cape and the Northern Cape Provincial Legislature.

Chapter 2: Applicability of the Code

This Code shall be applicable to all Members of the Northern Cape Provincial Legislature, inclusive of the Premier and Members of the Executive Council who has taken an Oath / Solemn Affirmation as prescribed by Section 107 and Schedule 2 of the Constitution.

Chapter 3: Glossary of Terms

Term	Definition in Terms of the Code
<i>Code</i>	Code of Conduct for Members of the Northern Cape Provincial Legislature
<i>Committee</i>	Committee on Ethics and Conduct
<i>Company or Corporate Entity</i>	Any public or private company, closed corporation or trust – other than a charitable trust – but excludes Section 21 companies and associations not for gain
<i>Constitution</i>	Constitution of the Republic Of South Africa Act (Act 108 of 1996)
<i>Family Member</i>	In terms of this Code a family member would mean the spouse, permanent companion and dependant child of a Member
<i>Member</i>	Sworn In or Affirmed Member of the Northern Cape Provincial Legislature, including Members of the Executive Council
<i>Permanent Companion</i>	Person who cohabits with a Member and who is publicly acknowledged by the Member as his/her permanent companion
<i>Provincial Legislature</i>	Northern Cape Provincial Legislature
<i>Public Protector</i>	Public Protector as Contemplated in Section 181 of the Constitution
<i>Registrar</i>	Registrar of Members Interest appointed by the Standing Committee on Rules in terms of this Code
<i>Register</i>	Register of Members Interest kept by the Registrar as contemplated by the Code
<i>Registrable Interest</i>	Any interest, financial or otherwise in relation to a Member or his/her family and/or permanent companion, which in terms of the Code should be declared as it may give rise to a possible conflict of interest
<i>Remuneration</i>	The receipt of benefits in cash or in kind
<i>Speaker</i>	Speaker to the Northern Cape Provincial Legislature
<i>Serious Disrepute</i>	Serious Disrepute is defined as any action, in official or private capacity, carried out wilfully by a Member, which will in any way detract from the status or impact negatively on the image of the Executive Council, the Legislature and its Office-Bearers. (Including, but not limited to: criminal offences, public violence and sexual harassment)

Chapter 4: Oath or Solemn Affirmation

All Members of the Northern Cape Provincial Legislature must take the Oath of Office or Solemn Affirmation as prescribed in Section 107 of the Constitution. The Oath of Office or Solemn Affirmation will be done in accordance with Schedule 2 of the Constitution.

Elected Members who did not adhere to the above-mentioned stipulation, may not sit in the House or participate in activities of the House and may further not be sworn in as a Member of the Executive Council.

Chapter 5: Structures responsible for the Implementation of this Code

5.1 Committee on Ethics and Conduct

Members of the Legislature shall elect a Committee on Ethics and Conduct in terms of Section 36 (1) of the Standing Rules. The composition of the Committee shall also be in accordance to Section 35 of the Standing Rules. This should include at least one (1) Member of the Executive Council. The Committee will be elected for a term of five years.

Should the Standing Committee on Rules or the House resolve to amend the membership of the Committee on Ethics and Conduct, they may do so only once per annum.

5.1.1 Functions of the Committee:

The Committee must:

- ensure Implementation of the Code;
- develop standards of ethical conduct for Members of the Legislature and with time and experience develop criteria for the interpretation of specific events;
- serve as an advisory and consultative body for Members in terms of the implementation and interpretation of the Code;
- regularly review the Code and its provisions and make recommendations for its amendments, where necessary;
- perform other functions and exercise other powers reasonably conferred by the House;
- report to the House annually on the operation and effectiveness of the Code;
- oversee investigations resulting from the media or complaints received;
- have formal hearings in terms of the procedure and make recommendations to the House on appropriate action to be taken.

5.1.2 Confidentiality and Access

Sessions of the Committee will be closed and no member of the public or the media may be allowed to attend the meeting. This restriction is contemplated as the eventual report of any investigation will be made public but to limit possible embarrassment to the Member and the Legislature before a final finding has been made.

All Members of the Committee will be required to sign an Oath/Affirmation of Confidentiality. Should a conflict of interest arise between matters discussed or a complaint received and a Member of the Committee, the Committee will request the Member to recuse him/herself from the proceedings.

Should a Committee Member act in contravention to the principles of the Code and is found guilty of acting as such by the other Members of the Committee, the Member will be removed from the Committee and will not be eligible to sit on the Committee again in future.

5.2 Appeals Committee

Any decision of the Committee on Ethics and Conduct, which lead to action taken against a Member, may be brought to the Appeals Committee by the relevant Member.

This has to be done within seven (7) days of the Member having been informed of the intention to take action. The Appeals Committee will respond to the Appeal within reasonable time, except where circumstances prevent and the relevant Member have been informed.

The Appeals Committee shall always be chaired by the Speaker, but will further consist of a Member of the Majority Party, a Member of the Main Opposition Party and two (2) additional Members as appointed by the House.

5.3 Registrar of Members' Interests

The Speaker as Chairperson of the Standing Committee on Rules shall appoint an official of the Northern Cape Provincial Legislature to act as Registrar of Members' Interest. This official shall be of reasonable seniority within the Legislature and shall, in matters pertaining to the Code, report to the Chairperson of the Committee.

5.3.1 Functions of the Registrar

The Registrar will be responsible to –

- Provide administrative support to the Committee through interaction with the Chairperson;
- Open, compile and safeguard a Register of Members Interest in terms of the provisions of the Code;
- Receive, register and communicate complaints received as well as media reporting relating to the implementation of the Code in the Northern Cape;
- After consultation with the Chairperson investigate a complaint or refer the complaint;

- Submit a recommendation to the Committee in terms of the investigation;
- Review effectiveness of Code and advise Committee on amendments;
- Publish and distribute the public part of the register;
- Advise Members on the interpretation of the Code and disclosure.

5.3.2 Confidentiality

The Registrar of Members' Interest will be required to submit to security clearance by the National Intelligence Agency, clearing the official to handle extremely confidential information.

The Employee will be expected to display integrity in the carrying out of this duty and to ensure that confidential information is treated as such.

Chapter 6: Declaration of Interest

Each Member will be expected to declare all Registrable Interests within 60 days of having assumed office and at least once in every Financial Year. Amendments to the declarations must be made within 60 days of the change occurring. Administration of such declarations will be handled by the Registrar and captured in the Register of Members' Interests.

6.1 Register of Members' Interest

The Registrar will compile a Register of Members' Interest, which will include all information declared in terms of Chapter 6 of this Code. The Register will consist of two sections, a Public and a Confidential Part.

6.1.1 Public Part of the Register

The Public Part of the Register will contain all information declared by the Member, excluding those relating to the Family of the Member as defined in Chapter 3 of the Code, and information pertaining to monetary value of assets, interest and income. For example, a retainership must be declared in the Public Section, but the income derived from such a retainership should be declared in the Confidential Section.

A Member may request the Committee to allow him/her to place information, which should normally have been contained in the Public Part, in the Confidential Part should circumstances necessitate. The Committee will decide whether such information should be disclosed in the public part, or whether the reasons forwarded warrants that the information be disclosed in the Confidential Part.

The Public Part of the Register will be published and distributed to the media, libraries and other stakeholders annually. The Public Part of the Register can at any stage be inspected at the Office of the Registrar.

6.1.2 Confidential Part of the Register

The Confidential Part of the Register shall contain all information relating to interest of the Member's Family, information pertaining to monetary value of assets, interest and income. Any other interests which are not necessarily registrable in terms of the Code, but which the Member, in good faith, wishes to disclose.

Information, which, after submission to the Committee, is deemed to be fit to be placed in the Confidential Part of the Register.

The Confidential Part of the Register will only be accessible to the Registrar, Members of the Committee and any person who has received a court order to that effect.

6.2 Registrable Interests

The following categories of Registrable Interests must be declared by Members according to the appropriate form:

- (a) **Shares and other Financial Interests:** The number, nature, nominal value and company in which held of any type of shares in any public or private company, provided that financial interests held in any other corporate body recognised by law.
- (b) **Remunerated Employment outside the Legislature:** The employment for remuneration and type of business activity of the employer of any Member outside the Legislature, which must be sanctioned by the political party to which the Member concerned belongs and which must not be incompatible with that Member's function as an elected public representative.
- (c) **Directorships and Partnerships:** The holding of office of director in any corporate body and the membership of any partnership by law and the name and type of business activity of the corporate body or partnership where the receipt of remuneration is a consequence of, or associated with, holding such office or being such a Member.
- (d) **Consultancies:** The holding of a consultancy or retainership of any kind, the name and type of business activity of the organisation concerned, and the value of any benefits derived as a result.
- (e) **Sponsorship:** The source, description and extent of the provision of financial sponsorships or assistance directly to a Member from non-party sources.
- (f) **Gifts and Hospitality:** The receipt, description, value and source of any gift with a value in excess of R500 or gifts from a single source which cumulatively exceed the value of R500 in any calendar year. Hospitality intended as a gift in kind, including such gifts and hospitality from an external source to a spouse, permanent companion or dependant child of a Member should be disclosed. Personal gifts within the family and hospitality of a specifically traditional or cultural nature need not be disclosed.

- (g) **Benefits:** The receipt and source of any other benefit of a material nature, provided that the value of such benefit must be disclosed in the Confidential Part Register. This would include any discount, membership or other benefit that is not available to the general public.
- (h) **Foreign Travel:** The undertaking of all travel abroad (including a brief description of the journey and sponsor), other than personal visits paid for entirely by the Member, business visits unrelated to the Member's role as a public representative, or formal visits paid for by the Member's political party.
- (i) **Land and Property:** Any interest in immovable property, including private residences, vacation homes and any other landholding.
- (j) **Pensions:** The receipt and source of a pension of any description, whether funded privately or publicly. Dormant pensions need not be disclosed.

Where any doubt or discretion exists in respect of the registrability of a financial interest, the Member concerned must act at all times in good faith.

6.3 Ethical Declarations

6.3.1 Committees

Members have to disclose any personal, financial or family interest that a Member might have relating to the business discussed by any Committee that the Member forms part of, to the Chairperson in writing. The Member should recuse him/herself when that particular matter is discussed, unless the Committee decides otherwise.

6.3.2 Representations

If a Member makes representations to the Executive Council, the House or any organ of state regarding a matter in which the Member or the Member's Family have any personal or financial interests, that Member is required to declare such interests.

6.3.3 Remuneration

A Member may not lobby for remuneration.

6.3.4 Liabilities

In addition to declaring any financial and other interest that a Member might have, Members will also be required to disclose liabilities. While Members are encouraged to disclose all liabilities, any liability, be it to a bank, company or person, in excess of R50 000.00 must be declared on the appropriate form. The actual liability should be declared in the Public Section, while the amount of the liability should be disclosed in the Confidential Section.

Chapter 7: General

7.1 Obligatory Duty:

Members must:

- Agree to abide by the principles, rules and obligations of this Code;
- Discharge their obligations, in terms of the Constitution, to the Legislature by placing the public interest above their own interest;
- Strive at all times to uphold the law;
- Act in accordance with the public trust placed in them;
- Maintain public confidence and trust in the integrity of the Legislature.

7.2 Personal Conduct

Members shall:

- In the performance of their functions, strive to eradicate all forms of discrimination based on gender, race, sex or ethnicity;
- To avoid improper use of facilities and to adhere to administrative guidelines;
- To use information with discretion and not to use information for self-enrichment;
- To resolve any conflict – real or apparent – in the interest of the public;
- Not use their influence to improperly advantage private entities in their dealings with government;
- Ensure that his/her general conduct is in line with the values and principles of this Code as contained in Chapter 1.

7.3 Conduct of Committees

7.3.1 Declaration of Possible Conflict of Interest

The Chairperson of each Committee shall declare to the Speaker, as Chairperson of the Standing Committee on Rules, any possible conflict of interest that may arise in terms of the Committee, funding received, hospitalities and benefits received. Committees should refrain from using external funding as far as possible.

Chapter 8: Breaches of Code of Conduct

8.1 Breach of the Code

A Member breaches this Code if he/she -

- Fails to comply with the requirements for disclosing interests;
- When disclosing interests, wilfully provides the Registrar with incorrect or misleading information;
- Through his/her conduct brings the Legislature into serious disrepute.

8.2 Complaints

Any person, including the Media, the public or a Member of the Legislature - including Members of the Executive Council - can submit a written complaint to the Registrar of Members Interest pertaining to a breach of the Code by the Member. Anonymous complaints are acceptable, but will be investigated very discreetly in order to protect the Member from arbitrary action and possible malicious intent by an unidentifiable complainant.

8.3 Processing Complaints

The Registrar will acknowledge receipt of the complaint to the complainant. The Registrar will immediately notify the relevant Member that a complaint was brought against him/her, furnish the Member with the details of the complaint and request him/her to respond within a reasonable period not exceeding 14 working days.

The Registrar will then report the matter to the Chairperson of the Committee. The Members' response will be tabled at a meeting of the Committee, where it would be resolved whether the Member's response will suffice or whether further investigation is required to determine whether the code was in fact breached.

Should the meeting find that further investigations are required, the Registrar will collect and collate information pertaining to the matter and bring a further report to the Committee. In this report the Registrar must make a recommendation in terms of further action from the Committee, which may include:

- a) Consider documentation if there is no dispute of facts;
- b) Consider formal hearing if facts are in dispute;
- c) Refer the matter to the Public Protector if criminal activities are involved;
- d) Dismissal of the complaint as unfounded;
- e) That further investigation is required.

All documents, evidence and information to this point will be deemed as highly confidential.

8.4 Hearings

In some cases – especially where the facts of the matter are not disputed, the Committee can reach a decision without having a formal hearing.

Where facts are however disputed, it may become necessary to have a formal hearing. In the event of a formal hearing, the relevant Member will be given ten days' notice of the Hearing. In the notice, the Member must be given particulars of:

- the complaint,
- date, time and venue of the hearing,
- estimated duration of the hearing,
- information pertaining to representation by another Member,
- right to interpretation,
- right to witnesses, and a
- summary of consequences of failure to attend the hearing.

During the hearing, the Registrar will present his/her report on the findings resulting from the investigation. In terms of the Northern Cape Powers and Privileges of the Provincial Legislature Act, 1994 (Act 6 of 1994), the Legislature can summon any person to act as a witness during the proceedings, provided that they are given proper notice. The Member will be given an opportunity to state his/her case.

The finding of the Committee after the Hearing, as well as the relevant Sanction will be communicated to the Member by the Chairperson in writing.

8.4 Appeal Hearings

The Member has the right to refer the finding and/or sanction to the Speaker as Chairperson of the Appeals Committee within a reasonable time of having been informed of the finding and sanction. The Appeals Committee must consider all documentary evidence and make a final finding within reasonable time. The decision of the Appeals Committee is final.

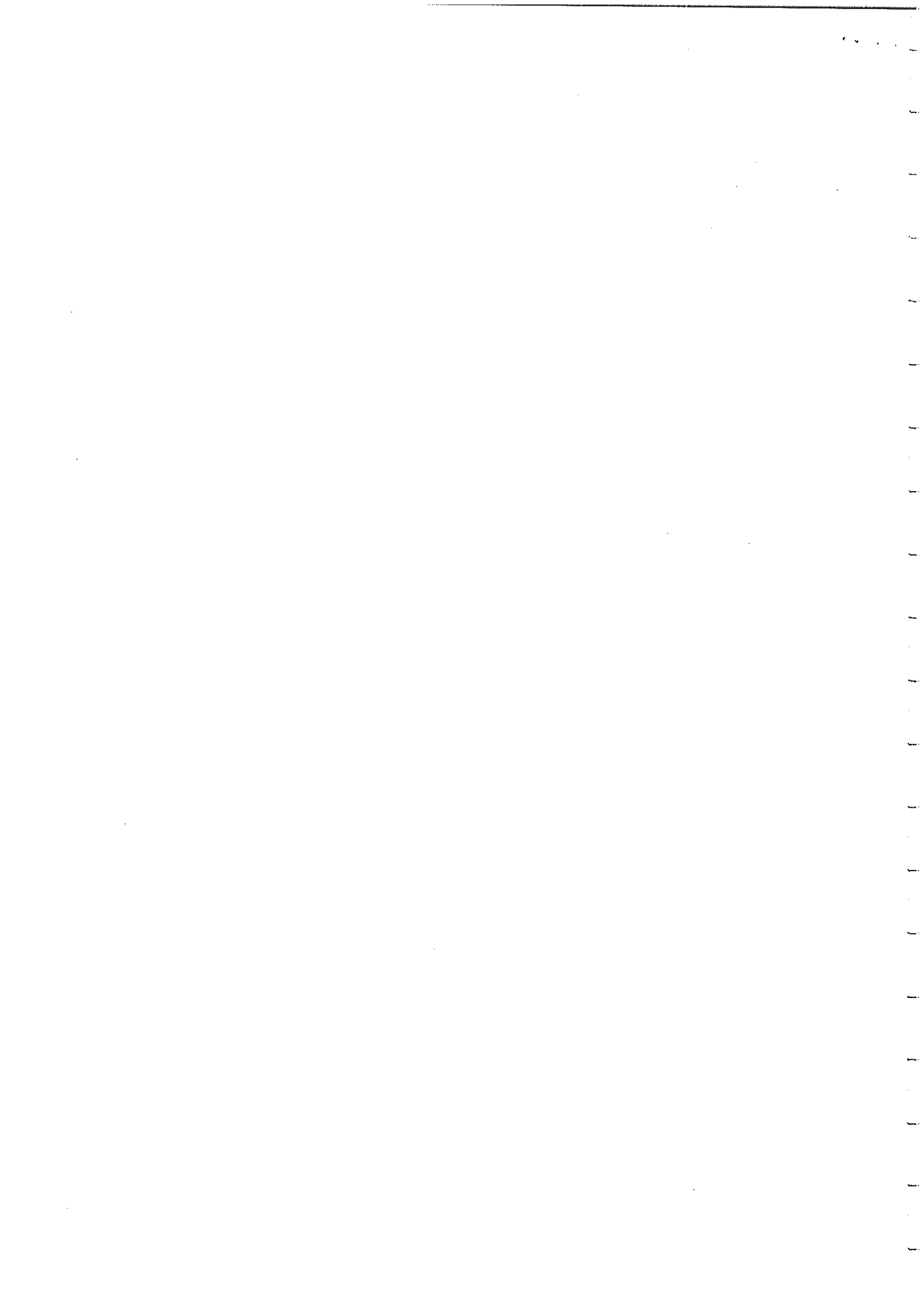
8.5 Sanctions

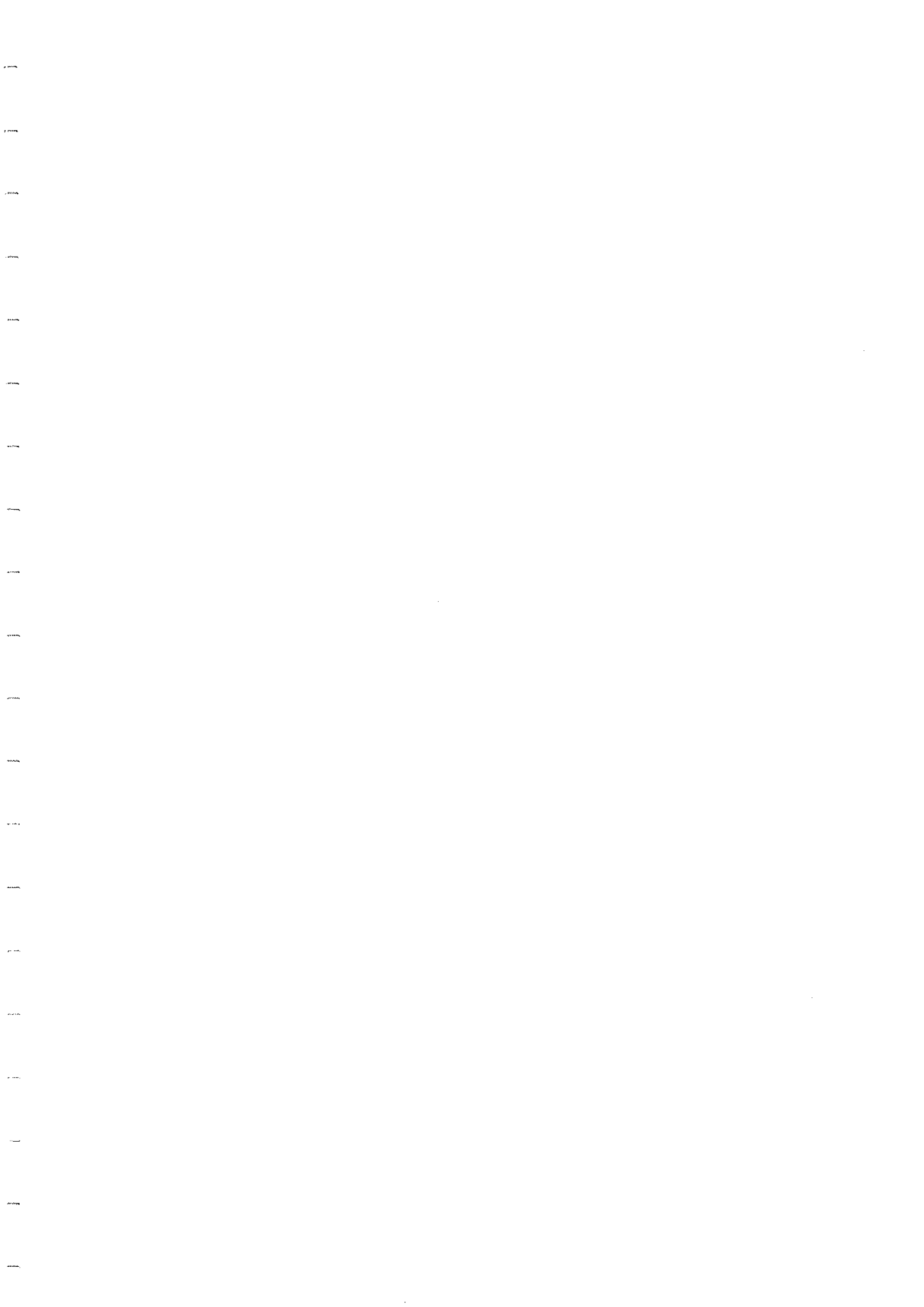
If the investigation or the Hearing finds that the complaint is unfounded, this information will be made public. Should the Committee and/or the Appeals Committee make a finding on a matter and agree on an appropriate sanction, the finding and sanction will be reported to the House. The House may either accept the recommendation of the Committee or refer the Committee back for further deliberations. If accepted, the sanction is delivered by the Speaker and becomes public.

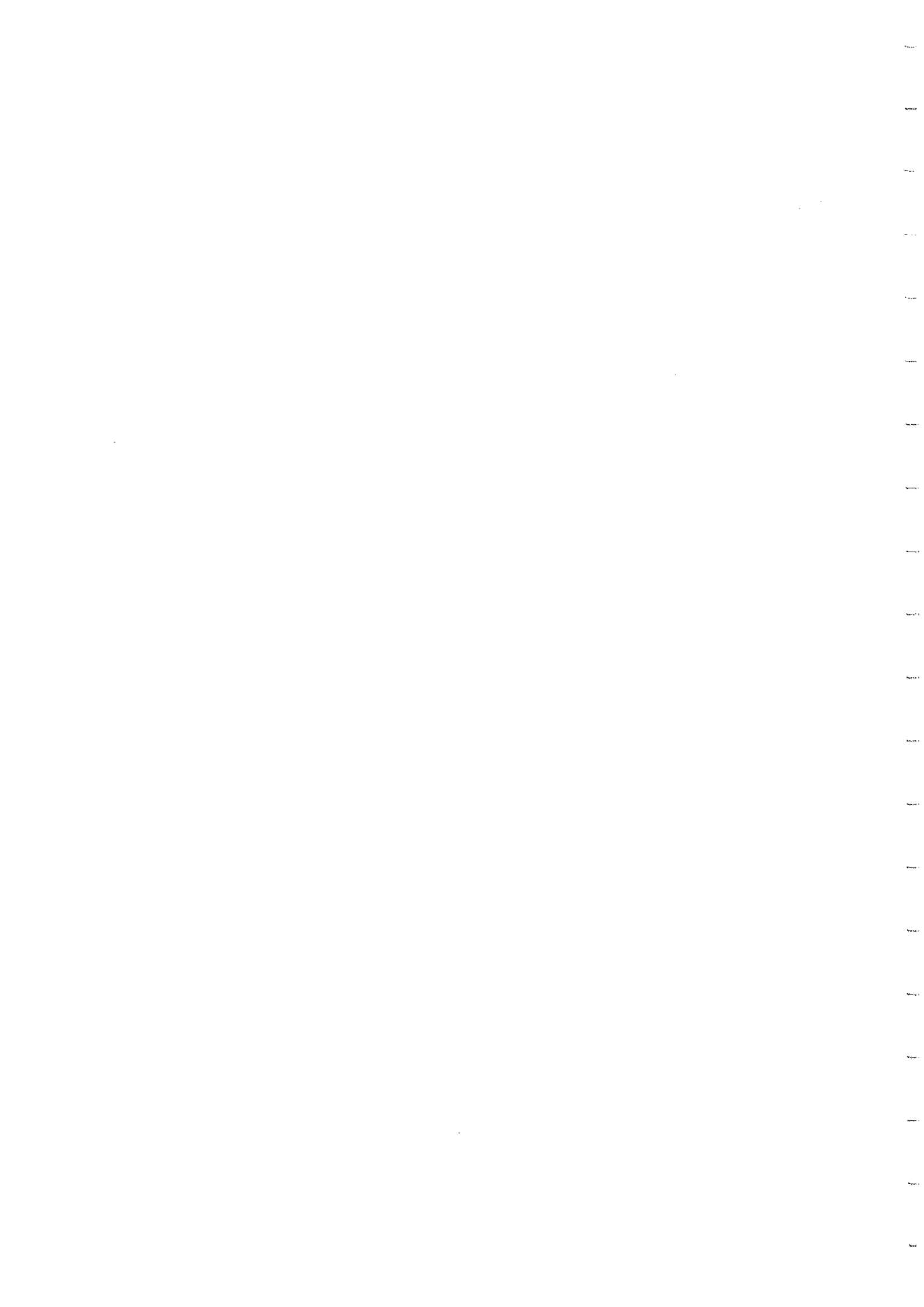
Sanctions include:

- Private Reprimand;
- Public Reprimand;
- Written Warning;

- A Fine not exceeding 30 days' salary and payable in full within 30 days;
- Reduction of salary or allowances;
- Suspension of certain privileges;
- Rectification of the breach and counselling (minor offences).







CODE OF CONDUCT AND ETHICS FOR MEMBERS OF THE NORTH WEST PROVINCIAL LEGISLATURE

1. Preamble

We, the Members of the North West Provincial Legislature:

- Noting, that whereas the Constitution of the Republic of South Africa requires that all levels of government promote accountability, responsibility and openness;
- Recognising that Members of the Provincial Legislature are accountable to the electorate and have a duty to maintain public trust in democratic institutions;
- Affirming that Members of the legislature have an obligation to perform their duties with honesty, integrity, and regard to the common good;
- Therefore agree, individually and collectively, to abide by the principles, rules and obligations of this Code of Conduct and Ethics;

2. Definitions

In this Code of Conduct and Ethics, unless the context otherwise indicates, the following words or phrases mean –

"Committee"	means the Privileges and Ethics Committee of the North West Provincial Legislature.
"Constitutional body or office"	means an office or body established in terms of the Republic of South Africa Constitution Act 108 of 1996, as amended.
"Family"	means a Member's spouse <i>or permanent</i> companion and dependent children.
"Government"	means the Provincial Government of the North West Province
"Integrity Commissioner"	means an Integrity Commissioner appointed in terms of this Code of Conduct and Ethics.
"Legislature structure"	means any body or committee established to conduct the business of the Legislature in terms of the laws, Standing Rules resolutions of the House, or policies that govern the Legislature.
"Member"	means a Member of the North West Provincial Legislature.
"Permanent companion"	means a person who is acknowledged by a Member as a permanent companion.

"Registrable interest" means financial interests required to be disclosed in terms of 12 herein

PART I – PRINCIPLES

3. Principles

A Member of the North West Provincial Legislature shall adhere to the following principles:

(1) Selflessness

A Member shall take decisions only in the interest of the public.

(2) Integrity

A Member shall ensure at all times that the integrity of the Legislature and the Provincial Government is maintained.

(3) Accountability

A Member is accountable to the public for his or her decisions and actions.

(4) Openness

A Member shall exercise his or her public duties in an open and transparent manner.

(5) Honesty

A Member shall act honestly and in the public interest at all times.

(6) Leadership

A Member shall promote these principles by leadership and example.

PART II - ETHICAL CONDUCT

4. General obligations

A Member shall, at all times, in the exercise of his or her duties adhere to the principles as set out in Part I of the Code and shall, inter alia –

1. Not take decisions in order to gain financial or other material benefit for himself or herself, his or her family, or his or her friends;
2. Exercise his or her duties and conduct himself or herself with dignity and integrity appropriate for his or her office;
3. Not place himself or herself under financial or other obligations to outside individuals or organisations that might improperly influence him or her in the performance of his or her duties;
4. Ensure that his or her personal conduct is consistent with the dignity and integrity of the Legislature and the Provincial Government;

5. Make choices on merit in carrying out public business, including making public appointments, awarding contracts, or recommending individuals for reward or benefit;
6. Subject himself or herself to any form of scrutiny appropriate to his or her office;
7. Declare any private interest relating to his or her official duties;
8. Declare, in the Members' Register of Interest located in the Integrity Commissioner's office, all the interests as required; and
9. Take steps to resolve any conflict of interest that may arise in a manner that protects the public interest.

5. Declaration of private interests in Committees and Proceedings of the Legislature

1. A Member shall declare any personal or private financial or business interest that a Member or spouse, permanent companion or business partner of that Member may have, in a matter before a Standing Committee or ad hoc Committee or Legislature structure in which that Member serves.
1. A Member shall withdraw from the proceedings of that Committee or Legislature structure when a matter referred to in section 5 (1) is considered, unless that Standing Committee or Legislature structure decides that the Members' interest is immaterial.

6. Declaration of private interests when making representations

If a Member makes representations, in his or her capacity as a public representative, to a Member of the Executive or any other organ of state with regard to a matter in which that Member or any spouse, permanent

companion or business partner of that Member has a personal or private financial interest or business interest, that Member must declare that interest to that Cabinet Member or organ of state.

7. Lobbying for reward

No Member shall lobby for reward in cash or kind.

8. Remunerated employment outside the Legislature

A Member may only engage in remunerated employment outside the Legislature when such employment is –

1. sanctioned by the political party to which the Member belongs; and
2. compatible with that Members' function as a public representative.

9. Proper exercise of influence

A Member shall not utilise the influence he or she derives from public office to improperly give advantage to private entities or persons in their dealings with the government, where this will result in pecuniary gain for such entities or persons.

10. Refrain from using 'insider' information

A Member shall not use non-public government information or information obtained in the course of exercising a public duty to advance a private interest.

11. Post-tenure employment restrictions

After tenure, a former Member shall not act in such a manner, which would take improper advantage of his/her previous employment.

PART III – DISCLOSURE OF REGISTRABLE INTERESTS

12. Disclosure of registrable interests

1. A Member shall disclose to the Integrity Commissioner, (See Part IV: Enforcement) on the form prescribed for this purpose by the Speaker, particulars of all his or her registrable interests.
1. The first disclosure shall be within 60 days of adoption of the Code of Conduct and Ethics.
1. Thereafter, the disclosure shall be within 30 days after the opening of Legislature or appointment the Member. If a Member has no registrable interests he or she must indicate this in writing to the Integrity Commissioner.

13 Establishment of a Register of Members Interest

- (1) The Integrity Commissioner shall establish a Register of Members Interests divided into public and confidential sections.
- (2) A Member must disclose to the Integrity Commissioner, on the form prescribed for this purpose by the Speaker, particulars of all their registrable interests.

14. Confidentiality

1. The Integrity Commissioner must record all details of registrable interests in the public section of the Register of Members' Interest, except the following which must be recorded in the confidential section:
 - a. The value of the financial interests in a corporate entity other than a private or public company.
 - b. The amount of any remuneration for any employment outside the Legislature.
 - c. The amount of any remuneration for any directorship or partnership.
 - d. Details of foreign travel when the nature of the visit requires those details to be confidential.
 - e. Details of private(s) residences.
 - f. The value of any pensions.
 - g. Details of all financial interests of a Member's spouse or permanent companion, dependent child to the extent that the Member is aware of.
1. Where any doubt exists as to whether any financial interests must be disclosed, the Member concerned may seek advice from the Integrity Commissioner.
2. Only the Committee, the Integrity Commissioner and his or her staff shall have access to the confidential part of the Register of Members' Interest.

15. Disclosure of the Register of Members' Interest

1. Members of the public shall have access to the public part of the Register on working days and at times prescribed by the Speaker.

2. The Integrity Commissioner shall publish the public section of the Register during April of each year in a manner prescribed by the Speaker.
3. The Committee, the Integrity Commissioner and support staff shall not disclose information that is in the confidential section of the Register to anyone, unless otherwise directed by a Court order.
4. A Member who contravenes section 15 (3) is in breach of the Code and shall be ineligible to continue as Member of the Committee.
5. A staff member who contravenes section 15 (3) is in breach of the Code and shall be disciplined by the Provincial Secretary or a person delegated by him or her.
6. No person shall gain access to the confidential part of the Register, except through a court order.

16. Registrable Financial Interests

Members shall register the following financial interest in the Register of Members' Interest:

- (1) Shareholdings and financial interests in companies and other corporate entities
 - (i) The number, nature and nominal value of shares of any type in any public or private company;
 - (ii) The name of that company; and
 - (iii) The nature and value of any other financial interests held in a private or public company or any corporate entity.
- (2) Ownership of land or property
 - (i) A description and extent of land or property;
 - (ii) Area in which it is situated;
 - (iii) The nature of the interest;

- (iv) Properties outside the state.
- (3) Pension
- (i) The source of the pension; and
 - (ii) The value of the pension.
- (4) Any other benefit or of material nature
- (i) The nature and source of any other benefit of a material nature;
 - (ii) The value of that benefit;
- (5) Employment outside the Legislature
- (i) The type of employment;
 - (ii) The name, and type of business activity, of the employer; and
 - (iii) The amount of remuneration received for such employment.
- (6) Consultancies
- (i) The nature of the consultancy or any retainer of any kind;
 - (ii) The name, and type of business activity, of the client concerned; and
 - (iii) The amount of any remuneration or other benefits received for such a consultancy or retainer.
- (7) Directorship and partnerships
- (i) the name and type of business activity, of the corporate entity or partnership;
 - (ii) The amount of any remuneration received for such directorship or partnership.

- (8) Sponsorship
 - (i) the source and description of direct financial sponsorship or assistance from non-party sources; and
 - (ii) The value of the sponsorship or assistance.

- (9) Gifts and hospitality received by a Member as a public from a source other than a family member or permanent companion
 - (i) A description, value, and source of a gift with a value in excess of R 500.00 and or gifts from a single source which cumulatively exceed the value of R 500.00 in any calendar year; and
 - (ii) Hospitality intended as a gift of any kind.

- (10) Foreign travel (other than personal visits paid for by the Member, business visits unrelated to the Member's role as a public representative and official and formal visits paid for by the state or the Member's party).
 - (i) A brief description of the journey abroad; and
 - (ii) Particulars of the sponsor.

PART IV – ENFORCEMENT

17. Integrity Commissioner

- (1) Appointment, term and remuneration of the Integrity Commissioner
 - a. The Speaker shall, through the Provincial Secretary, call for nominations of persons from Members of the public to fill the position of Integrity Commissioner.

- b. The person to occupy the position of Integrity Commissioner shall be a person of integrity and honesty, possess knowledge of law, public policy, politics and socio-economic issues.
- (c) The Speaker, through the Provincial Secretary, and after consultation with the leaders of the parties represented in the Legislature, shall appoint a person to be the Integrity Commissioner.
- (d) The Speaker shall present the appointment of the Integrity Commissioner to the House for adoption by a two-thirds majority. The removal of the Integrity Commissioner due to misconduct or abuse of power shall be subject to the same procedure.
- (e) The tenure of the Integrity Commissioner shall terminate if he or she is unable to perform his or her task due to resignation, incapacity or death.
- (f) The Integrity Commissioner shall be assisted by a staff Member, assigned by the Provincial Secretary, for the work of the Committee.
- (g) The Speaker shall, after consultation with the Provincial Secretary, determine the remuneration and conditions of service of the Integrity Commissioner.

(2) Independence and Impartiality

- (a) The Integrity Commissioner shall act independently and impartially.

(3) Integrity Commissioner

- (a) The Integrity Commissioner may on his or her own accord investigate any alleged violation of the Code of Conduct and Ethics.
- (b) Should the Integrity Commissioner find evidence of a violation, he or she must report the facts and conclusions to the Privileges and Ethics Committee established in terms of the Standing Rules.
- (c) The Integrity Commissioner shall:
 - (i) Open and keep a register for the purposes of this Code, called the Register of Members' Interests;
 - i. Record in the Register particulars of Member's registrable interests;
 - ii. Amend any entries in the Register when necessary; and
 - iii. Perform other duties as specified in this Code.

(4) Advice and Counsel to Members

- (a) A Member may approach the Integrity Commissioner to obtain personal advice and counsel, if he or she suspects that he or she may have committed a violation.
- (b) All sessions of advice and counsel between the Integrity Commissioner and the Member shall be confidential.
- (c) The Integrity Commissioner shall report to the Committee the number of times he has had advice and counseling sessions over a given time period.
- (d) When the Integrity Commissioner realises a violation that is committed by a Member during the advice and counseling session, the Integrity Commissioner shall reserve the right to keep the matter confidential, provided the violation is amended within the agreed time period.

18. Submission of a complaint

1. A Member, or official of the government or state organ, or a Member of the public who reasonably believes that a Member of the Legislature has violated the Code of Conduct and Ethics may make a written submission to the Integrity Commissioner.
2. The Integrity Commissioner shall assist any person wishing to report a breach and needs assistance.
3. The Integrity Commissioner shall register all submissions received.

19. Investigation and report

1. The Integrity Commissioner shall commence an investigation into the matter after registration of the submission.
 - (2) The Member implicated in the violation shall make himself or herself accessible to the Integrity Commissioner for the purpose of the investigation.
 - (3) The Integrity Commissioner shall produce a report of his/her findings, detailing both the merits and demerits of the case brought forth once the investigation has been finalised.
1. The Integrity Commissioner shall produce a report that includes detailed recommendations for action in the matter and that report shall be submitted to the Privileges and Ethics Committee for consideration.
2. The Integrity Commissioner shall have the power to request documentation from a Member, or an official of the government or provincial state organ or a Member of the public in order to further his/her investigation.

20. Access to information

A member or members of the public shall gain access to information on matters already decided upon by the Committee or as prescribed by the Republic of South Africa Constitution Act 108 of 1996, the Promotion of Access to Information Act 2 of 2000 or as otherwise provided by any other law.









Western Cape Government • Wes-Kaapse Regering • URhulumente weNtshona Koloni

PROVINCE OF THE WESTERN CAPE

PROVINSIE WES-KAAP

IPHONDO LENTSHONA KOLONI

**Provincial Gazette
Extraordinary**

**Buitengewone
Provinsiale Koerant**

**Isongezelelo
kwiGazethi yePhondo**

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Friday, 30 May 2014

Vrydag, 30 Mei 2014

Lwesihlanu, 30 Meyi 2014

Registered at the Post Office as a Newspaper

(*Copies are obtainable at Room M21, Provincial Legislature Building, 7 Wale Street, Cape Town 8001.)

OFFICE OF THE SPEAKER
OF THE WESTERN CAPE
PROVINCIAL PARLIAMENT

P.N. 152/2014

30 May 2014

It is hereby notified that the House adopted the Code of Conduct (English version) on 25 March 2014 and that the Speaker, Thembekile Richard Majola, on 6 May 2014 determined 21 May 2014 to be the date for implementation of the Code.

Code of Conduct for Members of the Western Cape Provincial Parliament.

As 'n nuusblad by die Poskantoor geregistreer

(*Afskrifte is verkrygbaar by Kamer M21, Provinsiale Wetgewer-gebou, Waalstraat 7, Kaapstad 8001.)

KANTOOR VAN DIE SPEAKER
VAN DIE WES-KAAPSE
PROVINSIALE PARLEMENT

P.K. 152/2014

30 Mei 2014

Hiermee word bekend gemaak dat die Huis die Gedragskode (Engelse weergawe) op 25 Maart 2014 aangeneem het en dat die Speaker, Thembekile Richard Majola, op 6 Mei 2014 bepaal het dat 21 Mei 2014 die datum vir implementering van die Kode is.

Gedragskode vir die Lede van die Wes-Kaapse Provinsiale Parlement.

Ibhaliswe ePosini njengePhephandaba

(*Iikopi zifumaneka kwigumbi M21, kwiSakhiwo seNdlu yoWiso Mthetho yePhondo, e7 Wale Street, eKapa 8001.)

IOFISI KASOMLOMO
WEPALAMENTE YEPHONDO
LENTSHONA KOLONI

I.S. 152/2014

30 Meyi 2014

Kuyaziswa ukuba iNdlu yamkele uMqaqo wokuziPhatha (Uxwebhu lwesiNgesi) ngowa 25 Matshi 2014 kwanokuba uSomlomo, uThembekile Richard Majola, ngowe 6 Meyi 2014 umise, owama 21 Meyi 2014 ukuba ibe ngumhla wokuwuphumeza lo Mgaqo.

UMgaqo wokuziPhatha waMalungu ePalamente yePhondo leNtshona Koloni.

PROVINCE OF THE WESTERN CAPE

**CODE OF CONDUCT FOR MEMBERS OF THE
WESTERN CAPE PROVINCIAL PARLIAMENT**

(As agreed to by the House on 25 March 2014)

PART I**Preamble**

WHEREAS the Constitution of the Republic of South Africa requires that all levels of government promote accountability, responsibility and openness;

and whereas the Constitution of the Western Cape affirms that the Western Cape Province is founded on responsible and accountable government and that government must aim to promote a work ethic;

WE, the Members of the Western Cape Provincial Parliament

- (a) recognizing that we are accountable to the electorate and have a duty to instil and maintain public trust in democratic institutions;
- (b) affirming that Members of the Provincial Parliament have an obligation to perform their duties conscientiously, with honour and dignity; to be true and faithful public representatives, having due regard for the common good;

THEREFORE agree to abide, individually and collectively, by the principles, rules and obligations set out in this Code of Conduct.

1. Definitions

In this Code, unless the context indicates otherwise —

“**Act**” means the Members of the Western Cape Provincial Parliament Code of Conduct Act, 2002 (Act 3 of 2002);

“**Appeals Committee**” means the Committee established under paragraph 30;

“**Code**” means the Code of Conduct for Members of the Western Cape Provincial Parliament.

“**Committee**” means a committee established under the Standing Rules of the Western Cape Provincial Parliament;

“**Conduct Committee**” means the Committee established under the Standing Rules of the Western Cape Provincial Parliament;

“**Constitution**” means the Constitution of the Republic of South Africa, 1996;

“**corporate entity**” includes any public or private company, close corporation and any trust, other than a charitable trust, but does not include a charitable organisation or an association not for gain (section 21 company);

“**designated staff**” and “**staff assigned to the Conduct Committee**” means staff identified to assist the Registrar and the Conduct Committee with administrative and logistical support;

“**family member**” in relation to a Member, means a Member’s spouse, dependent child or permanent companion;

“**Member**” means a Member of the Western Cape Provincial Parliament,

“**parliamentary forum**” means any legislative forum, outside the Provincial Parliament, in which Members participate;

“**permanent companion**” in relation to a Member, means a person who is cohabiting with the Member and is publicly acknowledged by the Member as that Member’s permanent companion;

“**provincial Constitution**” means the Constitution of the Western Cape, 1997;

“**Provincial Parliament**” means the Western Cape Provincial Parliament;

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

“**Register**” means the Register of Members’ Interests opened under paragraph 10;

“**Registrar**” means the Registrar of Members’ Interests appointed in terms of the Act;

“**registrable interest**” means financial interests listed in paragraph 12, and in relation to a Member, includes the financial interests of that Member’s spouse, dependent child and/or permanent companion;

“**remuneration**” means receipt of benefits in cash or in kind;

“**Secretary**” means the Secretary to the Provincial Parliament; and

“**Speaker**” means the Speaker of the Provincial Parliament.

PART II — PRINCIPLES AND GENERAL OBLIGATIONS

2. Principles

A Member shall adhere to the following principles:

- (1) **Loyalty to the Western Cape Province and South Africa**
 - (a) A Member shall be loyal to the Western Cape Province, to South Africa and its people.
 - (b) A Member will uphold the provincial and national Constitutions and all other laws of the province and of the country.
- (2) **Primacy of the public interest**
 - (a) A Member shall take decisions only in the interest of the public.
 - (b) A Member shall avoid conflicts of interest between personal interest and public duty.
- (3) **Integrity**

A Member shall ensure at all times that the dignity, credibility and integrity of the Provincial Parliament is maintained.
- (4) **Accountability**

A Member —

 - (a) is accountable to the public for his or her decisions and actions and shall submit himself or herself to whatever scrutiny is appropriate to his or her office;
 - (b) shall exercise due diligence in the performance of his or her official duties;
 - (c) shall apply public resources efficiently and effectively and only for the purpose for which they are intended; and
 - (d) shall avoid improper use of any payment or allowances made to a Member for public purposes, and observe strictly the administrative rules that apply to these payments.
- (5) **Openness and honesty**

A Member shall —

 - (a) exercise his or her public duties in an open and transparent manner, and
 - (b) act honestly and maintain the trust that the public places in him or her.
- (6) **Act in good faith and meet obligations**

A member shall —

 - (a) at all times act in good faith and in the interest of good governance; and
 - (b) meet all obligations imposed on him or her by law.

3. General obligations

A Member shall, at all times, in the exercise of his or her duties adhere to the principles set out in paragraph 2 of the Code and shall —

- (1) conduct himself or herself with dignity and integrity appropriate to his or her office;
- (2) not place himself or herself under financial or other obligations to outside individuals or organisations that might improperly influence the performance of his or her duties;
- (3) ensure that his or her personal conduct is consistent with the dignity and integrity of the Provincial Parliament;
- (4) make choices on merit in carrying out public business, including making public appointments, awarding contracts, or recommending individuals for reward or benefit;
- (5) subject himself or herself to any form of lawful scrutiny appropriate to his or her office as a Member;

- (6) declare any private interest relating to his or her official duties;
- (7) declare in the Register of Members' Interests all registrable interests as required; and
- (8) take steps to resolve any conflict of interest that may arise in a manner that protects the public interest, as opposed to his or her private interests, as well as the Provincial Parliament's dignity, credibility and integrity.

PART III — CONDUCT

4. Declaration of interests in a matter before a committee, parliamentary forum or proceedings of the Provincial Parliament

A Member shall —

- (1) declare any personal or private financial or business interest that he or she, his or her family member or business partner may have, in a matter before a committee, proceedings of the Provincial Parliament or parliamentary forum in which that Member participates and/or serves; and
- (2) withdraw from the proceedings of that Committee, parliamentary forum or proceedings of the Provincial Parliament when that matter is considered, unless that Committee, parliamentary forum or the Provincial Parliament decides that the Member's interest is immaterial.

5. Declaration of private interests when making representations

If a Member makes representations, either formally or informally, in his or her capacity as a public representative, to a member of the Executive or any other organ of state with regard to a matter in which that Member, his or her family member or business partner has a personal, private financial interest or business interest, that Member must declare that interest before such representations are made to that member of the Executive or organ of state.

6. Lobbying for reward

No Member shall lobby for reward in cash or kind.

7. Remunerated employment outside the Provincial Parliament

A Member may only engage in remunerated employment outside the Provincial Parliament when such employment is—

- (1) sanctioned by the political party to which the Member belongs; and
- (2) compatible with that Member's functions as a public representative.

8. Improper exercise of influence

A Member shall not utilise the influence he or she derives from public office to improperly give advantage to private entities or persons in their dealings with the government, where this will result in pecuniary gain for such entities or persons.

9. Refrain from using "insider" information

A Member shall not use confidential government information or information obtained in the course of exercising a public duty to advance a private interest.

PART IV — DISCLOSURE OF REGISTRABLE INTERESTS

10. Establishment of Register of Members' Interests

- (1) The Registrar must open and keep a register for the purposes of the Code, called the Register of Members' Interests.
- (2) The Register must —
 - (a) be divided into a public section and a confidential section;
 - (b) contain the information regarding Members' registrable interests as set out in paragraph 10(3) read with paragraph 12; and

- (c) be in a format approved by the Conduct Committee.
- (3) The Registrar must record all details of the following registrable interests in the confidential section of the Register:
 - (a) the value of financial interests in a corporate entity;
 - (b) the amount of any remuneration for any employment outside the Provincial Parliament;
 - (c) the amount of any remuneration for any directorship or partnership;
 - (d) details, including the address, of any private residence;
 - (e) the value of any pension;
 - (f) details of all financial interests of a Member's family member; and
 - (g) a Member's liabilities.
- (4) Where any doubts exist as to whether any particular financial interest must be disclosed, the Member concerned must consult the Registrar.
- (5) Notwithstanding subparagraph (3), the Conduct Committee may on good cause shown, instruct the Registrar to record any details of any of a Member's registrable interests in the confidential part of the Register.

11. Disclosure of registrable interests

- (1) A Member must disclose to the Registrar, on the form prescribed for this purpose by the Conduct Committee, particulars of all his or her registrable interests.
- (2) Disclosure of registrable interests shall be within 60 days after the first sitting of a parliamentary term or appointment of a Member.
- (3) Thereafter Members must disclose particulars of their registrable interests on or before 30 April of each year.
- (4) If a Member has no registrable interests he or she must indicate this on the form referred to in (1) above.

12. Nature and details of registrable interests to be disclosed

A Member must disclose the following registrable interests, held in and outside South Africa, and details of:

- (1) **Shareholding and financial interests in corporate entities**
 - (a) The number, nature and nominal value of shares of any type in any public or private company;
 - (b) the name of that company; and
 - (c) the nature and value of any other financial interests held in any company or any other corporate entity.
- (2) **Ownership and any other interest in land or property in or outside South Africa**
 - (a) A description of and the extent of the land or property;
 - (b) the area in which the land or property is situated; and
 - (c) the nature and value of the interest in the land or property.
- (3) **Pensions**
 - (a) The source of any pension; and
 - (b) the value of the pension.
- (4) **Remunerated employment outside the Provincial Parliament**
 - (a) The type of employment;
 - (b) the name and type of business activity of the employer; and
 - (c) the amount of remuneration received for such employment.
- (5) **Consultancies**
 - (a) The nature of the consultancy or any retainership of any kind;
 - (b) the name and type of business activity of the client concerned; and
 - (c) the amount of any remuneration or other benefits received for such a consultancy or retainership.
- (6) **Directorship and partnerships**
 - (a) The name and type of business activity of the corporate entity or partnership; and
 - (b) the amount of any remuneration received for such directorship or partnership.

- (7) **Sponsorships**
- (a) The source and description of direct financial sponsorship or assistance from any source other than the Member's party which benefits the Member in his or her personal and private capacity; and
- (b) the amount or value of the sponsorship or assistance.
- (8) **Gifts and hospitality received by a Member from a source other than a family member**
- A description, including the value and source of
- (a) any gift with a value in excess of R1500;
- (b) gifts received from a single source which cumulatively exceed the value of R1500 in any calendar year;
- (c) hospitality intended as a personal gift and with a value of more than R1500; and
- (d) hospitality intended as a gift and received from a single source, and which cumulatively exceeds the value of R1500 in any calendar year.
- (9) **Foreign travel** (other than personal visits paid for by the Member, business visits unrelated to the Member's role as a public representative and official and formal visits paid for by the state or the Member's party)
- (a) A brief description of the journey abroad; and
- (b) particulars of the sponsor.
- (10) **Any other benefit of material nature**
- (a) The nature and source of any other benefit of a material nature; and
- (b) the value of that benefit.

13. Disclosure of and access to Register of Members' Interests

- (1) Any person has access to the public part of the Register on parliamentary working days and at times prescribed by the Registrar.
- (2) Only the Conduct Committee, the Public Protector, the Registrar and his or her designated staff shall have access to the confidential part of the Register.
- (3) No person who has access to the confidential part of the Register may, except when a court so orders, disclose particulars of any entry in that part to anyone other than the Member concerned or another person who has such access.
- (4) A member of the Conduct Committee who contravenes paragraph 13(3) is in breach of the Code and shall:
- (a) be ineligible to continue as a member of the Conduct Committee; and
- (b) be liable to reduction of up to 30 days' salary.
- (5) The Registrar or a staff member who contravenes paragraph 13(3) is subject to disciplinary action applicable to parliamentary staff, including dismissal.

PART V — CONDUCT COMMITTEE

14. Powers and functions

- (1) The Conduct Committee established in terms of the Standing Rules of the Western Cape Provincial Parliament is charged with carrying out the functions required from it under the Code.
- (2) The Conduct Committee shall:
- (a) implement the Code of Conduct;
- (b) develop standards of conduct;
- (c) regularly review the Code and make recommendations for its amendment;
- (d) perform other functions and exercise other powers reasonably assigned to the Committee by the Code and in terms of resolutions adopted; and
- (e) report to the House at least annually on its operations and the effectiveness of the Code.

15. Meetings

- (1) All meetings of the Conduct Committee are open, unless the Committee determines otherwise.
- (2) When the Conduct Committee regards a matter as being confidential all reports and minutes related to the relevant matter of the Conduct Committee are to be kept confidential.

- (3) Material identified by the Conduct Committee as confidential shall be distributed to Conduct Committee members and stored confidentially.

16. Quorum

The Standing Rules applicable to quorums apply *mutatis mutandis* to Conduct Committee meetings.

17. Decisions

The Standing Rules applicable to decisions by a committee apply *mutatis mutandis* to decisions taken by the Conduct Committee.

18. Recusal by Member

Should any Member of the Conduct Committee be the subject of a conduct investigation, that Member should recuse himself or herself from the committee's deliberations on that investigation.

19. Confidentiality and affirmation of Members of Conduct Committee, Registrar and staff assigned to the Conduct Committee

- (1) Each Member of the Conduct Committee must swear or affirm before the Speaker to honour the requirements of confidentiality.
- (2) The Registrar appointed in terms of the Code and each member of staff assigned to work for the Conduct Committee must swear or affirm, before the Speaker to honour the requirements of confidentiality.

PART VI — REGISTRAR OF MEMBERS' INTERESTS

20. Appointment of Registrar

- (1) **Appointment**
 - (a) The Registrar shall be appointed in terms of section 3 of the Members of the Western Cape Provincial Parliament Code of Conduct Act, 2002 (Act 3 of 2002).
 - (b) The Registrar shall be assisted by such staff, assigned by the Secretary, for the work of the Conduct Committee.
 - (c) The Speaker may determine the additional remuneration and conditions of service, if any, of the Registrar.
- (2) **Functions of Registrar**

The Registrar shall —

 - (a) open and keep a register for the purposes of this Code, called the Register of Members' Interests;
 - (b) record in the Register particulars of Members' registrable interests;
 - (c) amend any entries in the Register when necessary;
 - (d) perform the other duties in connection with the implementation of this Code as required by the Conduct Committee;
 - (e) perform the functions of office in accordance with the directions of the Conduct Committee; and
 - (f) act impartially.
- (3) **Advice and counsel to Members**
 - (a) A Member may approach the Registrar to obtain personal advice and counsel, if he or she suspects that he or she may have committed a violation.
 - (b) All sessions of advice and counsel between the Registrar and the Member shall be confidential.
 - (c) Should the Registrar, during the advice and counseling session, realize that there is a possible violation of the Code, the Registrar shall inform the Member, that he or she is obliged to report this to the Conduct Committee and the Registrar shall inform the Conduct Committee thereof within a reasonable time.

- (d) The Registrar shall report to the Conduct Committee the number of times he or she has had advice and counseling sessions over a given period of time without disclosing the identity of the Member involved.

PART VII — BREACH OF CODE

21. Breach of Code by a Member

A Member breaches this Code if the Member —

- (1) contravenes or fails to comply with a provision of this Code; or
- (2) willfully provides the Registrar with incorrect or misleading details, when disclosing registrable interests.

PART VIII — COMPLAINTS PROCEDURE

22. Submission of complaint

- (1) Any person or body who reasonably believes that a Member of the Provincial Parliament has breached this Code may lodge a complaint by submitting an affidavit setting out the grounds for the complaint with the Registrar.
- (2) The complaint shall contain the following information —
 - (a) the name and address of the complainant;
 - (b) full particulars of the alleged conduct of the Member; and
 - (c) such other information as may be required by the Registrar.
- (3) The Registrar shall assist any person wishing to report a breach and who requires assistance to do so.
- (4) The Registrar shall register all complaints received.

23. Investigation and report by the Registrar

- (1) The Registrar shall commence an investigation into the matter, in accordance with the procedure set out in Part IX, after registration of the complaint.
- (2) The Member implicated in the alleged breach shall make himself or herself accessible to the Registrar for the purpose of the investigation.
- (3) The Registrar shall have the power to request documentation from a Member, an official of the government, provincial organ of state or a member of the public in order to further his or her investigation.
- (4) The Registrar shall, within 30 days of receiving the complaint, produce a report on his or her findings, detailing both the merits and demerits of the case brought forth once the investigation has been finalized. The report will include detailed recommendations for action on the matter and shall be submitted to the Conduct Committee for consideration.

PART IX—PROCEDURE FOR INVESTIGATION OF COMPLAINTS

24. General

This procedure is based on and is intended to be guided by, the principles of *audi alteram partem*, promptness, fairness and consistency.

25. Procedures

- (1) The Registrar shall within seven days of receiving a complaint inform the Member concerned of the substance of the complaint.
- (2) The Member shall respond to the Registrar within fourteen days of being informed of the complaint.
- (3) The Registrar shall consider the Member's response or if the Member does not respond, the Registrar may begin a preliminary investigation to determine the facts. The Member shall be notified in writing within three days in this regard.
- (4) The Registrar may decide to take no further action if he/she regards the complaint as frivolous, vexatious or unfounded. A decision of the Registrar in this regard shall be confirmed by the Conduct Committee.
- (5) If urgency demands, the Registrar in consultation with the Chairperson of the Conduct Committee may call a special meeting of the Conduct Committee.

- (6) The Registrar shall provide the Conduct Committee a summary of the preliminary investigation and a proposed procedure for further investigation, including an assessment on the need for a hearing.
- (7) The Conduct Committee shall consider the report provided by the Registrar and may call for further evidence from any other person relevant to the case.
- (8) The Conduct Committee may
 - (a) accept the Registrar's report;
 - (b) reject the Registrar's report and refer it back to the Registrar with further instructions and clear timelines to resubmit the report;
 - (c) reject the Registrar's report; or
 - (d) it may call for further evidence.
- (9) The Conduct Committee must agree to the procedure for further investigation.

26. Hearings

- (1) Hearings must be held when the facts are in dispute. The Conduct Committee may decide to call a hearing if the investigation of the Registrar is inconclusive or if the Registrar is unable to make a recommendation or if the Conduct Committee decides that a hearing should be held.
- (2) The hearing will be on an inquisitorial basis and witnesses may be called.
- (3) The Member, the complainant and any prospective witnesses shall be given a minimum of 10 days' written notice of the date of the hearing.
- (4) In each case the Conduct Committee has the discretion regarding the weight to be attached to different forms of evidence and the extent of cross examination of witnesses.
- (5) The Member shall be notified of his/her right to be represented by another Member, to call material witnesses and have an interpreter present.
- (6) The Conduct Committee presides at the hearing.
- (7) The Registrar presents the evidence to the Conduct Committee.
- (8) The Registrar may call witnesses.
- (9) The proceedings must be recorded.
- (10) The Conduct Committee will decide in each circumstance on issues related to costs for witnesses and complainants.
- (11) The Conduct Committee shall make a full and considered finding supported by reasons on the validity of any complaint at the conclusion of its investigations, which it must make public, together with any sanction imposed, and must also supply an adequate summary of the facts.
- (12) The findings of the Conduct Committee must be reported to the House within seven days of a hearing being concluded or, if the House is in recess, within seven days of the date on which it resumes business.
- (13) In conducting hearings, the Conduct Committee may adopt any procedures it deems reasonable, just and fair.

27. Reacting to media reports

- (1) The Registrar on his or her own, subject to the approval of the Conduct Committee, may initiate a preliminary investigation to assess the validity of allegations made in media reports.
- (2) The Member named in the media shall be informed immediately of the allegations and of the preliminary investigation being conducted.
- (3) Should the situation warrant it, the Conduct Committee may authorize a full investigation. If a full investigation is carried out the procedure to be followed is that which is detailed in the Code.

28. Findings of Conduct Committee

- (1) At the conclusion of its investigation, the Conduct Committee shall make a finding, supported by reasons, on the alleged breach of the Code.
- (2) The finding and the reasons for the finding must be announced in the "*Announcements, Tablings and Committee Reports*".
- (3) If the hearing was in closed session (*in camera*) a summary of the facts must be announced in the "*Announcements, Tablings and Committee Reports*".

29. Right of appeal

A Member found guilty by the Conduct Committee of contravening the Code may appeal to the Appeals Committee.

30. Appeals Committee

- (1) The Appeals Committee is hereby established and shall consist of the following:
 - (a) Speaker (Chairperson);
 - (b) Deputy Speaker;
 - (c) Chief Whip(s) of the governing party or an alternate Member; and
 - (d) one member per party not otherwise represented.
- (2) No Member serving on the Conduct Committee may serve on the Appeals Committee.

31. Appeals procedure

- (1) The affected Member who is aggrieved by a decision made by the Conduct Committee, may, within 14 days after the submission of the Conduct Committee's report, give notice of leave to appeal to the Appeals Committee.
- (2) The affected Member shall, within 30 days thereafter, submit a written submission for an appeal to the Speaker stipulating the basis and reasons for an appeal.
- (3) In hearing evidence, the Appeals Committee may within 30 days of receiving the written submission for an appeal, request the Registrar and the appellant to give evidence, after providing a minimum of 10 days' written notice to the Registrar and the appellant.
- (4) The provisions of paragraphs 15,16,17,18 and 19 with the necessary changes apply to Appeals Committee proceedings.
- (5) The Appeals Committee shall not later than 30 days after the close of the hearing mentioned in paragraph 31(3) either affirm, amend or reverse the decision of the Conduct Committee.
- (6) The decision of the Appeals Committee must be embodied in a report and shall be announced in the "Announcements, Tabling and Committee Reports".

32. Penalties

The Conduct Committee must recommend the imposition of one or more of the following penalties where it has found that a Member has breached a provision of the Code —

- (1) a reprimand;
- (2) a fine not exceeding the value of 30 days' salary; or
- (3) the suspension of privileges or a Member's right to a seat in parliamentary debates or committees for a period not exceeding 15 days.

33. Conduct Committee and/or Appeals Committee to report to House

- (1) The Conduct Committee or the Appeals Committee, as the case may be, shall report its findings and recommendations as to penalties, if any, to the House.
- (2) If the Conduct Committee and/or Appeals Committee recommends a penalty, the House shall either —
 - (a) accept or reject the recommendation; or
 - (b) refer the matter back to the Committee for further consideration.
- (3) If the House accepts the Conduct Committee and/or Appeals Committee's recommendation, the Speaker shall act on such decision without undue delay.

34. Access to information

A Member or members of the public shall gain access to information on matters already decided upon by the Conduct Committee or as prescribed by the Constitution, the Promotion of Access to Information Act (Act 2 of 2000), or as otherwise provided by any other law.

35. General

- (1) The Code may be amended or replaced, and the amounts specified in the Code adjusted, from time to time by publication in the *Announcements, Tablings and Committee Reports*.
- (2) The Code is called the Code of Conduct for Members of the Western Cape Provincial Parliament, 2014 and comes into effect on the date determined by promulgation in the *Provincial Gazette*.

PROVINSIE WES-KAAP

GEDRAGSKODE VIR LEDE VAN
DIE WES-KAAPSE PROVINSIALE PARLEMENT

(Soos deur die Huis op 25 Maart 2014 goedgekeur)

DEEL I

Aanhef

AANGESIEN die Grondwet van die Republiek van Suid-Afrika vereis dat alle regeringsvlakke aanspreeklikheid, verantwoordelikheid en deursigtigheid bevorder;

en aangesien die Grondwet van die Wes-Kaap bepaal dat die Provinsie van die Wes-Kaap op verantwoordelike en verantwoordbare regering gegrond is en dat die regering moet poog om 'n werketiek te bevorder;

ONS, die Lede van die Wes-Kaapse Provinsiale Parlement

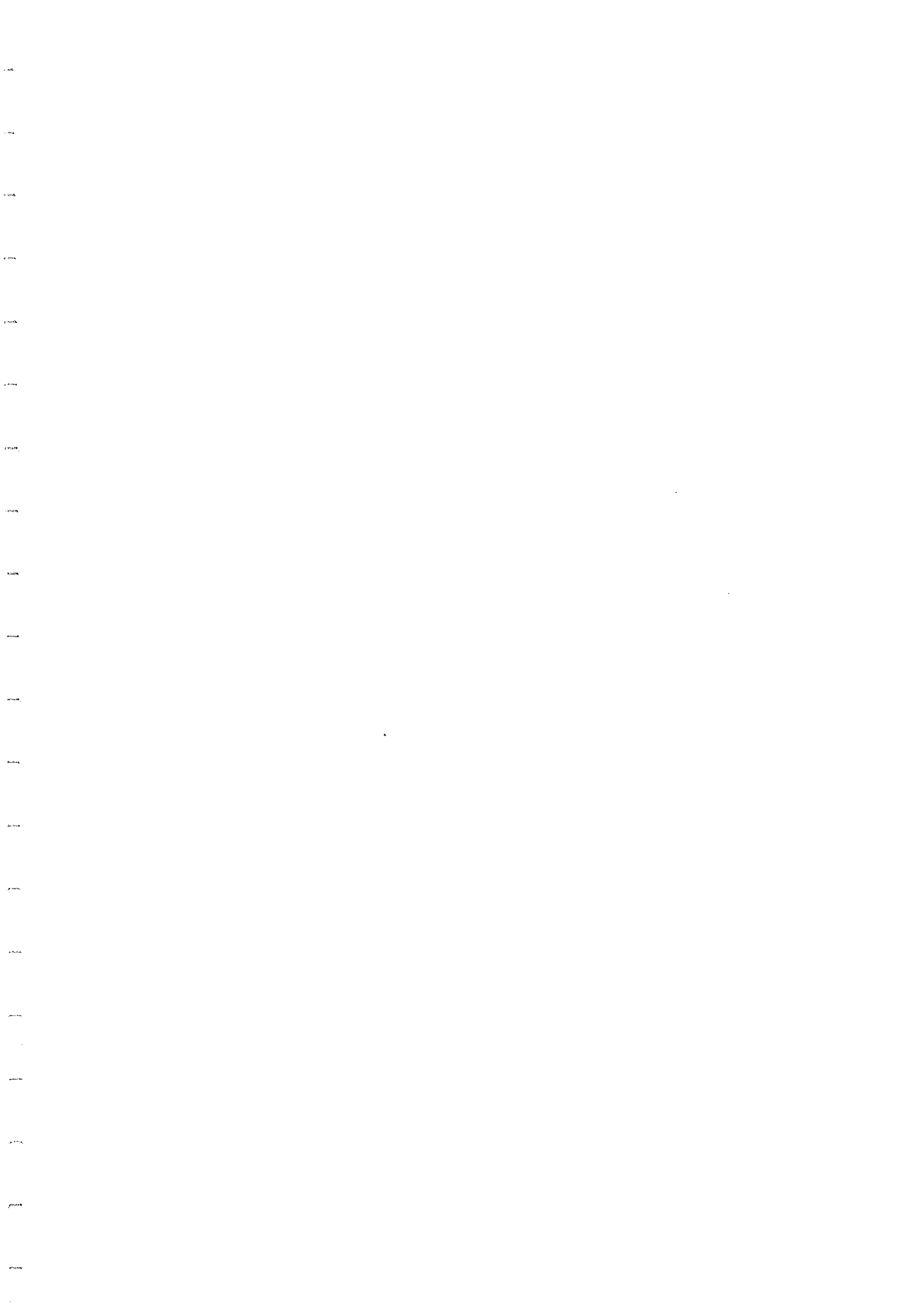
- (a) aanvaar dat ons aanspreeklik is teenoor die kieserskorps en 'n verpligting het om openbare vertroue in demokratiese instellings te vestig en te handhaaf;
- (b) bevestig dat Lede van die Provinsiale Parlement 'n verpligting het om hul pligte nougeset, eerbiedig en waardig na te kom; om opregte en getroue openbare verteenwoordigers te wees, met behoorlike inagneming van die openbare belang;

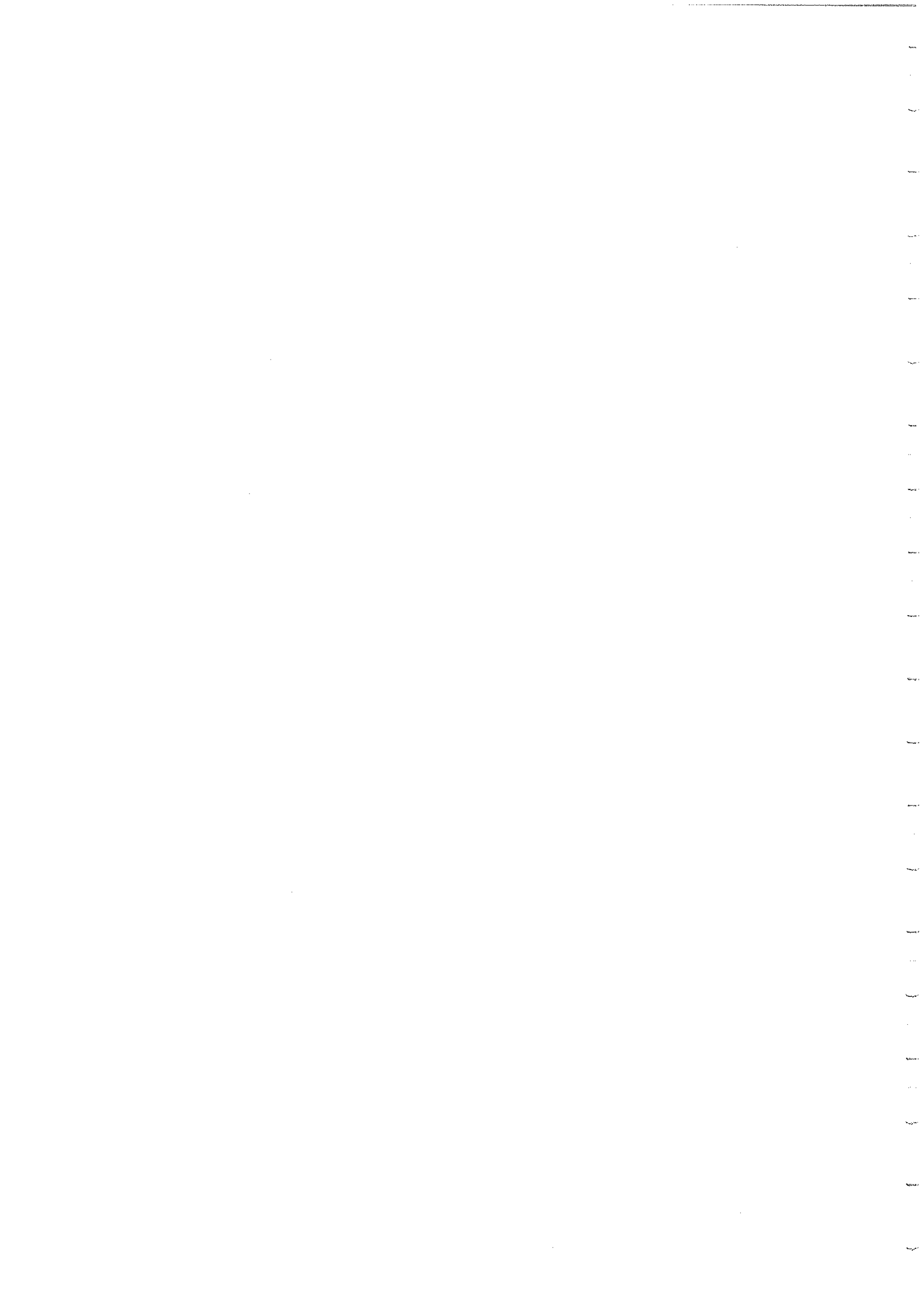
DERHALWE instem om, individueel en gesamentlik, by die beginsels, reëls en verpligtinge, soos in dié Gedragskode uiteengesit, neer te lê.

1. Woordomsrywings

In hierdie Kode, tensy uit die samehang anders blyk, beteken —

- “**Aangewese personeel**” en “**personeel toegewys aan die Gedragskomitee**” beteken personeel geïdentifiseer om die Registrateur en die Gedragskomitee met administratiewe en logistieke steun te help;
- “**Appèlkomitee**” die Komitee ingestel ingevolge paragraaf 30;
- “**besoldiging**” die ontvang van byvoordele in kontant of in ruil;
- “**familielid**” met betrekking tot 'n Lid, 'n Lid se gade, afhanklike kind of permanente metgesel;
- “**Gedragskomitee**” die Komitee ingestel ingevolge die Reglement van die Wes-Kaapse Provinsiale Parlement;
- “**Grondwet**” beteken die Grondwet van die Republiek van Suid-Afrika, 1996;
- “**Kode**” die Gedragskode vir Lede van die Wes-Kaapse Provinsiale Parlement;
- “**Komitee**” 'n staande komitee ingestel ingevolge die Reglement van die Wes-Kaapse Provinsiale Parlement;
- “**korporatiewe entiteit**” ook enige openbare of privaat maatskappy, beslote korporasie en enige trust, anders as 'n liefdadigheidstrust, maar sluit nie 'n liefdadigheidsorganisasie of 'n nie-winsgewende vereniging in nie (artikel-21 maatskappy);
- “**Lid**” 'n Lid van die Wes-Kaapse Provinsiale Parlement, en sluit 'n lid van die Provinsiale Kabinet in;
- “**parlementêre forum**” beteken enige wetgewende forum, buite die Provinsiale Parlement, waaraan Lede deelneem;
- “**Openbare Beskermer**” die Openbare Beskermer soos bedoel in artikel 181 van die Grondwet;
- “**permanente metgesel**” met betrekking tot 'n Lid, 'n persoon wat saam met die Lid woon en algemeen deur die Lid as sy/haar permanente metgesel erken word;
- “**provinsiale Grondwet**” die Grondwet van die Wes-Kaap, 1997;
- “**Provinsiale Parlement**” die Wes-Kaapse Provinsiale Parlement;
- “**Register**” die Register van Lede se Belange geopen ingevolge paragraaf 10;





SCHEDULE 1

CODE OF CONDUCT FOR COUNCILLORS

Preamble

Councillors are elected to represent local communities on municipal councils, to ensure that municipalities have structured mechanisms of accountability to local communities, and to meet the priority needs of communities by providing services equitably, effectively and sustainably within the means of the municipality. In fulfilling this role councillors must be accountable to local communities and report back at least quarterly to constituencies on council matters, including the performance of the municipality in terms of established indicators. In order to ensure that councillors fulfil their obligations to their communities, and support the achievement by the municipality of its objectives set out in section 19 of the Municipal Structures Act, the following Code of Conduct is established.

Definitions

1. In this Schedule 'partner' means a person who permanently lives with another person in a manner as if married.

General conduct of councillors

2. A councillor must—
 (a) perform the functions of office in good faith, honestly and a transparent manner; and
 (b) at all times act in the best interest of the municipality and in such a way that the credibility and integrity of the municipality are not compromised.

Attendance at meetings

3. A councillor must attend each meeting of the municipal council and of a committee of which that councillor is a member, except when—
 (a) leave of absence is granted in terms of an applicable law or as determined by the rules and orders of the council; or
 (b) that councillor is required in terms of this Code to withdraw from the meeting.

Sanctions for non-attendance of meetings

4. (1) A municipal council may impose a fine as determined by the standing rules and orders of the municipal council on a councillor for:
 (a) not attending a meeting which that councillor is required to attend in terms of item 3; or
 (b) failing to remain in attendance at such a meeting.
 (2) A councillor who is absent from three or more consecutive meetings of a municipal council, or from three or more consecutive meetings of a committee, which that councillor is required to attend in terms of item 3, must be removed from office as a councillor.
 (3) Proceedings for the imposition of a fine or the removal of a councillor must be conducted in accordance with a uniform standing procedure which each municipal council must adopt for the purposes of this item. The uniform standing procedure must comply with the rules of natural justice.

Disclosure of interests

5. (1) A councillor must—
 (a) disclose to the municipal council, or to any committee of which that councillor is a member, any direct or indirect personal or private business interest that that councillor, or any spouse, partner or business associate of that councillor may have in any matter before the council or the committee: and

(h) withdraw from the proceedings of the council or committee when that matter is considered by the council or committee, unless the council or committee decides that the councillor's direct or indirect interest in the matter is trivial or irrelevant.

(2) A councillor who, or whose spouse, partner, business associate or close family member, acquired or stands to acquire any direct benefit from a contract concluded with the municipality, must disclose full particulars of the benefit of which the councillor is aware at the first meeting of the municipal council at which it is possible for the councillor to make the disclosure.

(3) This section does not apply to an interest or benefit which a councillor, or a spouse, partner, business associate or close family member, has or acquires in common with other residents of the municipality.

Personal gain

6. (1) A councillor may not use the position or privileges of a councillor, or confidential information obtained as a councillor, for private gain or to improperly benefit another person.

(2) Except with the prior consent of the municipal council, a councillor may not—

(a) be a party to or beneficiary under a contract for—

(i) the provision of goods or services to the municipality; or

(ii) the performance of any work otherwise than as a councillor for the municipality;

(b) obtain a financial interest in any business of the municipality; or

(c) for a fee or other consideration appear on behalf of any other person before the council or a committee.

(3) If more than one quarter of the councillors object to consent being given to a councillor in terms of subitem (2), such consent may only be given to the councillor with the approval of the MEC for local government in the province.

Declaration of interests

7. (1) When elected or appointed, a councillor must within 60 days declare in writing to the municipal manager the following financial interests held by that councillor: 30

(a) shares and securities in any company;

(b) membership of any close corporation;

(c) interest in any trust;

(d) directorships;

(e) partnerships; 35

(f) other financial interests in any business undertaking;

(g) employment and remuneration;

(h) interest in property;

(i) pension; and

(j) subsidies, grants and sponsorships by any organisation. 40

(2) Any change in the nature or detail of the financial interests of a councillor must be declared in writing to the municipal manager annually.

(3) Gifts received by a councillor above a prescribed amount must also be declared in accordance with subitem (1).

(4) The municipal council must determine which of the financial interests referred in subitem (1) must be made public having regard to the need for confidentiality and the public interest for disclosure. 45

Full-time councillors

8. A councillor who is a full-time councillor may not undertake any other paid work, except with the consent of a municipal council which consent shall not unreasonably be withheld. 50

Rewards, gifts and favours

9. A councillor may not request, solicitor accept any reward, gift or favour for—
- (a) voting or not voting in a particular manner on any matter before the municipal council or before a committee of which that councillor is a member;
 - (b) persuading the council or any committee in regard to the exercise of any 5 power, function or duty;
 - (c) making a representation to the council or any committee of the council; or
 - (d) disclosing privileged or confidential information.

Unauthorised disclosure of information

10. (1) A councillor may not without the permission of the municipal council or a 10 committee disclose any privileged or confidential information of the council or committee to any unauthorised person.

(2) For the purpose of this item 'privileged or confidential information' includes any information—

- (a) determined by the municipal council or committee to be privileged or 15 confidential;
- (b) discussed in closed session by the council or committee;
- (c) disclosure of which would violate a person's right to privacy; or
- (d) declared to be privileged, confidential or secret in terms of law.

(3) This item does not derogate from the right of any person to access to information 20 in terms of national legislation.

Intervention in administration

11. A councillor may not, except as provided by law—

- (a) interfere in the management or administration of any department of the 25 municipal council unless mandated by council;
- (b) give or purport to give any instruction to any employee of the council except when authorised to do so;
- (c) obstruct or attempt to obstruct the implementation of any decision of the council or a committee by an employee of the council; or
- (d) encourage or participate in any conduct which would cause or contribute to 30 maladministration in the council.

Council property

12. A councillor may not use, take, acquire or benefit from any property or asset owned, controlled or managed by the municipality to which that council [or has no right.

Duty of chairpersons of municipal councils

13. (1) If the chairperson of a municipal council, on reasonable suspicion, is of the opinion that a provision of this Code has been breached, the chairperson must—

- (a) authorise an investigation of the facts and circumstances of the alleged breach;
- (b) give the councillor a reasonable opportunity to reply in writing regarding the 40 alleged breach; and
- (c) report the matter to a meeting of the municipal council after paragraphs (a) and (b) have been complied with.

(2) A report in terms of subitem (1) (c) is open to the public.

(3) The chairperson must report the outcome of the investigation to the MEC for local 45 government in the province concerned.

(4) The chairperson must ensure that each councillor when taking office is given a copy of this Code and that a copy of the Code is available in every room or place where the council meets.

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Breaches of Code

14. (1) A municipal council may—
- (a) investigate and make a finding on any alleged breach of a provision of this Code; or
 - (b) establish a special committee—
 - (i) to investigate and make a finding on any alleged breach of this Code; and
 - (ii) to make appropriate recommendations to the council.
- (2) If the council or a special committee finds that a councillor has breached a provision of this Code, the council may—
- (a) issue a formal warning to the councillor;
 - (b) reprimand the councillor;
 - (c) request the MEC for local government in the province to suspend the councillor for a period;
 - (d) fine the councillor; and
 - (e) request the MEC to remove the councillor from office.
- (3) (a) Any councillor who has been warned, reprimanded or fined in terms of paragraph (a), (b) or (d) of subitem (2) may within 14 days of having been notified of the decision of council appeal to the MEC for local government in writing setting out the reasons on which the appeal is based.
- (b) A copy of the appeal must be provided to the council.
- (c) The council may within 14 days of receipt of the appeal referred to in paragraph (b) make any representation pertaining to the appeal to the MEC for local government in writing.
- (d) The MEC for local government may, after having considered the appeal, confirm, set aside or vary the decision of the council and inform the councillor and the council of the outcome of the appeal.
- (4) The MEC for local government may appoint a person or a committee to investigate any alleged breach of a provision of this Code and to make a recommendation on whether the councillor should be suspended or removed from office.
- (5) The Commissions Act, 1947 (Act 8 of 1947), may be applied to an investigation in terms of subitem (3).
- (6) If the MEC is of the opinion that the councillor has breached a provision of this Code, and that such contravention warrants a suspension or removal from office, the MEC may—
- (a) suspend the councillor for a period and on conditions determined by the MEC;
 - or
 - (b) remove the councillor from office.
- (7) Any investigation in terms of this item must be in accordance with the rules of natural justice.

Application of Code to traditional leaders

15. (1) Items 1, 2, 5, 6, 9(b) to (d), 10, 11, 12, 13 and 14(1) apply to a traditional leader who participates or has participated in the proceedings of a municipal council in terms of section 81 of the Municipal Structures Act.
- (2) These items must be applied to the traditional leader in the same way they apply to councillors.
- (3) If a municipal council or a special committee in terms of item 14(1) finds that a traditional leader has breached a provision of this Code, the council may—
- (a) issue a formal warning to the traditional leader; or
 - (b) request the MEC for local government in the province to suspend or cancel the traditional leader's right to participate in the proceedings of the council.
- (4) The MEC for local government may appoint a person or a committee to investigate any alleged breach of a provision of this Code and to make a recommendation on whether the right of the traditional leader to participate in the proceedings of the municipal council should be suspended or cancelled.
- (5) The Commissions Act, 1947, may be applied to an investigation in terms of subitem (4).
- (6) If the MEC is of the opinion that the traditional leader has breached a provision of

this Code, and that such breach warrants a suspension or cancellation of the traditional leader's right to participate in the council's proceedings, the MEC may—

- (a) suspend that right for a period and on conditions determined by the MEC; or
- (b) cancel that right.

(7) Any investigation in terms of this item must be in accordance with the rules of natural justice. 5

(8) The suspension or cancellation of a traditional leader's right to participate in the proceedings of a council does not affect that traditional leader's right to address the council in terms of section 81 (3) of the Municipal Structures Act.

SCHEDULE 2 10

CODE OF CONDUCT FOR MUNICIPAL STAFF MEMBERS

Definitions

1. In this Schedule "partner" means a person who permanently lives with another person in a manner as if married.

General conduct 15

2. A staff member of a municipality must at all times—
- (a) loyally execute the lawful policies of the municipal council;
 - (b) perform the functions of office in good faith, diligently, honestly and in a transparent manner;
 - (c) act in such a way that the spirit, purport and objects of section 50 are promoted; 20
 - (d) act in the best interest of the municipality and in such a way that the credibility and integrity of the municipality are not compromised; and
 - (e) act impartially and treat all people, including other staff members, equally without favour or prejudice. 25

Commitment to serving the public interest

3. A staff member of a municipality is a public servant in a developmental local system, and must accordingly—
- (a) implement the provisions of section 50(2);
 - (b) foster a culture of commitment to serving the public and a collective sense of responsibility for performance in terms of standards and targets; 30
 - (c) promote and seek to implement the basic values and principles of public administration described in section 195 (1) of the Constitution;
 - (d) obtain copies of or information about the municipality's integrated development plan, and as far as possible within the ambit of the staff member's job description, seek to implement the objectives set out in the integrated development plan, and achieve the performance targets set for each performance indicator; 35
 - (e) participate in the overall performance management system for the municipality, as well as the staff member's individual performance appraisal and reward system, if such exists, in order to maximise the ability of the municipality as a whole to achieve its objectives and improve the quality of life of its residents. 40

Personal gain

4. (1) A staff member of a municipality may not— 45
- (a) use the position or privileges of a staff member, or confidential information obtained as a staff member, for private gain or to improperly benefit another person; or
 - (b) take a decision on behalf of the municipality concerning a matter in which that staff member, or that staff member's spouse, partner or business associate, has a direct or indirect personal or private business interest. 50

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- (2) Except with the prior consent of the council of a municipality a staff member of the municipality may not—
- (a) be a party to a contract for—
 - (i) the provision of goods or services to the municipality; or
 - (ii) the performance of any work for the municipality otherwise than as a staff member;
 - (b) obtain a financial interest in any business of the municipality; or
 - (c) be engaged in any business, trade or profession other than the work of the municipality.

Disclosure of benefits 10

5. (1) A staff member of a municipality who, or whose spouse, partner, business associate or close family member, acquired or stands to acquire any direct benefit from a contract concluded with the municipality, must disclose in writing full particulars of the benefit to the council.

(2) This item does not apply to a benefit which a staff member, or a spouse, partner, business associate or close family member, has or acquires in common with all other residents of the municipality. 15

Unauthorised disclosure of information

6. (1) A staff member of a municipality may not without permission disclose any privileged or confidential information obtained as a staff member of the municipality to an unauthorised person. 20

(2) For the purpose of this item "privileged or confidential information" includes any information—

- (a) determined by the municipal council or any structure or functionary of the municipality to be privileged or confidential; 25
- (b) discussed in closed session by the council or a committee of the council;
- (c) disclosure of which would violate a person's right to privacy; or
- (d) declared to be privileged, confidential or secret in terms of any law.

(3) This item does not derogate from a person's right of access to information in terms of national legislation. 30

Undue influence

7. A staff member of a municipality may not—

- (a) unduly influence or attempt to influence the council of the municipality, or a structure or functionary of the council, or a council or, with a view to obtaining any appointment, promotion, privilege, advantage or benefit, or for a family member, friend or associate; 35
- (b) mislead or attempt to mislead the council, or a structure or functionary of the council, in its consideration of any matter; or
- (c) be involved in a business venture with a councillor without the prior written consent of the council of the municipality. 40

Rewards, gifts and favours

8. (1) A staff member of a municipality may not request, solicit or accept any reward, gift or favour for—

- (a) persuading the council of the municipality, or any structure or functionary of the council, with regard to the exercise of any power or the performance of any duty; 45
- (b) making a representation to the council, or any structure or functionary of the council;
- (c) disclosing any privileged or confidential information; or
- (d) doing or not doing anything within that staff member's powers or duties. 50

(2) A staff member must without delay report to a superior official or to the speaker of the council any offer which, if accepted by the staff member, would constitute a breach of subitem (1).

Council property

9. A staff member of a municipality may not use, take, acquire, or benefit from any property or asset owned, controlled or managed by the municipality to which that staff member has no right.

Payment of arrears

10. A staff member of a municipality may not be in arrears to the municipality for rates and service charges for a period longer than 3 months, and a municipality may deduct any outstanding amounts from a staff member's salary after this period.

Participation in elections

11. A staff member of a municipality may not participate in an election of the council of the municipality, other than in an official capacity or pursuant to any constitutional right. 10

Sexual harassment

12. A staff member of a municipality may not embark on any action amounting to sexual harassment. 15

Reporting duty of staff members

13. Whenever a staff member of a municipality has reasonable grounds for believing that there has been a breach of this Code, the staff member must without delay report the matter to a superior officer or to the speaker of the council.

Breaches of Code 20

14. Breaches of this Code must be dealt with in terms of the disciplinary procedures of the municipality envisaged in section 67(1)(h) of this Act.

SCHEDULE 3

LEGISLATION AMENDED

1. Sections 31 and 32 of, and Schedule 5 to, the Municipal Structures Act are hereby repealed. 25

2. Section 27 of the Municipal Structures Act is hereby amended by the substitution for paragraph (d) of the following paragraph:
“(d) contravenes a provision of the Code of Conduct for Councillors set out in Schedule [5] 1 of the Local Government: Municipal Systems Act, 2000, and is removed from office in terms of the Code.”. 30

3. Section 81 of the Municipal Structures Act is hereby amended by the substitution for subsection (5) of the following subsection:
“(5) When participating in the proceedings of a municipal council a traditional leader is subject to the appropriate provisions of the Code of Conduct set out in Schedule [5] 1 of the Local Government: Municipal Systems Act, 2000.”. 35

4. Section 82 of the Municipal Structures Act is hereby amended by the addition of the following subsection, the existing section becoming subsection (1):
“(2) A person appointed as municipal manager must have the relevant skills and expertise to perform the duties associated with that post.”. -10

5. Schedule 4 of the Public Finance Management Act, 1999 (Act No. 1 of 1999), is hereby amended by the addition of the following item:

“2. Fines and estreated bails paid in respect of offences and alleged offences in terms of—

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- (a) by-laws enacted by municipalities; or
- (b) national or provincial legislation, the administration of which is assigned to municipalities.”.