

PROVINCE OF WESTERN CAPE

**WESTERN CAPE
EXCHEQUER LAW
REPEAL BILL**

(As introduced)

(MINISTER OF FINANCE, ECONOMIC DEVELOPMENT AND TOURISM)

[B 4—2005]

PROVINSIE WES-KAAP

**WES-KAAPSE
SKATKISWET HERROEPINGS
WETSONTWERP**

(Soos ingedien)

(MINISTER VAN FINANSIES, EKONOMIESE ONTWIKKELING EN TOERISME)

[W 4—2005]

BILL

To repeal the Western Cape Exchequer Law, 1994, and to provide for matters incidental thereto.

PREAMBLE

WHEREAS the Provincial Parliament of the Western Cape enacted the Western Cape Exchequer Law, 1994 while the Interim Constitution applied;

AND WHEREAS section 216 of the Constitution of the Republic of South Africa, 1996 requires national legislation prescribing measures to ensure both transparency and expenditure control in each sphere of government;

AND WHEREAS Parliament has enacted the Public Finance Management Act, 1999 prescribing the measures referred to above applicable to the national and provincial spheres of government thus rendering the Western Cape Exchequer Law, 1994 redundant;

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

Repeal of Law 4 of 1994

1. The Western Cape Exchequer Law, 1994 is repealed.

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Short title

2. This Act is the Western Cape Exchequer Law Repeal Act, 2005.

EXPLANATORY MEMORANDUM ON THE PROPOSED REPEAL OF THE WESTERN CAPE EXCHEQUER LAW, 1994 (LAW 4 OF 1994)

1. Proposed repeal of the Law

1.1 The Public Finance Management Act, 1999 (Act 1 of 1999) (PFMA) came into effect on 1 April 2000. The PFMA gives effect to sections 213, 215, 216, 217, 218 and 219 of the Constitution of the Republic of South Africa (Act 108 of 1996) for the national and provincial spheres of government. These sections require national legislation to:

- establish a national treasury,
- introduce generally recognised accounting practices,
- introduce uniform norms and standards,
- prescribe measures to ensure transparency and expenditure control in all spheres of government, and
- set the operational procedures for borrowing, guarantees, procurement and oversight over the various national and provincial revenue funds.

1.2 The PFMA adopts an approach to financial management, which focuses on outputs and responsibilities, rather than the rule-driven approach of the old Exchequer Acts. The PFMA itself assumes a phased approach towards improving the quality of financial management in the public sector.

1.3 The PFMA replaces or supersedes the various National and Provincial Exchequer Acts and the Reporting of Public Entities Act, 1992 (Act 93 of 1992).

1.4 The Western Cape Exchequer Law, 1994, however, remained in force in conjunction with the Provincial Constitution during the implementation stage of the PFMA and other legislation and as a result of outstanding dispensations in terms of the Law.

1.5 With the PFMA now on its fifth year of implementation and the last outstanding dispensations in terms of the Western Cape Exchequer Law, 1994 (Law 4 of 1994) being resolved in 2002, the Western Cape Exchequer Law, 1994 (Law 4 of 1994) can now be repealed.

1.6 Whilst in the process of repealing the Western Cape Exchequer Law, 1994 (Law 4 of 1994), it was determined that the following Acts refer thereto:

- The Powers and Privileges of the Provincial Legislature, 1995 (Law 3 of 1995);
- Sections 14, 15 and 16 of the Western Cape Cultural Commissions and Cultural Councils Act, 1998 (Act 14 of 1998);
- Sections 18, 19 and 20 of the Western Cape Provincial Languages Act, 1998 (Act 13 of 1998), and
- Section 20(3) of the Western Cape Gambling and Racing Law, 1996 (Law 4 of 1996).

1.7 During consultations held with the Provincial Parliament, the Department of Cultural Affairs and Sport and the Gambling Board, it was confirmed that the current practices were in line with the PFMA and that the respective departments would amend the current legislation accordingly.

1.8 Notwithstanding the afore-mentioned, until the above-mentioned legislation has been amended, the provisions of the Western Cape Exchequer Law, 1994 (Law 4 of 1994) are regarded as being incorporated into that legislation which will not be affected by the repeal of the Exchequer Law.

1.9 The attached Bill has been drafted to repeal the Western Cape Exchequer Law, 1994 (Law 4 of 1994).

