

PROVINCE OF WESTERN CAPE

**WESTERN CAPE
PROVINCIAL YOUTH
COMMISSION BILL**

(As introduced)

(PREMIER)

[B 5B—2004]

PROVINSIE WES-KAAP

**WES-KAAPSE
WETSONTWERP OP DIE
PROVINSIALE JEUGKOMMISSIE**

(Soos ingedien)

(PREMIER)

[W 5B—2004]

BILL

To provide for the establishment, composition, objectives and functions of a Western Cape Provincial Youth Commission; and to provide for matters connected therewith.

PREAMBLE

WHEREAS it is necessary to create a united non-racial, non-sexist and prosperous society in which the youth of South Africa can promote national reconciliation and unity, build a new patriotism and foster peace, justice and a human rights culture and promote economic development in the Province;

AND WHEREAS it is imperative that South Africa recognizes the role that youth played and will still play in society, and since the youth in the Western Cape constitutes an energetic, creative and the largest sector of our population, and given the challenges this sector faced and continues to face as a result of the legacy of apartheid and colonialism;

AND WHEREAS it is necessary to redress the imbalances of the past and to create a provincial youth policy aimed at empowering the youth and allowing them to realise their full potential through optimal access to opportunities, and to address the socio-economic challenges of the youth in the Province.

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

Definitions

1. In this Act, unless the context otherwise indicates
 - “**chairperson**” means the chairperson of the Commission designated in terms of section 4(7); 5
 - “**chief executive officer**” means the chief executive officer of the Commission appointed in terms of section 9(1);
 - “**Commission**” means the Western Cape Youth Commission established by section 2(1); 10
 - “**committee**” means a committee appointed by the Commission in terms of section 8(1);
 - “**member**” means a person appointed in terms of section 4(6);
 - “**National Youth Commission**” means the National Youth Commission established in terms of section 2(1) of the National Youth Commission Act, 1996 (Act 19 of 1996); 15
 - “**PFMA**” means the Public Finance Management Act, 1999 (Act 1 of 1999);
 - “**Premier**” means the Premier of the Province of the Western Cape;

“**Province**” means the Province of the Western Cape, established by the Constitution of the Republic of South Africa, 1996 (Act 108 of 1996);

“**Provincial Parliament**” means the Provincial Parliament of the Province as provided for in section 9 of the Constitution of the Western Cape, 1997 (Act 1 of 1998);

“**Screening and Selection Committee**” means the Standing Committee of the Provincial Parliament of the Western Cape responsible for youth affairs in the Province;”

“**South African Youth Council (Western Cape)**” means a non-statutory body representing civil society youth development organisations in the Province;

“**vice-chairperson**” means the vice chairperson of the Commission designated in terms of section 4(7); and

“**youth**” means a person between and including the ages of 14 and 35 in the Province.

Establishment

2. (1) A commission, to be known as the Western Cape Provincial Youth Commission, is established with the powers and duties conferred on or assigned to it by or under this Act or any other law.

(2) The seat of the Commission must be determined by the Premier.

(3) The Commission is a provincial public entity as defined in terms of section 1 of the PFMA.

Objectives

3. The objectives of the Commission are—

- (a) to monitor, evaluate, and report on the status of youth and youth development in the Province;
- (b) to promote uniformity of approach by all organs of the Provincial Government of the Western Cape to matters relating to or involving youth;
- (c) to develop recommendations and guidelines relating to any matters which may affect youth;
- (d) to unite youth from diverse cultural backgrounds, religious persuasions or political affiliations and inculcate in them a spirit of patriotism; and
- (e) to form effective linkages between the National Youth Commission and the Province, and between the Province and local municipalities in the Province.

Composition and appointment of Commission

4. (1) The Commission consists of not more than five full time members and not more than six part-time members appointed by the Premier whose names must be published in the *Provincial Gazette*, and who—

- (a) must represent a broad cross-section of the youth of the Province and reflect the balance between youthfulness, experience and gender;
- (b) must be fit for such appointment on account of any qualification, knowledge or experience relating to the functions of the Commission; and
- (c) must be youths.

(2) The Premier, by notice in the *Provincial Gazette* and such other media as is deemed advisable, must call for nominations for appointment as members in terms of subsection (1).

(3) The notice contemplated in subsection (2) must—

- (a) specify a closing date by which nominations may be submitted, and this date must not be less than 30 days after the date of publication of the notice;
- (b) require that the nominator must provide reasons for the nomination which must be accompanied by a copy of the nominee’s curriculum vitae and a signed declaration by the nominee of his or her willingness to serve on the Commission; and
- (c) stipulate the appointment requirements of the appointee as contemplated by subsection (1)(a), (b) and (c).

(4) The Premier must, within seven days of the closing date specified in the notice published in terms of subsection (2), submit the nominations to the Screening and Selection Committee.

(5) Within 14 days of receipt of the nominations, the Screening and Selection Committee must compile a short list of nominees to be published by the Premier in the *Provincial Gazette* and such other media as is deemed advisable for comment by the public to be submitted within 21 days from the date of publication; provided that the Premier may make adjustments to the short list if this is considered necessary. 5

(6) After consideration of the comment referred to in subsection (5) the Premier must, in writing, appoint the members. 10

(7) The Premier must designate one of the members as chairperson and another as vice-chairperson.

Term of Office

5. (1) A member is appointed in writing for a period, not exceeding three years, determined by the Premier. 15

(2) A member whose term of office has expired is eligible for reappointment in writing and upon the same conditions set out in section 4(1) for a further period determined by the Premier, but such reappointment may not exceed one additional term.

Vacation of Office of Member

6. (1) A member who — 20

(a) dies;

(b) resigns;

(c) is convicted of an offence and sentenced to imprisonment without the option of a fine: Provided that no-one shall be regarded as having been sentenced until an appeal against the conviction or sentence has been finally determined; 25

(d) has been absent from three consecutive meetings of the Commission without the consent of the chairperson;

(e) is dismissed from office in writing by the Premier if in his or her opinion there are good reasons for doing so and after compliance with the Promotion of Administrative Justice Act, 2000 (Act 3 of 2000); or 30

(f) attains the age of thirty six years, ceases to hold office.

(2) A vacancy in the Commission—

(a) does not affect the validity of proceedings or decisions of the Commission; and 35

(b) must be filled as soon as practicably possible by the Premier by following the process contemplated by section 4.

Meetings

7. (1) The Commission must meet at least quarterly and must determine the times, frequency, procedures and venues of its meetings. 40

(2) The first meeting of the Commission at the beginning of a new term must be determined by the Premier.

(3) The Commission must cause minutes to be kept of its proceedings, which are to be submitted to the Premier within fourteen (14) days after the meeting at which the minutes were confirmed. 45

(4) The quorum for any meeting of the Commission is a majority of the total number of members.

(5) A decision of the majority of the members present at a meeting is the decision of the Commission.

(6) In the event of an equality of votes concerning any matter, the chairperson has a casting vote in addition to his or her deliberative vote. 50

(7) The Commission may approach the Premier and the Provincial Parliament at any time regarding any matter related to the exercise of its powers or the performance of its duties or the carrying out of its functions.

(8) If the chairperson is absent from a meeting, the vice-chairperson must act as chairperson of the Commission, and if both the chairperson and vice-chairperson are absent from a meeting of the Commission, the members present must elect one of their number to preside at that meeting.

Committees

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8. (1) Subject to the provisions of this Act, the Commission may, with the approval of the Premier, appoint committees, including persons with technical and specialised knowledge, to perform the functions of the Commission, as the Commission may assign to it and to advise the Commission on any issue that the Commission may determine.

(2) Any committee established in terms of subsection (1) must have a member as its chairperson and must report on a monthly basis in writing to the Commission on the activities of the particular committee. 10

(3) The Commission may at any time disband any committee established in terms of subsection (1) if, after consultation with the Premier, it is of the opinion that good reasons exist for doing so. 15

(4) The Premier with the concurrence of the Provincial Minister responsible for finance in the Province, must determine the remuneration, including reimbursement for travelling, subsistence and other expenses, of any person appointed in terms of subsection (1).

Chief executive officer

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9. (1) The Premier must, as soon as possible after the appointment of the members of the Commission, in consultation with the Commission and after a transparent public process, appoint a chief executive officer of the Commission, who—

- (a) is an ex officio member of the Commission, without voting rights; and
- (b) must exercise the powers and perform the duties and functions which the Commission may from time to time confer upon or assign to him or her in order to achieve the objects of the Commission, and is for those purposes accountable to the Commission. 25

(2) The chief executive officer is appointed—

- (a) in writing and on terms and conditions determined by the Premier in consultation with the Provincial Minister responsible for finances in the Province; and 30
- (b) for a period, not exceeding three years, determined by the Premier.

(3) A chief executive officer whose term of office has expired is eligible for reappointment upon the same terms and conditions set out in subsections (1) and (2) for a further period determined by the Premier, but such appointment may not exceed one additional term. 35

Powers, Duties and Functions

10. (1) The Commission, in addition to the powers and functions assigned to it in terms of this Act or any other law— 40

- (a) must develop principles, set minimum standards and develop implementation guidelines regarding integrated youth development at a provincial level that will guide government, labour, business and civil society in the Province;
- (b) must monitor, evaluate and make recommendations on integrated youth development frameworks, strategies, programmes, policies, budgets and practices in the Province, based on the principles, minimum standards and implementation guidelines, to the Provincial Parliament; 45
- (c) may commission research on youth development, the overall status of youth in the Province in any relevant field as well as to further the objects of the Commission; 50
- (d) must monitor and evaluate any Bill or proposed legislation in any field for its effect and impact on youth in general and on youth development specifically and make recommendations accordingly to the Provincial Parliament;

- (e) must evaluate and make recommendations, if necessary on legislation that has an impact on youth, youth development and the status of youth in the Province;
 - (f) must prepare and publish an annual provincial report on youth development and present this report to the Premier, the Provincial Parliament and the National Youth Commission; 5
 - (g) must monitor the impact of government policy in any relevant field on the youth of the Province and make recommendations accordingly to the Premier;
 - (h) must in partnership with the Provincial Government of the Western Cape, take responsibility for the coordination of youth development structures with feedback to the Premier; 10
 - (i) must develop, conduct and manage information and public awareness programmes to educate the public on youth development matters and to understand the role of the Commission in the Province;
 - (j) must investigate any youth related issue of its own accord or on receipt of a complaint and attempt to resolve any dispute or rectify any act or omission that is identified by such an investigation; 15
 - (k) must consider recommendations, suggestions and requests concerning the promotion of youth development; and
 - (l) must promote, in consultation with the National Youth Commission and other provincial youth commissions, the effective co-operation of services directed at promoting youth development. 20
- (2) The Chairperson, in addition to the powers and functions assigned to him or her in terms of this Act or any other law, must—
- (a) ensure that the Commission convenes on a regular basis at intervals determined by the Commission; 25
 - (b) liaise with and attend relevant meetings of the National Youth Commission with feedback to the Commission;
 - (c) ensure that the Commission liaises and networks with all other relevant provincial stakeholders, ensuring that the requirements and priorities of the National Youth Commission are communicated effectively, and ensuring that all stakeholders benefit from developments linked to national guidelines, policies, programmes of action, and financing opportunities; 30
 - (d) ensure that the Commission receives the minutes of every meeting of the National Youth Commission as well as any other youth related reports, policy frameworks, programme recommendations, and any other relevant youth related documentation that the Province could benefit from; and 35
 - (e) ensure that the minutes of the National Youth Commission meetings are tabled at meetings of the Commission, thus ensuring a linkage between provincial youth development and the National Youth Commission policy frameworks, guidelines, recommended programmes of action, and financing opportunities. 40
- (3) The members, in addition to the powers and functions assigned to them in terms of this Act or any other law, must—
- (a) ensure that they contribute equally to the effective functioning of the Commission; 45
 - (b) contribute constructively through the work of the Commission towards the improvement of the quality of life of all youth living in the Province;
 - (c) ensure that the image of the Commission as a promoter of sound youth development policies and practices are upheld at all times;
 - (d) perform their functions in good faith and without fear, favour, bias or prejudice; 50
 - (e) have due regard to the need for forming sustainable partnerships with all sectors representing youth development in the Province; and

(f) adhere to a code of good conduct to be developed by the Commission.

(4) The Commission must maintain close liaison with institutions, bodies or authorities similar to the Commission in order to foster common policies and practices and to promote co-operation in relation to the handling of complaints in cases of overlapping jurisdiction or other appropriate instances. 5

(5) As part of ensuring coordinated provincial youth structures the Commission must—

- (a) maintain close liaison and networking with the delegated authority responsible for the coordination of the efforts of provincial departments on youth matters; and 10
- (b) maintain close liaison and networking with the South African Youth Council (Western Cape).

Remuneration expenses of Members

11. (1) The remuneration, allowances and other terms and conditions of the members of the Commission must be determined by the Premier in concurrence with the Provincial Minister responsible for finance. 15

(2) All expenditure incurred for purposes of implementing this Act shall be defrayed from moneys appropriated for that purpose by the Provincial Parliament and in terms of the PFMA.

Administrative Staff 20

12. The administration of the Commission must be performed by the Chief Executive Officer supported by officers in the service of the Province who are designated thereto by the Director-General of the Province in consultation with the Premier, chief executive officer if one has been appointed, and the chairperson.

Reports and financial control 25

13. (1) Over and above any reports required in terms of subsection (2), the Commission must submit written quarterly reports to the Premier on all its activities.

(2) The Commission's financial control, accountability and responsibility and its duties to report are regulated by the PFMA and any regulations or directives issued in terms of that Act 30

Accountability

14. The Commission is accountable to the Premier and the Provincial Parliament.

Regulations

15. (1) The Premier may, after consultation with the Commission, make regulations not inconsistent with the provisions of this Act in relation to any matter which the Premier considers necessary or expedient to make in order to achieve the objects of this Act. 35

(2) Any regulations with financial implications must be made in concurrence with the Provincial Minister responsible for finance and with due regard to the availability of funds. 40

Short Title and Commencement

16. This Act is called the Western Cape Provincial Youth Commission Act, 2004, and comes into operation on a date fixed by the Premier by proclamation in the *Provincial Gazette*.

EXPLANATORY MEMORANDUM**WESTERN CAPE PROVINCIAL YOUTH COMMISSION BILL****1. INTRODUCTION**

1.1 A progressive and democratic state is measured by, inter alia, the way it deals with youth matters thereby ensuring that the youth are afforded the opportunities to fully participate in all spheres and levels of life. The Bill provides for the establishment of a Western Cape Provincial Youth Commission with the primary responsibility of monitoring and evaluating provincial government and civil society efforts on youth matters, and forming linkages with the National Youth Commission and municipalities, and to promote youth development in the Province.

2. COMMENT ON INDIVIDUAL CLAUSES**2.1 Clause One**

This clause provides for the interpretation and definition of certain terms used in the Bill.

2.2 Clause Two

This clause provides for the establishment of a Western Cape Provincial Youth Commission.

2.3 Clause Three

This clause lists the objectives of the Western Cape Provincial Youth Commission, which are—

- to monitor, evaluate, and report on the status of youth and youth development in the Province;
- to promote uniformity of approach by all organs of the Provincial Government of the Western Cape to matters relating to or involving youth;
- to develop recommendations and guidelines relating to any matters which may affect youth;
- to unite youth from diverse cultural backgrounds, religious persuasions or political affiliations and inculcate in them a spirit of patriotism; and
- to form effective linkages between the National Youth Commission and the Province, and between the Province and municipalities in the Province.

2.4 Clause Four

This clause provides for the appointment of not more than three full time and not more than six part time members and the procedures to be followed for their appointment.

2.5 Clause Five

This clause provides for a maximum term of office of three years for members and the reappointment of members.

2.6 Clause Six

This clause regulates the vacation of office by any member, its effect and the filling of vacancies as and when they occur.

2.7 Clause Seven

This clause determines that the Commission must meet at least quarterly and cause minutes to be kept of their meetings, which minutes are to be submitted to the Premier. It also determines a quorum for a meeting of the Commission. The chairperson of the Commission has a casting vote over and above his deliberative vote. This clause also determines that the vice—chairperson or another elected member may preside at a meeting of the Commission in the absence of the chairperson

2.8 Clause Eight

This clause deals with the Commissions power to appoint committees with the approval of the Premier. It further regulates the reporting of the committees to the Commission. It also provides for the disbanding of the committees and the remuneration of committee members.

2.9 Clause Nine

This clause relates to the chief executive officer of the Commission as an ex officio member of the Commission, without voting rights and his or her duties and functions.

2.10 Clause Ten

This clause deals with the powers, duties and functions of the Commission, its chairperson and its members, as well as its duty to liase with similar bodies and institutions in order to foster common policies and promote co-operation.

2.11 Clause Eleven

This clause regulates the remuneration expenses of members.

2.12 Clause Twelve

This clause regulates the administrative staff of the commission who is to support the chief executive officer in performing the administration of the Commission.

2.13 Clause Thirteen

This clause regulates the quarterly reports that the Commission has to submit to the Premier on all its activities. It also determines that the Commission's financial control, accountability and responsibility, as well as its duties to report, are regulated by the Public Finance Management Act.

2.14 Clause Fourteen

This clause determines that the Commission is accountable to the Premier and the Provincial Parliament.

2.15 Clause Fifteen

This clause makes provision for the Premier, after consultation with the Commission, to make regulations, in relation to any matter, which the premier considers necessary or expedient, in order for the Commission to achieve its objectives.

2.16 Clause Sixteen

This clause provides for the short title and commencement of the Act. this Act is called the Western Cape Provincial Youth Commission Act. It is to come into operation on a date determined by the Premier by proclamation in the *Provincial Gazette*.