



**MUNISIPALITEIT THEEWATERSKLOOF MUNICIPALITY**

**[10 SEPTEMBER 2024]**

## **KENNISGEWING / NOTICE**

### **SPEZIALE RAADSVERGADERING / SPECIAL COUNCIL MEETING**

## **A G E N D A**

**DATUM / DATE : 11 SEPTEMBER 2024**

**PLEK / VENUE : RAADSAAL, MUNISIPALE KANTORE,  
CALEDON / COUNCIL CHAMBERS,  
MUNICIPAL OFFICES, CALEDON**

**TYD / TIME : 10:00**

## **MUNISIPALITEIT THEEWATERSKLOOF**

**Kantoor van die Munisipale  
Bestuurder  
Munisipale Kantore  
CALEDON**

10 September 2024

**KENNISGEWING AAN ALLE RAADSLEDE**

**SPEZIALE RAADSVERGADERING VAN DIE THEEWATERSKLOOF MUNISIPALE  
RAAD**

**Kennis geskied hiermee dat 'n Spesiale Raadsvergadering geskeduleer is vir  
Woensdag, 11 September 2024 om 10:00, in die Raadsaal, Munisipale Kantore,  
Caledon om die onderstaande agenda te bespreek.**

*Raadslede se aandag word gevestig op die Gedragskode vir Raadslede, Skedule 7 van die  
Wysigingswet op Plaaslike Regering: Munisipale Strukture, 2021 (Wet 3 van 2021) en Munisipale  
Beampies, Skedule 2 van die Wet op Plaaslike Regering: Munisipale Stelsels, 2000 (Wet 32 van  
2000).*

R Stevens  
WAARNEMENDE MUNISIPALE BESTUURDER

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## **THEEWATERSKLOOF MUNICIPALITY**

**Office of the Municipal  
Manager  
Municipal Offices  
CALEDON**

10 September 2024

**NOTICE TO ALL COUNCILLORS**

**SPECIAL COUNCIL MEETING OF THE THEEWATERSKLOOF MUNICIPAL  
COUNCIL**

**Notice is hereby given that a Special Council Meeting is scheduled for  
Wednesday, 11 September 2024 at 10:00, in the Council Chambers, Municipal  
Offices, Caledon to discuss the undermentioned agenda.**

*The attention of Councillors is directed to the Code of Conduct for Councillors, Schedule 7 of the  
Local Government: Municipal Structures Amendment Act, 2021 (Act 3 of 2021) and Municipal  
Officials, Schedule 2 of the Local Government: Municipal Systems Act, 2000 (Act 32 of 2000).*

R Stevens  
ACTING MUNICIPAL MANAGER

**MUNISIPALITEIT THEEWATERSKLOOF MUNICIPALITY**

**SPEZIALE RAADSVERGADERING /  
SPECIAL COUNCIL MEETING**

**AGENDA**

**[11 SEPTEMBER 2024]**

<b>ITEM NR</b>	<b>ITEM BESKRYWING / DESCRIPTION</b>	<b>BLADSY / PAGE NR</b>
A.	<b><u>OPENING: VERWELKOMING / OPENING: WELCOME</u></b>	
B.	<b><u>VERKIESING VAN SPEAKER (indien nodig) ELECTION OF SPEAKER (if necessary)</u></b>	
C.	<b><u>BYWONINGSREGISTER ATTENDANCE REGISTER</u></b>	
C.1	Teenwoordig / Present	
C.2	Aansoek(e) om verlof tot afwesigheid / Application(s) for leave of absence	
D.	<b><u>VERKLARINGS EN MEDEDELINGS DEUR DIE SPEAKER / STATEMENTS AND COMMUNICATIONS BY THE SPEAKER</u></b>	
E.	<b><u>VERKLARINGS EN MEDEDELINGS DEUR DIE UITVOERENDE BURGEMEESTER / STATEMENTS AND COMMUNICATIONS BY THE EXECUTIVE MAYOR</u></b>	
F.	<b><u>VERSLAE VOORGELê DEUR DIE DIREKTORAAT KORPORATIEWE DIENSTE/ REPORTS PRESENTED BY THE DIRECTORATE CORPORATE SERVICES</u></b>	
SC42/2024	Administration: Announcement of members of the Executive Mayoral Committee [3/1/3]	1 – 4
SC43/2024	Administration: Appointment of members to serve on the Section 80 Committees to assist the Executive Mayor in performing functions and duties [3/1/2]	5 – 9

ITEM NR	ITEM BESKRYWING / DESCRIPTION	BLADSY / PAGE NR
SC44/2024	Administration: Appointment of members to serve on the Statutory Committees within Theewaterskloof Municipality [3/1/2]	10 – 12
SC45/2024	Administration: Appointment of Councillor representatives and secundi's on the Sub-Committees of the Local Labour Forum as part of the employer component [3/3/6]	13 – 14
SC46/2024	Administration: Appointment of members on the Disciplinary Committee of Theewaterskloof Municipality [3/2/6/R]	15 – 16
SC47/2024	Administration: Nomination of representatives on SALGA Western Cape and Provincial Workgroup Meetings [3/3/6]	17 – 19
SC48/2024	Administration: Nomination of representative to the SALGA Women Commission [3/3/6]	20 – 21
SC49/2024	Administration: Appointment of members to the Municipal Public Accounts Committee (MPAC) of Theewaterskloof Municipality [3/2/17/2]	22 – 24
SC50/2024	Administration: Nomination of Councillor respresentatives and secundi on the Fraud and Risk Management Committee (FARMCO) [3/2/12/2]	25 – 26
SC51/2024	Administration: Designation of a Councillor or more than one Councillor and secundi to serve on the Caledon Hospital Committee [3/3/6]	27 – 44
SC52/2024	Administration: Designation of a Councillor and secundi to serve on the Clinic Committees in Theewaterskloof Municipality [3/3/6]	45 – 62
SC53/2024	Human Resources: Appointment of a selection panel for the recruitment process for the filling of the position of Municipal Manager [4/4/1/11]	63 – 65

**G. VERDAGING /  
ADJOURNMENT**

**ITEM HEADING****SC42/2024 DIRECTORATE CORPORATE SERVICES: DEPARTMENT  
ADMINISTRATION: ANNOUNCEMENT OF MEMBERS OF THE  
EXECUTIVE MAYORAL COMMITTEE**

*[English version of the report is the original]*

**FILE NUMBER**

3/1/3

**AIM/PURPOSE OF REPORT**

To announce the members of the Executive Mayoral Committee in terms of Section 60 of the Local Government: Municipal Structures Act, 1998 (Act 117 of 1998) by the Executive Mayor (Councillor TB Zimmermann).

**BACKGROUND**

The Sixth Establishment Amendment Notice (PN 118/2016 dated 08 April 2016) stipulates that Theewaterskloof Municipality will have 14 wards and the municipal Council of the municipality has 27 Councillors – 14 Ward Councillors and 13 proportionally elected Councillors.

**DISCUSSION**

A new committee with the functions as set out in Section 60 of the Local Government: Municipal Structures Act, 1998 (Act 117 of 1998) must be announced by the Executive Mayor (Councillor TB Zimmermann) after his election during the Special Council Meeting of 02 September 2024.

**LEGISLATIVE IMPLICATION*****Section 60 of the Local Government: Municipal Structures Act, 1998 (Act 117 of 1998): Mayoral Committee:***

- (1) *If a municipal council has more than nine members, its Executive Mayor –*
  - (a) *must appoint a mayoral committee from among the councillors to assist the executive mayor;*
  - (b) *may delegate specific responsibilities to each member of the committee;*
  - (c) *may delegate any of the executive mayor's powers to the respective members; and*
  - (d) *may dismiss a member of the mayoral committee.*
  
- (2) *The mayoral committee must consist of the executive deputy mayor (if any) and as many councillors as may be necessary for effective and efficient government, provided that no more than 20 per cent of the councillors or 10 councillors, whichever is the least, are appointed.*

- (3) *Those of the executive mayor’s powers and functions as may be designated by the municipal council, must be exercised and performed by the executive mayor together with the other members of the mayoral committee.*
- (4) *The members of a mayoral committee remain in office subject to subsection (5) and section 26 for the term of the executive mayor who appointed them.*
- (5) *If the executive mayor vacates office, the mayoral committee appointed by that executive mayor dissolves.*

**FINANCIAL IMPLICATION**

Remunerated in terms of the Remuneration of Public Office Bearers Act, 1998 (Act 20 of 1998). Provision has also been made on the 2024/25 budget for this expenditure.

**RISK MANAGEMENT IMPLICATION**

None

**RECOMMENDATION (by the Executive Mayor)**

**The Theewaterskloof Executive Mayoral Committee must have an Executive Deputy Mayor and as many councillors as may be required, provided that no more than 20 per cent or 10 councillors, whichever is the least, are appointed and the Executive Mayor consequently designates the following Councillors as members of the Executive Mayoral Committee in terms of Section 60 of the Local Government: Municipal Structures Act, 1998 (Act 117 of 1998):**

**Alderman/ Councillor .....**

**Alderman/ Councillor.....**

**Alderman/ Councillor.....**

**Alderman/ Councillor.....**

**Alderman/ Councillor.....**

P.N. 118/2016

**LOCAL GOVERNMENT: MUNICIPAL STRUCTURES ACT, 1998**

8 April 2016

**(ACT 117 OF 1998)**

**THE THEEWATERSKLOOF MUNICIPALITY (WCO31) ESTABLISHMENT SIXTH AMENDMENT NOTICE**

In terms of section 16 of the Local Government: Municipal Structures Act, 1998 (Act 117 of 1998), I hereby further amend the Theewaterskloof Municipality (WCO31) Establishment Notice, Provincial Notice 493/2000 published in Provincial Gazette 5591 dated 22 September 2000 (the principal Notice) as set out in the Schedule.

In this notice "principal Notice" means the Theewaterskloof Municipality (WCO31) Establishment Notice, Provincial Notice 493/2000 published in Provincial Gazette 5591 dated 22 September 2000, as amended by Provincial Notice 679/2000 published in the Provincial Gazette Extraordinary No. 5643 dated 4 December 2000, Provincial Notice 460/2002 published in the Provincial Gazette Extraordinary No. 5969 dated 19 December 2002, Provincial Notice 188/2003 published in the Provincial Gazette Extraordinary No. 6021 dated 28 May 2003, Provincial Notice 157/2005 published in the Provincial Gazette Extraordinary No. 6257 dated 29 April 2005, Provincial Notice 15/2006 published in the Provincial Gazette Extraordinary No. 6334 dated 3 January 2006, Provincial Notice 121/2008 published in the Provincial Gazette No. 6511 dated 28 March 2008 and Provincial Notice 59/2011 published in the Provincial Gazette 6853 dated 25 February 2011.

Dated this 7th day of April 2016.

**AW BREDELL, PROVINCIAL MINISTER OF LOCAL GOVERNMENT, ENVIRONMENTAL AFFAIRS AND DEVELOPMENT PLANNING**

**SCHEDULE**

**Amendment of the Schedule to the principal Notice**

1. Section 2.(1) of the principal Notice is amended by the substitution for subsection (1) of the following subsection:-
  - "2.(1) On 3 March 2000 the Municipal Demarcation Board, acting in terms of section 21 of the Municipal Demarcation Act, determined the boundaries of the Local Municipality, as reflected in the map appearing in Provincial Notice 69/2000 published in Provincial Gazette Extraordinary No. 5431 dated 3 March 2000 (a copy of the map is republished in Annexure "1" to this Schedule) and amended by Provincial Notices 178/2006 and 179/2006 published in Provincial Gazette Extraordinary No. 6358 dated 22 May 2006 read with Provincial Notice 209/2008 published in Provincial Gazette No. 6530 dated 6 June 2008 and Provincial Notice 339/2013 published in Provincial Gazette Extraordinary No. 7185 of 15 October 2013 read with Provincial Notice 417/2013 published in Provincial Gazette Extraordinary No. 7209 of 10 December 2013, Provincial Notice 248/2013 published in Provincial Gazette Extraordinary No. 7156 of 8 August 2013, Provincial Notice 1/2014 published in Provincial Gazette No. 7217 dated 10 January 2014, Provincial Notice 63/2014 published in Provincial Gazette No. 7236 dated 7 March 2014 and Provincial Notice 159/2014 published in Provincial Gazette No. 7277 dated 13 June 2014."
2. Section 8. of the principal Notice is amended by the substitution of the following subsection:-
  - "8.(1) The Municipal Council of the Municipality has 27 (twenty seven) councillors, as determined by the Provincial Minister in Provincial Notice 264/2014 published in Provincial Gazette Extraordinary No. 7314 dated 6 October 2014, of which 14 (fourteen) are ward councillors and 13 (thirteen) are proportionally elected councillors.
  - (2) The Municipality has 14 (fourteen) wards."
3. **Short title and commencement**

This Notice is called the Theewaterskloof Municipality (WCO31) Establishment Sixth Amendment Notice and has effect from the date of the next general election of municipal councils.

**WET OP PLAASLIKE REGERING: MUNISIPALE STRUKTURE, 1998**

**(WET 117 VAN 1998)**

**DIE MUNISIPALITEIT THEEWATERSKLOOF (WCO31) INSTELLINGSKENNIGSEWING SESDE WYSIGINGSKENNIGSEWING**

In terme van artikel 16 van die Wet op Plaaslike Regering: Munisipale Strukture, 1998 (Wet 117 van 1998), wysig ek hierby verder die Munisipaliteit Theewaterskloof (WCO31) Instellingskennigsewing, Provinsiale Kennigsewing 493/2000 gepubliseer in Provinsiale Koerant 5591 van 22 September 2000 (die hoofkennigsewing) soos uiteengesit in die Bylaag.

In hierdie kennigsewing beteken "hoofkennigsewing" die Munisipaliteit Theewaterskloof (WCO31) Instellingskennigsewing, Provinsiale Kennigsewing 493/2000 gepubliseer in Provinsiale Koerant 5591 van 22 September 2000, soos gewysig deur Provinsiale Kennigsewing 679/2000 gepubliseer in Buitengewone Provinsiale Koerant Nr. 5643 van 4 Desember 2000, Provinsiale Kennigsewing 460/2002 gepubliseer in Buitengewone Provinsiale Koerant Nr. 5969 van 19 Desember 2002, Provinsiale Kennigsewing 188/2003 gepubliseer in die Buitengewone Provinsiale Koerant Nr. 6021 van 28 Mei 2003, Provinsiale Kennigsewing 157/2005 gepubliseer in die Buitengewone Provinsiale Koerant Nr. 6257 van 29 April 2005, Provinsiale Kennigsewing 15/2006 gepubliseer in die Buitengewone Provinsiale Koerant Nr. 6334 van 3 Januarie 2006, Provinsiale Kennigsewing 121/2008 gepubliseer in die Provinsiale Koerant Nr. 6511 van 28 Maart 2008 en Provinsiale Kennigsewing 59/2011 gepubliseer in die Provinsiale Koerant Nr. 6853 van 25 Februarie 2011.

Gedateer op hierdie 7de dag van April 2016.

**AW BREDELL, PROVINSIALE MINISTER VAN PLAASLIKE REGERING, OMGEWINGSAKE EN ONTWIKKELINGSBEPLANNING**

**BYLAAG**

**Wysiging van die Bylaag tot die hoofkennigsewing**

**1. Artikel 2.(1) van die hoofkennigsewing word gewysig deur die vervanging deur die volgende subartikel:-**

"2.(1) Op 3 Maart 2000 het die Munisipale Afbakeningsraad, wat ingevolge artikel 21 van die Munisipale Afbakeningswet handel, die grense van die Munisipaliteit bepaal, soos aangetoon op die kaart wat voorkom in Provinsiale Kennigsewing 69/2000 gepubliseer in Buitengewone Provinsiale Koerant Nr. 5431 van 3 Maart 2000 ("n kopie word herpubliseer in Aanhangsel "1" tot die Bylaag) en gewysig deur Provinsiale Kennigsewings 178/2006 en 179/2006 gepubliseer in Buitengewone Provinsiale Koerant Nr. 6358 van 22 Mei 2006 saamgelees met Provinsiale Kennigsewing 209/2008 gepubliseer in Provinsiale Koerant Nr. 6530 van 6 Junie 2008 en Provinsiale Kennigsewing 339/2013 gepubliseer in Buitengewone Provinsiale Koerant Nr. 7185 van 15 Oktober 2013 saamgelees met Provinsiale Kennigsewing 417/2013 gepubliseer in Buitengewone Provinsiale Koerant Nr. 7209 van 10 Desember 2013, Provinsiale Kennigsewing 248/2013 gepubliseer in Buitengewone Provinsiale Koerant Nr. 7156 van 8 Augustus 2013, Provinsiale Kennigsewing 1/2014 gepubliseer in Provinsiale Koerant Nr. 7217 van 10 Januarie 2014, Provinsiale Kennigsewing 63/2014 gepubliseer in Provinsiale Koerant Nr. 7236 van 7 Maart 2014 en Provinsiale Kennigsewing 159/2014 gepubliseer in Provinsiale Koerant Nr. 7277 van 13 Junie 2014."

**2. Artikel 8. van die hoofkennigsewing word gewysig deur die vervanging van die artikel deur die volgende artikel:-**

"8.(1) Die Munisipale Raad van die Munisipaliteit het 27 (sewe-en-twintig) raadslede, soos deur die Provinsiale Minister bepaal in Provinsiale Kennigsewing 264/2014 gepubliseer in Buitengewone Provinsiale Koerant Nr. 7314 van 6 Oktober 2014, waarvan 14 (veertien) vyksraadslede is en 13 (dertien) proporsioneel verkose raadslede is.

(2) Die Munisipaliteit het 14 (veertien) wyke."

**3. Korttitel en inwerkingstreding**

Hierdie Kennigsewing word die Munisipaliteit Theewaterskloof (WCO31) Instellingskennigsewing Sesde Wysigingskennigsewing genoem en tree in werking op die datum van die volgende algemene verkiesing van munisipale rade.

**ITEM HEADING****SC43/2024 DIRECTORATE CORPORATE SERVICES: DEPARTMENT  
ADMINISTRATION: APPOINTMENT OF MEMBERS TO SERVE ON  
THE SECTION 80 COMMITTEES TO ASSIST THE EXECUTIVE  
MAYOR IN PERFORMING FUNCTIONS AND DUTIES**

*[English version of the report is the original]*

**FILE NUMBER**

3/1/2

**AIM/PURPOSE OF REPORT**

For Council to appoint members to serve on the Section 80 Committees to assist the Executive Mayor in performing his functions and duties.

**BACKGROUND**

The Local Government: Municipal Structures Act, 1998 (Act 117 of 1998) provides for the establishment of Section 80 Committees by Council.

Section 80 Committees (committees to assist executive committee or executive mayor)

1. If a municipal council has an executive committee or executive mayor, it may in terms of section 79 appoint committees of councillors to assist the executive committee or executive mayor.
2. **Such committees may not in number exceed the number of members of the executive committee or mayoral committee.**
3. The executive committee or executive mayor -
  - (a) appoints a chairperson for each committee from the executive committee or mayoral committee;
  - (b) may delegate any of the powers and duties of the executive committee or executive mayor to the committee;
  - (c) is not divested of the responsibility concerning the exercise of the power or the performance of the duty; and
  - (d) may vary or revoke any decision taken by the committee subject to any vested rights.
4. Such a committee must report to the executive committee or executive mayor in accordance with the directives of the executive committee or executive mayor.

**DISCUSSION**

Section 80(2) of the Local Government: Municipal Structures Act, 1998 (Act 117 of 1998) provides as follows –

*“2. Such committees may not in number exceed the number of members of the executive committee or mayoral committee”.*

“During a Council Meeting held on 09 December 2021 per Council Resolution C183/2021, Section 80 Committees were established which are constituted as follows:

- (a) Finance Committee (7 members) with the Chairperson as full-time Councillor and 6 members
- (b) Corporate Services Committee (7 members) with the Chairperson as full-time Councillor and 6 members
- (c) Technical- and Infrastructure Implementation Services Committee (7 members) with the Chairperson as full-time Councillor and 6 members
- (d) Community Services Committee (7 members) with the Chairperson as full-time Councillor and 6 members
- (e) Economic Development Committee (7 members) with the Chairperson as full-time Councillor and 6 members
- (f) Human Settlements and Planning Committee (7 members) with the Chairperson as full-time Councillor and 6 members”

Council needs to appoint members to these Section 80 Committees in order for these committees to continue performing their functions and duties.

**LEGISLATIVE IMPLICATIONS**

None

**FINANCIAL IMPLICATIONS**

None

**RISK MANAGEMENT IMPLICATION**

None

**RECOMMENDATION TO COUNCIL:**

**It is recommended:**

1. That Council resolution C183/2021 – Council Meeting of 09 December 2021 (point 2 – appointment of Members on Section 80 Committees) and Council resolution C44/2024 – Council Meeting of 28 February 2024 (point 2 – appointment of Members on Section 80 Committees), be repealed.
2. That Council appoints the following Councillors to serve as Members on the Section 80 Committees:

**Finance Committee (5 members)**

**Aldm/ Cllr ..... Chairperson – full-time Councillor**

**Aldm/ Cllr .....**

**Aldm/ Cllr .....**

**Aldm/ Cllr .....**

**Aldm/ Cllr .....**

**Secundi 1: Aldm/ Cllr .....**

**Secundi 2: Aldm/ Cllr .....**

**Corporate Services Committee (5 members)**

**Aldm/ Cllr ..... Chairperson – full-time Councillor**

**Aldm/ Cllr .....**

**Aldm/ Cllr .....**

**Aldm/ Cllr .....**

**Aldm/ Cllr .....**

**Secundi 1: Aldm/ Cllr .....**

**Secundi 2: Aldm/ Cllr .....**

**Technical- and Infrastructure Implementation Services Committee  
(5 members)**

**Aldm/ Cllr ..... Chairperson – full-time Councillor**

**Aldm/ Cllr .....**

**Aldm/ Cllr .....**

**Aldm/ Cllr .....**

**Aldm/ Cllr .....**

**Secundi 1: Aldm/ Cllr .....**

**Secundi 2: Aldm/ Cllr .....**

**Community Services Committee (5 members)**

**Aldm/ Cllr ..... Chairperson – full-time Councillor**

**Aldm/ Cllr .....**

**Aldm/ Cllr .....**

**Aldm/ Cllr .....**

**Aldm/ Cllr .....**

**Secundi 1: Aldm/ Cllr .....**

**Secundi 2: Aldm/ Cllr .....**

**Economic Development Committee (5 members)**

**Aldm/ Cllr ..... Chairperson – full-time Councillor**

**Aldm/ Cllr .....**

**Aldm/ Cllr .....**

**Aldm/ Cllr .....**

**Aldm/ Cllr .....**

**Secundi 1: Aldm/ Cllr .....**

**Secundi 2: Aldm/ Cllr .....**

**Human Settlements and Planning Committee (5 members)**

**Aldm/ Cllr ..... Chairperson – full-time Councillor**

**Aldm/ Cllr .....**

**Aldm/ Cllr .....**

**Aldm/ Cllr .....**

**Aldm/ Cllr .....**

**Secundi 1: Aldm/ Cllr .....**

**Secundi 2: Aldm/ Cllr .....**

**ITEM HEADING**

**SC44/2024 DIRECTORATE CORPORATE SERVICES: DEPARTMENT  
ADMINISTRATION: APPOINTMENT OF MEMBERS TO SERVE ON  
THE STATUTORY COMMITTEES WITHIN THEEWATERSKLOOF  
MUNICIPALITY**

*[English version of the report is the original]*

**FILE NUMBER**

3/1/2

**AIM/PURPOSE OF REPORT**

To appoint members to serve on the statutory committees within Theewaterskloof Municipality.

**BACKGROUND**

Section 33 of the Local Government: Municipal Structures Act, 1998 (Act 117 of 1998) provides the guidelines for the establishment of committees.

*A municipality may establish a committee provided for in the Local Government: Municipal Structures Act, 1998 (Act 117 of 1998) if –*

- (a) the municipality is of a type that is empowered in terms of this Act to establish a committee of the desired kind;*
- (b) the establishment of the committee is necessary, taking into account –*
  - (i) the extent of the functions and powers of the municipality;*
  - (ii) the need for the delegation of these functions and powers in order to ensure efficiency and effectiveness in their performance; and*
  - (iii) the financial and administrative resources of the municipality to support the proposed committee.*

**DISCUSSION**

“During a Council Meeting held on 09 December 2021 per Council Resolution C184/2021, Statutory Committees were established which are constituted as follows (point 1 of the resolution):

Local Labour Forum with 20 members  
Employment Equity Committee with 16 members”

Council needs to appoint members to these statutory committees in order for these committees to continue performing their functions and duties.

**LEGISLATIVE IMPLICATION**

In the Local Government: Municipal Structures Act, 1998 (Act 117 of 1998) it is stated in several sections that municipal councils may establish committees to assist councils in the performance of duties and exercising of powers. As soon as names have been allocated to the committees, they can function according to legislation.

**FINANCIAL IMPLICATION**

None

**RISK MANAGEMENT IMPLICATION**

None

**RECOMMENDATION TO COUNCIL:**

It is recommended:

1. That Council resolution C184/2021 – Council Meeting of 09 December 2021 (point 2 – appointment of Members to Statutory Committees), be repealed.
2. That Council appoints the following Councillors to serve as Members on the Statutory Committees:

**Local Labour Forum (20 members)**

**Councillors**

1. Aldm/ Cllr .....
2. Aldm/ Cllr .....
3. Aldm/ Cllr .....
4. Aldm/ Cllr .....
5. Aldm/ Cllr .....

**Secundi 1:** Aldm/ Cllr .....

**Secundi 2:** Aldm/ Cllr .....

**Management members x 5  
Trade Union members x 10**

**Employment Equity Committee (16 members)**

**Councillors**

- 1. Aldm/ Cllr .....
- 2. Aldm/ Cllr .....
- 3. Aldm/ Cllr .....

**Secundi 1:** Aldm/ Cllr .....

**Secundi 2:** Aldm/ Cllr .....

**Management members x 5**

**Trade Union members x 8**

**ITEM TITLE**

**SC45/2024 DIRECTORATE CORPORATE SERVICES: DEPARTMENT  
ADMINISTRATION: APPOINTMENT OF COUNCILLOR  
REPRESENTATIVES AND SECUNDI'S ON THE SUB-COMMITTEES  
OF THE LOCAL LABOUR FORUM AS PART OF THE EMPLOYER  
COMPONENT**

*[English version of the report is the original]*

**FILE NUMBER**

3/3/6

**PURPOSE OF REPORT**

To appoint the Councillor Representatives and Secundi's who will serve on the Sub-Committees of the Local Labour Forum as part of the Employer component.

**BACKGROUND**

The Local Labour Forum established the following Sub-Committees for purposes of preparatory consultation provided that it may not negotiate on any matter, which has been reserved for exclusive bargaining in the Council or Division.

**DISCUSSION**

The following Sub-Committees is currently in place:

1. Health and Safety Committee
2. HR Policy Working Group

Council needs to appoint representatives and secundi's who will serve on these Sub-Committees.

**LEGAL RESPONSIBILITIES**

None

**FINANCIAL IMPLICATIONS**

None

**RISK MANAGEMENT IMPLICATIONS**

None

**RECOMMENDATION TO COUNCIL:**

**It is recommended:**

1. That Council Resolution C05/2022 – Council Meeting of 25 January 2022, be repealed.
2. That Council appoints the following Councillors to serve on the following Sub-Committees of the Local Labour Forum as part of the Employer component:

**(a) Health and Safety Committee:**

1. Aldm/ Cllr .....

2. Aldm/ Cllr .....

3. Aldm/ Cllr .....

**Secundi 1:** Aldm/ Cllr .....

**Secundi 2:** Aldm/ Cllr .....

**(b) HR Policy Working Group:**

1. Aldm/ Cllr .....

2. Aldm/ Cllr .....

3. Aldm/ Cllr .....

**Secundi 1:** Aldm/ Cllr .....

**Secundi 2:** Aldm/ Cllr .....

**ITEM OPSKRIF/ITEM HEADING**

**SC46/2024 DIRECTORATE CORPORATE SERVICES: DEPARTMENT  
ADMINISTRATION: APPOINTMENT OF MEMBERS ON THE  
DISCIPLINARY COMMITTEE OF THEEWATERSKLOOF  
MUNICIPALITY**

*[English version of the report is the original]*

**FILE NUMBER**

3/2/6/R

**PURPOSE OF REPORT**

To appoint members on the Disciplinary Committee of Theewaterskloof Municipality.

**BACKGROUND**

Item 16(1)(b) of the Code of Conduct for Councillors (Schedule 7 of the Local Government: Municipal Structures Amendment Act, 2021 (Act 3 of 2021)) makes provision for the establishment of a special committee to investigate breaches of the Code of Conduct and to make findings on any alleged breach of this code and make appropriate recommendations to the Council.

**DISCUSSION**

“During a Council Meeting held on 07 December 2021 per Council Resolution C185/2021, the Disciplinary Committee of Theewaterskloof Municipality was established.”

Council needs to appoint members to the Disciplinary Committee in order for the committee to continue performing their functions and duties.

**LEGISLATIVE IMPLICATIONS**

Local Government: Municipal Structures Amendment Act, 2021 (Act 3 of 2021) (Schedule 7).

**FINANCIAL IMPLICATIONS**

None

**RISK MANAGEMENT IMPLICATIONS**

None

**RECOMMENDATION TO COUNCIL:**

**It is recommended:**

**1. That Council resolution C185/2021 – Council Meeting of 09 December 2021 (point 2 and point 3 – appointment of Members to the Disciplinary Committee); SC02/2023 – Special Council Meeting of 09 February 2023 (point 2 and 3 – appointment of Members to the Disciplinary Committee) and C123/2023 – Council Meeting of 27 July 2023 (appointment of new member and secundi on the Disciplinary Committee), be repealed.**

**2. That the following members be appointed by Council on the Disciplinary Committee of Theewaterskloof Municipality:**

**Aldm/ Cllr ..... [Chairperson]**

**Aldm/Cllr ..... [Prosecutor]**

**Aldm/ Cllr ..... [Member of Committee]**

**Aldm/ Cllr ..... [Member of Committee]**

**Aldm/ Cllr ..... [Member of Committee]**

**3. That Council appoints the following members as secundi for the members of the Disciplinary Committee of Theewaterskloof Municipality:**

**Aldm/ Cllr ..... [Secundi for Chairman]**

**Aldm/Cllr ..... [Secundi for Prosecutor]**

**Aldm/ Cllr ..... [Secundi for Member of Committee]**

**Aldm/ Cllr ..... [Secundi for Member of the Committee]**

**ITEM TITLE**

**SC47/2024 DIRECTORATE CORPORATE SERVICES: DEPARTMENT  
ADMINISTRATION: NOMINATION OF REPRESENTATIVES ON  
SALGA WESTERN CAPE AND PROVINCIAL WORKGROUP  
MEETINGS**

*[English version of the report is the original]*

**FILE NUMBER**

3/3/6

**AIM/PURPOSE OF REPORT**

To nominate a member of Council with a secundi to represent the Theewaterskloof Municipal Council at SALGA Western Cape and the respective SALGA Provincial Workgroup Meetings.

**BACKGROUND**

The SALGA constitution prescribes that a Municipal Council needs to nominate a representative to attend the SALGA Provincial and National conference together with a secundi. The representative or secundi concerned shall also attend all National and Provincial Meetings of SALGA Western Cape.

**DISCUSSION**

A representative and secundi must also be nominated for the following SALGA Provincial Workgroup Meetings:

1. Municipal Capability and Institutional Resilience Workgroup
2. Community Development and Security Workgroup
3. Governance and Intergovernmental Relations Workgroup
4. Economic Development and Job Creation Workgroup
5. Electricity and Energy and Public Works Workgroup
6. Water and Sanitation Workgroup
7. Emergency Services and Disaster Management Workgroup
8. Municipal Finance and Fiscal Policy Workgroup
9. Human Settlements and Urban Agenda Workgroup
10. Health Workgroup
11. Municipal Digital Solutions Workgroup
12. Public Transport and Roads Workgroup
13. Environmental Management and Climate Resilience Workgroup
14. Development Planning and Rural Development Workgroup

**LEGISLATIVE IMPLICATION**

None

**FINANCIAL IMPLICATION**

None

**RISK MANAGEMENT IMPLICATION**

None

**RECOMMENDATION TO COUNCIL:**

It is recommended:

1. That Council Resolution C168/2023 – Council Meeting of 07 November 2023, be repealed.
2. That Alderman/ Councillor ..... with a secundi, Alderman/ Councillor ..... be nominated to represent the Theewaterskloof Council at SALGA Western Cape.
3. That the following Councillors with secundi be nominated to represent the Theewaterskloof Council at the following Provincial Workgroup Meetings:
  - 3.1. Municipal Capability and Institutional Resilience Workgroup – Alderman/ Councillor ..... with Alderman/ Councillor ..... as secundi.
  - 3.2. Community Development and Security Workgroup – Alderman/ Councillor ..... with Alderman/ Councillor ..... as secundi.
  - 3.3. Governance and Intergovernmental Relations Workgroup – Alderman/ Councillor ..... with Alderman/ Councillor ..... as secundi.
  - 3.4. Economic Development and Job Creation Workgroup – Alderman/ Councillor ..... with Alderman/ Councillor ..... as secundi.
  - 3.5. Electricity and Energy and Public Works Workgroup – Alderman/ Councillor ..... with Alderman/ Councillor ..... as secundi.
  - 3.6. Water and Sanitation Workgroup – Alderman/ Councillor ..... with Alderman/ Councillor ..... as secundi.
  - 3.7. Emergency Services and Disaster Management Workgroup – Alderman/ Councillor ..... with Alderman/ Councillor ..... as secundi.

- 3.8. **Municipal Finance and Fiscal Policy Workgroup – Alderman/ Councillor ..... with Alderman/ Councillor ..... as secundi.**
- 3.9. **Human Settlements and Urban Agenda Workgroup – Alderman/Councillor ..... with Alderman/ Councillor ..... as secundi.**
- 3.10. **Health Workgroup – Alderman/ Councillor ..... with Alderman/ Councillor ..... as secundi.**
- 3.11. **Municipal Digital Solutions Workgroup – Alderman/ Councillor ..... with Alderman/ Councillor ..... as secundi.**
- 3.12. **Public Transport and Roads Workgroup – Alderman/ Councillor ..... with Alderman/ Councillor ..... as secundi.**
- 3.13. **Environmental Management and Climate Resilience Workgroup – Alderman/ Councillor ..... with Alderman/ Councillor ..... as secundi.**
- 3.14. **Development Planning and Rural Development Workgroup – Alderman/ Councillor ..... with Alderman/ Councillor ..... as secundi.**

**ITEM HEADING**

**SC48/2024 DIRECTORATE CORPORATE SERVICES: DEPARTMENT  
ADMINISTRATION: NOMINATION OF REPRESENTATIVE TO THE  
SALGA WOMEN COMMISSION**

*[English version of the report is the original]*

**FILE NUMBER**

3/3/6

**PURPOSE / AIM OF REPORT**

To nominate a member of Council to represent Theewaterskloof Council at SALGA's Women Commission.

**BACKGROUND**

The establishment of the Women's Commission for SALGA derives from a United Cities Local Government of Africa (UCLGA) initiative, aimed at the strengthening of gender equality within African local governments. The establishment of a UCLGA Women's Commission in 2008 was necessitated by the largely ineffective mainstreaming of gender into local governance of many of the member countries of the UCLGA.

The SALGA Women's Commission was launched and established at the 2010 Women in Local Government Summit. Their mandate is to coordinate, promote and advocate for appropriate strategies and practices within member municipalities.

"Council resolved as follows during a Council Meeting of 23 June 2022 per Council Resolution C103/2022:

That Councillor T Mangcayi be nominated to represent the Theewaterskloof Council at the SALGA Women's Commission."

**DISCUSSION**

The terms of reference makes provision for each municipality to nominate a political representative to serve on the Provincial SALGA Women Commission (SWC).

Council needs to nominate a Councillor (woman) to represent the Theewaterskloof Municipality on the SWC to replace Councillor T Lithakong (neè Mangcayi).

**LEGAL RESPONSIBILITIES**

None

**FINANCIAL RESPONSIBILITIES**

None

**RISK MANAGEMENT IMPLICATION**

None

**RECOMMENDATION TO COUNCIL :**

**It is recommended :**

- 1. That Council resolution C103/2022 – Council Meeting of 23 June 2022, be repealed.**
- 2. That Alderman / Councillor ..... be nominated to represent the Theewaterskloof Council at the SALGA Women Commission.**
- 3. That Alderman / Councillor ..... be nominated to represent the Theewaterskloof Council at the SALGA Women Commission as a secundi.**

**ITEM TITLE**

**SC49/2024 DIRECTORATE CORPORATE SERVICES: DEPARTMENT  
ADMINISTRATION: APPOINTMENT OF MEMBERS TO THE  
MUNICIPAL PUBLIC ACCOUNTS COMMITTEE (MPAC) OF  
THEEWATERSKLOOF MUNICIPALITY**

*[English version of the report is the original]*

**FILE NUMBER**

3/2/17/2

**PURPOSE / AIM OF REPORT**

To appoint Members to the Municipal Public Accounts Committee (MPAC) of Theewaterskloof Municipality.

**BACKGROUND**

MPAC is established in terms of section 79A of the Municipal Structures Amendment Act 2021 and performs an oversight function on behalf of council and not a duplication of other committees of council, such as Finance Committee or that of the Performance- and Audit Committee.

It should be noted the standard rules for the council apply to MPAC. The committee shall have permanent referral of documents as they become available relating to:

- (a) The Auditor-General's reports;
- (b) Internal Audit Reports; and
- (c) Annual Reports of the municipality.

The MPAC reports are sent to Council via the Speaker of the municipality and the committee can consult with management or any other committees of Council for clarifying or for recommendation purposes where necessary.

**DISCUSSION**

None

**LEGAL RESPONSIBILITIES**

Section 79A of the Municipal Structures Amendment Act 2021

- (1) A municipal council must establish a committee called the municipal public accounts committee.

- (2) The mayor or executive mayor, deputy mayor or executive deputy mayor, any member of the executive committee, any member of the mayoral committee, speaker, whip and municipal officials are not allowed to be members of the municipal public accounts committee.
- (3) The municipal council must determine the functions of the municipal public accounts committee, which must include the following:
- (a) review the Auditor-General's reports and comments of the management committee and the audit committee and make recommendations to the municipal council;
  - (b) review internal audit reports together with comments from the management committee and the audit committee and make recommendations to the municipal council;
  - (c) initiate and develop the oversight report on annual reports contemplated in section 129 of the Local Government: Municipal Finance Management Act;
  - (d) attend to and make recommendations to the municipal council on any matter referred to it by the municipal council, executive committee, a committee of the council, a member of this committee, a councillor and the municipal manager; and
  - (e) on its own initiative, subject to the direction of the municipal council, investigate and report to the municipal council on any matter affecting the municipality.
- (4) Reports of the municipal public accounts committee must be submitted to the speaker who must table such reports in the next meeting of the municipal council.
- (5) (a) For the purposes of this section 'audit committee' means the audit committee envisaged in section 166 of the Local Government Municipal: Finance Management Act.
- (b) Each municipality and each municipal entity must establish an audit committee in accordance with that section.”:

#### **FINANCIAL IMPLICATIONS**

No financial impact for the municipality

#### **RISK MANAGEMENT IMPLICATIONS**

None

#### **RECOMMENDATION TO COUNCIL:**

**It is recommended:**

1. **That Council resolution C52/2023 – Council Meeting of 30 March 2023 (appointment of Chairperson and Members to MPAC) and Council resolution C89/2024 – Council Meeting of 23 May 2024 (appointment of a Member to MPAC), be repealed.**

2. That Council appoints the following Councillors as MPAC Chairperson and Members:

Alderman/ Councillor ..... [Chairperson]

Alderman/ Councillor ..... [Member]

Alderman/ Councillor ..... [Member]

**ITEM TITLE**

**SC50/2024 DIRECTORATE CORPORATE SERVICES: DEPARTMENT  
ADMINISTRATION: NOMINATION OF COUNCILLOR  
RESPRESENTATIVES AND SECUNDI ON THE FRAUD AND RISK  
MANAGEMENT COMMITTEE (FARMCO)**

*[English version of the report is the original]*

**FILE NUMBER**

3/2/12/2

**PURPOSE OF REPORT**

To nominate the Councillor Representatives and Secundi to serve on the Fraud and Risk Management Committee (FARMCO).

**BACKGROUND**

The Fraud and Risk Management Committee (FARMCO) has been established by the Theewaterskloof Municipality to fulfil its risk management and control responsibilities in accordance with prescribed legislation and cooperate governance principles.

**DISCUSSION**

According to the Terms of Reference of the Committee, the Municipal Manager shall formally appoint the permanent members.

The committee currently comprises out of the following permanent members:

- a) Top Management / Risk Owners
- b) Risk Management Official of the Theewaterskloof Municipality

Standing invitees:

- c) Member of the Performance- and Audit Committee (one member)
- d) Chief Audit Executive
- e) Manager: Information Technology
- f) **3 Members of the Executive Mayoral Committee**

Council must nominate the three (3) Members of the Executive Mayoral Committee who will form part of the Fraud and Risk Management Committee.

**LEGAL RESPONSIBILITIES**

Municipal Finance Management Act

**FINANCIAL IMPLICATIONS**

None

**RISK MANAGEMENT IMPLICATIONS**

The Committee will ensure the effectiveness of the Municipality's risk management systems, practices and procedures and provide recommendations for improvement.

**RECOMMENDATION TO COUNCIL:**

**It is recommended:**

1. That Council resolution C06/2022 – Council Meeting of 25 January 2022, be repealed.
2. That Council nominates the following three (3) Members of the Executive Mayoral Committee who will form part of the Fraud and Risk Management Committee (FARMCO):
  - 2.1 Aldm/ Cllr .....
  - 2.2 Aldm/ Cllr .....
  - 2.3 Aldm/ Cllr .....

**Secundi 1: Aldm/ Cllr ..... 1 Member of the EMC**

**ITEM TITLE**

**SC51/2024 DIRECTORATE CORPORATE SERVICES: DEPARTMENT  
ADMINISTRATION: DESIGNATION OF A COUNCILLOR OR MORE  
THAN ONE COUNCILLOR AND SECUNDI TO SERVE ON THE  
CALEDON HOSPITAL COMMITTEE**

*[English version of the report is the original]*

**FILE NUMBER**

3/3/6

**PURPOSE OF REPORT**

To designate a Councillor or more than one Councillor and secundi to serve on the Caledon Hospital Committee.

**BACKGROUND**

A request was received from Caledon Hospital to designate a councillor or more than one Councillor to serve on the Caledon Hospital Committee.

**DISCUSSION**

The Western Cape Health Facility Boards and Committees Act, 2016 (Act 4 of 2016) provides the following, which must be taken into account when designating a Councillor / Councillors to serve on the Caledon Hospital Committee:

**Section 6(1)** provides as follows regarding the “**Appointment of members of Committee**”:

The Provincial Minister must appoint to a committee not more than 12 members, including –

- (a) one or more councillors of the municipal council for the municipal area in which the primary health care facility is situated, nominated by the municipal council or a health-related committee of the municipal council;
- (b) .....

Furthermore, **Section 7** provides the following regarding “**Eligibility for appointment as a member**”:

7.(1) To be eligible for appointment as a member a person must –

- (a) be a South African citizen;
- (b) be older than 18 years;
- (c) not be an unrehabilitated insolvent;
- (d) not, at any time, have been convicted of –
  - (i) an offence for which he or she was sentenced to imprisonment without the option of a fine; or

- (ii) theft, fraud, forgery, the uttering of a forged document, perjury, any offence in terms of the Prevention and Combating of Corrupt Activities Act, 2004 (Act 12 of 2004), or any offence of which dishonesty is an element, whether in the Republic or elsewhere if the conduct constituting the offence would be an offence in the Republic;
- (e) demonstrate commitment to community service;
- (f) demonstrate support for the mission and values of the health facility concerned; and
- (g) demonstrate a high level of personal integrity and honesty.

**Section 8 provides as follows regarding the “Term of office of members”**

- 8.(1) Members are appointed for a period of three years.
- (2) On the expiry of the term of office of a member, that member may remain in office until a successor has been appointed, but not for longer than six months.
- (3) Subject to subsection (4), a member is eligible for reappointment to a Board or Committee at the expiry of his or her term of office.
- (4) A member, other than a member appointed in terms of section 5(1)(c) or 6(1)(c), may not serve on a Board or Committee for more than two consecutive terms. *(Not applicable to a Municipal Council appointment.)*
- (5) Despite subsection (4), a member who has served for two consecutive terms may be reappointed if, in the opinion of the Provincial Minister, exceptional circumstances exist for reappointment or, in the absence of exceptional circumstances, after an interval of not less than one year.

Council must designate a Councillor or more than one Councillor with a *secundi* to serve on the Caledon Hospital Committee.

**LEGAL RESPONSIBILITIES**

As indicated under “discussion”.

**FINANCIAL IMPLICATIONS**

None

**RISK MANAGEMENT IMPLICATIONS**

None

**RECOMMENDATION TO COUNCIL:**

**It is recommended:**

1. That Council resolution C01/2022 – Council Meeting of 25 January 2022 (point 2 and 3 – designation of Councillor(s) and *Secundi* on Caledon Hospital Committee), be repealed.

2. That Alderman/ Councillor ..... and Alderman/ Councillor ..... be designated to serve on the Caledon Hospital Committee as a Councillor on behalf of Theewaterskloof Municipality.
3. That Alderman/ Councillor ..... be nominated as secundi on the Caledon Hospital Committee.

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PROVINCE OF WESTERN CAPE

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**WESTERN CAPE HEALTH  
FACILITY BOARDS AND  
COMMITTEES ACT, 2016**

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PROVINSIE WES-KAAP

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**WES-KAAPSE WET OP RADE EN  
KOMITEES VIR  
GESONDHEIDSFASILITEITE, 2016**

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IPHONDO LENTSHONA KOLONI

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**UMTHETHO WEEBHODI  
NEEKOMITI ZAMAZIKO EMPILO  
WENTSHONA KOLONI, 2016**

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**No 4, 2016**

# ACT

To provide for the establishment, functions and procedures of boards established for hospitals and committees established for primary health care facilities; and to provide for matters incidental thereto.

**B**E IT ENACTED by the Provincial Parliament of the Western Cape, as follows:—

## Definitions

1. In this Act, unless the context indicates otherwise—
  - “**auditor**” means a person registered as an auditor in terms of the Auditing Profession Act, 2005 (Act 26 of 2005); 5
  - “**Board**” means a board established in terms of section 4(1);
  - “**central hospital**” means a hospital designated as such by the national Minister under the National Health Act;
  - “**Committee**” means a committee established in terms of section 4(4); 10
  - “**Department**” means the provincial department responsible for health matters in the Province;
  - “**district health council**” means a district health council as defined in section 1 of the Western Cape District Health Councils Act, 2010 (Act 5 of 2010);
  - “**district health manager**” means a district health manager as defined in section 1 15 of the Western Cape District Health Councils Act, 2010;
  - “**existing central-hospital board**” means a board appointed under the Western Cape Health Facility Boards Act for a central hospital and existing immediately before the commencement of this Act;
  - “**Head of Department**” means the head of the provincial department responsible 20 for health matters in the Province;
  - “**health facility**” means a hospital or primary health care facility;
  - “**hospital**” means a building, institution or place designated as a hospital by the Provincial Minister in terms of section 3;
  - “**member**” means a member of a Board or Committee, as the case may be; 25
  - “**National Health Act**” means the National Health Act, 2003 (Act 61 of 2003);
  - “**national Minister**” means the national Minister responsible for health matters;
  - “**prescribe**” means prescribe by regulation;
  - “**primary health care facility**” means a building, institution or place designated as a primary health care facility by the Provincial Minister in terms of section 3; 30
  - “**Province**” means the Province of the Western Cape;
  - “**Provincial Minister**” means the Provincial Minister responsible for health matters in the Province;
  - “**regulation**” means a regulation made under this Act;
  - “**representative central-hospital board**” means a board appointed by the 35 national Minister under section 41(4) of the National Health Act;
  - “**this Act**” includes the regulations;
  - “**Western Cape Health Facility Boards Act**” means the Western Cape Health Facility Boards Act, 2001 (Act 7 of 2001).

### Objects of Act

2. The objects of this Act are to provide for—
- (a) the establishment of representative and accountable Boards and Committees as statutory bodies;
  - (b) responsiveness of the management of health facilities to the community and the needs of patients and their families; 5
  - (c) community support for, and involvement in, health facilities and their programmes;
  - (d) a basic set of clearly defined functions for Boards and Committees, which may be incrementally expanded in the public interest as the capacity of a Board or Committee increases; and 10
  - (e) transitional provisions for existing central-hospital boards.

### Designation of hospital or primary health care facility

3. (1) For the purposes of the establishment of a Board or Committee in terms of this Act, the Provincial Minister may designate as a hospital or primary health care facility any building, institution or place where persons receive treatment, diagnostic or therapeutic interventions or other health services. 15

(2) The Provincial Minister may so designate as a hospital or primary health care facility a building, institution or place that is administered by a municipality only with the concurrence of— 20

- (a) the Provincial Minister responsible for local government; and
- (b) the municipality concerned.

### Establishment of Boards and Committees

4. (1) The Provincial Minister must establish a Board for each hospital or group of hospitals other than a central hospital or a group of central hospitals. 25

(2) Where a Board is established for a group of hospitals, the Provincial Minister must determine the group by having regard to—

- (a) the geographic distance between the hospitals;
- (b) the size and distribution of the population served by the hospitals; and
- (c) the service volumes of the hospitals. 30

(3) A Board is a juristic person and is capable of suing and being sued and holding property in its own name.

(4) The Provincial Minister must establish a Committee for—

- (a) every primary health care facility; or
- (b) a group of primary health care facilities, determined by the Provincial Minister. 35

(5) The criteria and process for the clustering of primary health care facilities in the case of a Committee appointed for a group of primary health care facilities may be prescribed by the Provincial Minister.

(6) A Committee is not a juristic person and is not capable of suing or being sued or holding property in its own name. 40

### Appointment of members of Board

5. (1) The Provincial Minister must appoint to a Board not more than 14 members, including—

- (a) persons representing the community or communities served by the hospital for which the Board is established, nominated in terms of subsection (4); 45
- (b) at least one person with technical expertise in business, law, finance or accounting or some other area relevant to the functions of the Board;
- (c) the head of the hospital concerned or, in the case of a Board established for more than one hospital, at least one of the heads of those hospitals; 50
- (d) at least one person representing the clinical staff of the hospital concerned, nominated by the clinical staff of the hospital, but in the case of a Board established for more than one hospital it is not necessary for a person representing the clinical staff of every hospital concerned to be appointed;
- (e) at least one person representing the non-clinical staff of the hospital concerned, nominated by the non-clinical staff of the hospital, but in the case 55

- of a Board established for more than one hospital it is not necessary for a person representing the non-clinical staff of every hospital concerned to be appointed; and
- (f) in the case of a Board established for one or more hospitals where health professionals are trained, at least one person representing the academic interests of each hospital concerned, nominated by the Vice-Chancellor or Vice-Chancellors of the university or universities concerned. 5
- (2) In addition to the members appointed in terms of subsection (1) the Provincial Minister may appoint to a Board—
- (a) a member of the Provincial Parliament, nominated by the parliamentary committee concerned with health matters; and 10
- (b) one or more councillors of the municipal council for the municipal area in which the hospital is situated, nominated by the municipal council or a health-related committee of the municipal council.
- (3) The members appointed in terms of subsection (1)(a) must constitute at least fifty per cent of the total number of members of the Board. 15
- (4) The members referred to in subsection (1)(a) must be nominated by a body that, in the opinion of the Provincial Minister, is sufficiently representative of the interests of the community or communities concerned.
- (5) A body referred to in subsection (4)— 20
- (a) may not be a political party;
- (b) may be, but need not be, a—
- (i) community health committee or forum;
- (ii) community development forum;
- (iii) civic organisation; 25
- (iv) welfare organisation;
- (v) representative organisation of patients who use health services or health facilities;
- (vi) community-based organisation;
- (vii) non-governmental organisation; or 30
- (viii) representative organisation of children, women, the elderly, persons with disabilities or persons granted asylum.
- (6) The Provincial Minister must prescribe procedures for the invitation of nominations contemplated in subsections (1)(a) and (4).
- (7) Where nominations are required in terms of this section, all nominations received within the prescribed period must be considered by the Provincial Minister before the relevant appointments are made. 35
- (8) If the Provincial Minister receives no or insufficient nominations required in terms of this section, any suitably qualified person may be appointed a member from the relevant category stipulated in subsection (1) or (2). 40
- (9) The appointments to the Board must be made with racial and gender sensitivity and sensitivity to the elderly, the youth and persons with disabilities.

#### **Appointment of members of Committee**

6. (1) The Provincial Minister must appoint to a Committee not more than 12 members, including— 45
- (a) one or more councillors of the municipal council for the municipal area in which the primary health care facility is situated, nominated by the municipal council or a health-related committee of the municipal council;
- (b) members of the community or communities served by the primary health care facility for which the Committee is established, nominated in terms of subsection (3); and 50
- (c) the head of the primary health care facility concerned or, in the case of a Committee appointed for more than one primary health care facility, a manager designated by the district health manager.
- (2) The members appointed in terms of subsection (1)(b) must constitute at least fifty per cent of the total number of members of the Committee. 55
- (3) The members referred to in subsection (1)(b) must be nominated by a body that—
- (a) in the opinion of the Provincial Minister, is sufficiently representative of the interests of the community or communities concerned;
- (b) is not a political party, but may be, yet need not be, a body referred to in section 5(5)(b). 60

(4) The Provincial Minister may prescribe procedures for the invitation of nominations contemplated in subsections (1)(b) and (3).

(5) Where nominations are required in terms of subsection (1)(b) and (3), all nominations received within the prescribed period must be considered by the Provincial Minister before the relevant appointments are made. 5

(6) If the Provincial Minister receives no or insufficient nominations required in terms of paragraph (b) of subsection (1), any suitably qualified persons may be appointed as members from the category stipulated in that paragraph.

(7) The appointments to the Committee must be made with racial and gender sensitivity and sensitivity to the elderly, the youth and persons with disabilities. 10

#### **Eligibility for appointment as a member**

7. (1) To be eligible for appointment as a member a person must—

- (a) be a South African citizen;
- (b) be older than 18 years;
- (c) not be an unrehabilitated insolvent; 15
- (d) not, at any time, have been convicted of—
  - (i) an offence for which he or she was sentenced to imprisonment without the option of a fine; or
  - (ii) theft, fraud, forgery, the uttering of a forged document, perjury, any offence in terms of the Prevention and Combating of Corrupt Activities Act, 2004 (Act 12 of 2004), or any offence of which dishonesty is an element, 20
 

whether in the Republic or elsewhere if the conduct constituting the offence would be an offence in the Republic;
- (e) demonstrate commitment to community service; 25
- (f) demonstrate support for the mission and values of the health facility concerned; and
- (g) demonstrate a high level of personal integrity and honesty.

#### **Term of office of members**

8. (1) Members are appointed for a period of three years. 30

(2) On the expiry of the term of office of a member, that member may remain in office until a successor has been appointed, but not for longer than six months.

(3) Subject to subsection (4), a member is eligible for reappointment to a Board or Committee at the expiry of his or her term of office.

(4) A member, other than a member appointed in terms of section 5(1)(c) or 6(1)(c), 35 may not serve on a Board or Committee for more than two consecutive terms.

(5) Despite subsection (4), a member who has served for two consecutive terms may be reappointed if, in the opinion of the Provincial Minister, exceptional circumstances exist for reappointment or, in the absence of exceptional circumstances, after an interval of not less than one year. 40

#### **Vacancies**

9. (1) The chairperson of a Board or Committee must immediately in writing declare an office on the Board or Committee vacant if a member—

- (a) dies;
- (b) submits his or her resignation from office in writing to the chairperson; 45
- (c) is declared insolvent by a court of the Republic;
- (d) is during his or her term of office convicted of—
  - (i) an offence and sentenced to imprisonment without the option of a fine; or
  - (ii) theft, fraud, forgery, the uttering of a forged document, perjury, any offence in terms of the Prevention and Combating of Corrupt Activities Act, 2004 (Act 12 of 2004), or any offence of which dishonesty is an element, 50
 

whether in the Republic or elsewhere if the conduct constituting the offence would be an offence in the Republic;
- (e) is absent without leave of the chairperson of the Board or Committee from 55
 

three consecutive ordinary meetings of the Board or Committee;
- (f) is suspended or removed from office under section 24(12)(b);

- (g) ceases to hold any office by virtue of which that member was appointed to the Board or Committee; or
  - (h) fails to disclose to the Board or Committee any direct or indirect personal financial interest in a matter before the Board or Committee, and that member is present during, or participates in, the discussion of, or voting on, that matter. 5
- (2) If a member of a Board or Committee continuously disrupts meetings of the Board or Committee or fails to perform his or her duties in good faith or honestly, the Provincial Minister may initiate an investigation into the matter and, if sufficient grounds are found to exist, remove that member and declare his or her office vacant.
- (3) Within seven days of declaring an office vacant in terms of subsection (1), the chairperson must in writing inform the Provincial Minister of the vacancy. 10
- (4) On receipt of notice of a vacancy in terms of subsection (3), or on the removal of a member under subsection (2), the Provincial Minister must appoint another person to fill the vacancy for the unexpired period of office of the previous incumbent and, for the purposes of section 8(4), the unexpired period constitutes a term of office. 15
- (5) For the purposes of an appointment contemplated in subsection (4) the Provincial Minister must apply the same criteria used for the appointment of the vacating member.
- (6) In the event that a Board or a Committee fails to hold four meetings in a calendar year, the Provincial Minister may declare the Board or Committee concerned dysfunctional and appoint a new Board in terms of section 5 or a new Committee in terms of section 6. 20

#### Duties of Boards

10. (1) A Board must, in respect of each hospital for which it is established—
- (a) participate in strategic planning with a view to advising the hospital management; 25
  - (b) monitor the performance, effectiveness and efficiency of the hospital and measures taken by the hospital management to improve the performance and quality of service of the hospital;
  - (c) take measures to ensure that the needs, concerns and complaints of patients and the community are properly addressed by the hospital management; 30
  - (d) foster community support for the hospital;
  - (e) encourage volunteers to offer their services in performing general duties for the hospital in accordance with the applicable policy on volunteers;
  - (f) request and review at least once a year the financial statements and annual financial statements of the hospital; 35
  - (g) raise funds for the functioning of the Board; and
  - (h) at reasonable times and in cooperation with the hospital management conduct scheduled visits to the hospital, without impeding its functioning, and provide constructive written feedback on such visits to the management.
- (2) A Board must take receipt of, administer and account for the funds raised by a Committee for which it is designated in terms of section 18(6) for the benefit of the primary health care facility concerned or the functioning of the Committee, in the manner prescribed by the Provincial Minister. 40

#### Powers of Boards

11. A Board may, in respect of a hospital for which it is established— 45
- (a) advise and make recommendations to the Provincial Minister, the hospital management, the Head of Department or the municipality concerned, as the case may be, on any matter relating to the performance of the Board's functions;
  - (b) advise and make recommendations to the Provincial Minister or the municipality concerned, as the case may be, on the naming or renaming of the hospital or a part thereof, including a ward or theatre; 50
  - (c) obtain information it requires from the hospital management if the information does not violate the rights of a patient or staff member to privacy and confidentiality; 55
  - (d) request from the hospital management copies of routine progress reports that have been generated;
  - (e) conduct surveys, meetings and consultative workshops in the community or communities concerned;

- (f) disseminate information to the community or communities concerned on the mission, vision, values, services, performance, standards, policies, strategies, needs and financial status of the hospital;
- (g) appoint staff on a contractual basis to serve the purposes of the Board;
- (h) donate funds or movable property for the provision, improvement or expansion of services and amenities, or donate funds for the acquisition of movable or immovable assets for the benefit of the hospital, in the manner prescribed by the Provincial Minister; and
- (i) raise and administer trust funds or Board funds for the purposes referred to in paragraph (g) or (h), or to give effect to any other provision of this Act.

#### Duties of Committees

12. A Committee must, in respect of each primary health care facility for which it is established—

- (a) request feedback on measures taken by the management of the primary health care facility to improve the quality of service at the facility;
- (b) assist the community to effectively communicate its needs, concerns and complaints to the management of the primary health care facility so that the needs, concerns and complaints can be appropriately addressed;
- (c) foster community support for the primary health care facility;
- (d) at reasonable times and in cooperation with the management of the primary health care facility conduct scheduled visits to the facility, without impeding its functioning, and provide constructive written feedback on such visits to the management;
- (e) encourage volunteers to offer their services in performing general duties in respect of the primary health care facility in accordance with the applicable policy on volunteers; and
- (f) provide constructive feedback to the management of the primary health care facility in order to enhance service delivery.

#### Powers of Committees

13. (1) A Committee may, in respect of a primary health care facility for which it is established—

- (a) conduct surveys, meetings and consultative workshops in the community or communities concerned;
  - (b) disseminate information to the community or communities concerned on the mission, vision, values, services, performance, standards, policies, strategies, needs and financial status of the primary health care facility;
  - (c) advise and make recommendations to the Provincial Minister, the management of the primary health care facility, the Head of Department or the municipality concerned, as the case may be, on any matter relating to the performance of the Committee's functions;
  - (d) obtain information it requires from the management of the primary health care facility if the information does not violate the rights of a patient or staff member to privacy and confidentiality;
  - (e) request from the management of the primary health care facility copies of routine progress reports that have been generated; and
  - (f) conduct fundraising activities for the benefit of the primary health care facility and the functioning of the Committee.
- (2) All funds raised by a Committee—
- (a) must be paid to, administered by, and accounted for by, the Board designated by the Head of Department in terms of section 18(6), in the prescribed manner;
  - (b) may be used only for the benefit of the primary health care facility or facilities concerned or for the functioning of the Committee.
- (3) Moveable property donated to the Committee must be allocated on receipt to the primary health care facility concerned and must be accounted for by that facility in accordance with the asset and inventory management policies applicable to the facility.

### Alteration of functions of Board or Committee

14. (1) Subject to subsection (4) and any other law, the Provincial Minister may in consultation with a Board or Committee authorise that Board or Committee to perform additional duties or exercise additional powers if the Provincial Minister has reason to believe that— 5
- (a) the Board or Committee has the capacity to perform those additional duties or exercise those additional powers; and
  - (b) it would be in the public interest for the Board or Committee to do so.
- (2) The Provincial Minister may after consultation with a Board or Committee revoke the authority given to that Board or Committee in terms of subsection (1) to perform an additional duty or exercise an additional power if the Provincial Minister has reason to believe that— 10
- (a) the Board or Committee no longer has the capacity to perform that additional duty or exercise that additional power; or
  - (b) it would be in the public interest for the Provincial Minister to do so. 15
- (3) The Provincial Minister may after consultation with a Board or Committee—
- (a) exempt that Board or Committee from performing a duty imposed by section 10 or 12; or
  - (b) revoke a power conferred on the Board or Committee by section 11 or 13.
- (4) When exercising a power contemplated in subsection (1), (2) or (3), the Provincial Minister must act after consultation with the head or heads of the health facility or facilities concerned. 20

### Performance of duties and exercise of powers

15. (1) In performing its duties or exercising its powers, a Board or Committee must act in accordance with the relevant and applicable laws and policy made by the national, provincial or local government. 25
- (2) The Head of Department may request a Board or Committee to provide a quarterly report on its activities.
- (3) The chairperson of a Board or Committee must, within two months of the end of each calendar year, submit a written report to the Provincial Minister on the activities of the Board or Committee during that year. 30

### Measures for cooperation

16. (1) The Provincial Minister may take measures to ensure collaborative working relationships between Boards, Committees and district health councils.
- (2) A Board or Committee must forge strong and cooperative relations with the management of the health facility it serves. 35
- (3) The head of a health facility must—
- (a) take measures to assist the Board or Committee concerned to perform its duties and exercise its powers; and
  - (b) forge strong and cooperative relations with the Board or Committee. 40
- (4) If irreconcilable differences arise between the management of a health facility and the Board or Committee concerned, the Board or Committee or the head of the health facility may request mediation or arbitration by the Head of Department.

### Chairperson and deputy chairperson

17. (1) A Board or Committee must, from among the members referred to in section 5(1)(a), 5(1)(b) or 6(1)(b), as the case may be, elect a chairperson and a deputy chairperson— 45
- (a) at its first meeting; and
  - (b) subsequently, whenever either of those offices becomes vacant.
- (2) An employee of the Department may not be the chairperson of a Board. 50
- (3) The chairperson and the deputy chairperson are elected for the term of office of the member concerned.
- (4) Within 14 days of the election of a chairperson or deputy chairperson in terms of subsection (1), the chairperson must notify the Head of Department in writing of the name and address of the office bearer concerned. 55

(5) When the chairperson is absent from a meeting of the Board or Committee or is not available, the deputy chairperson acts as chairperson.

(6) If both the chairperson and deputy chairperson are absent from a meeting of the Board or Committee, the members present must elect one of their number to act as chairperson for that meeting.

(7) The chairperson of a Board is the accounting officer for that Board and has the powers and duties prescribed by the Provincial Minister.

(8) The office of the chairperson or the deputy chairperson becomes vacant if the member concerned—

(a) resigns in writing; or

(b) is removed by a decision of the Board or Committee concerned.

### General support

18. (1) The hospital for which a Board is established must provide a venue for the Board as well as secretarial, administrative and financial accounting support required by the Board.

(2) If a Board is established for more than one hospital, a venue and secretarial, administrative and financial accounting support required by the Board must be provided by one or more of the hospitals, as determined by—

(a) agreement between the heads of the hospitals concerned; or

(b) the Head of Department, in the absence of such agreement.

(3) Despite subsections (1) and (2), a Board may make alternative arrangements for the provision of a venue as well as secretarial, administrative and financial accounting support from its funds in the manner prescribed by the Provincial Minister.

(4) The primary health care facility or facilities for which a Committee is established must provide a venue for the Committee and, in so far as is possible, secretarial, administrative and financial accounting support required by the Committee.

(5) If a Committee is established for more than one primary health care facility, a venue and, in so far as is possible, secretarial, administrative and financial accounting support required by the Committee must be provided by one or more of the primary health care facilities, as determined by—

(a) agreement between the heads of the primary health care facilities concerned; or

(b) the Head of Department, in the absence of such agreement.

(6) The Head of Department must designate a Board for every Committee for the purposes of taking receipt of, administering and accounting for the funds raised by a Committee.

(7) A Board designated in terms of subsection (6) must receive, administer and account for the funds raised by the Committee in the manner prescribed.

(8) The Department must provide for the induction and training of members newly appointed to a first term of office and must provide additional training if considered necessary and appropriate.

### Scheduling of meetings

19. (1) The Head of Department must determine the time and place for the first meeting of a Board or Committee.

(2) A Board or Committee must determine the time and place of subsequent ordinary meetings, which must take place at least once every three months and four times in a calendar year.

(3) The chairperson may at any time call a special meeting, and must do so if requested in writing by at least two members of the Board or Committee, as the case may be, and the chairperson is satisfied that the request is reasonable.

(4) The chairperson must notify members of the time, place and reason for a special meeting at least three working days in advance of the meeting, except where a shorter notice period is necessitated by the exceptional urgency of the circumstances.

(5) Notice of all meetings of a Board or Committee must be made public by the Board or Committee concerned.

**Procedure at meetings**

20. (1) The procedure at a meeting of a Board or Committee must, in so far as it has not been prescribed, be determined by the Board or Committee.

(2) A quorum of not less than one half of the members appointed in terms of section 5(1)(a) or 6(1)(b) and one half of the other members appointed in terms of section 5(1) and (2) or 6(1), as the case may be, must be present at a meeting at any time. 5

(3) A decision of a Board or Committee should be by consensus, but in the absence of consensus the decision of a majority of the members present at the meeting is the decision of the Board or Committee.

(4) In the event of an equality of votes on any matter, the chairperson at the meeting has a casting vote and a deliberative vote. 10

(5) A Board may request or permit any person to participate in a meeting of the Board in an advisory capacity.

(6) The chairperson must ensure that—

(a) a proper record is kept of attendance at, minutes of, and resolutions adopted at, every meeting; and 15

(b) a copy of a record referred to in paragraph (a), signed by the chairperson, is sent to the Head of Department if the Head of Department requests it.

**Public attendance at meetings**

21. (1) Subject to subsection (2), all meetings of a Board or Committee are open to members of the public. 20

(2) If a Board or Committee decides on reasonable grounds that members of the public should not be present at a meeting while a particular issue is being discussed, the chairperson must exclude the public from the meeting for the duration of that discussion.

(3) A Board or Committee may use any reasonable means to inform members of the public of Board or Committee meetings. 25

**Executive committee**

22. (1) A Board or Committee may appoint an executive committee composed of members of the Board or Committee, at least half of whom must be members appointed in terms of section 5(1)(a) in the case of a Board and section 6(1)(b) in the case of a Committee. 30

(2) Subject to the directions of a Board or Committee and subsections (3) and (4), an executive committee may perform all the duties and exercise all the powers of the Board or Committee between meetings of the Board or Committee.

(3) An executive committee does not have the power to review or alter a decision of the Board or Committee, except in so far as the Board or Committee directs otherwise. 35

(4) Any action taken or decision made by an executive committee may at the first meeting of the Board or Committee following that action or decision be reviewed and altered by the Board or Committee, without prejudice to any person.

**Specialist committees**

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23. (1) A Board or Committee may appoint specialist committees consisting of members of the Board or Committee to perform certain duties or exercise certain powers on behalf of the Board or Committee.

(2) Where executive power is delegated to a specialist committee, the mandate, terms of reference, procedure and quorums of the specialist committee must be agreed to and recorded by the Board or Committee. 45

(3) A specialist committee of a Board may co-opt a person or persons not serving on the Board to serve on the specialist committee in an advisory capacity.

(4) Any action taken or decision made by a specialist committee may, at the first meeting of the Board or Committee following that action or decision, be reviewed and altered by the Board or Committee, without prejudice to any person. 50

**Raising and utilisation of Board funds**

24. (1) A Board may receive services, funds or property for the purpose of performing its functions.

(2) A Board may use funds, property or equipment belonging to it for the purpose of performing its functions.

(3) A Board may establish a trust for the benefit of a hospital served by it and may accept and administer a trust already established for the benefit of a hospital served by it.

(4) A Board must keep records of all funds received and spent by it and of its assets, liabilities and transactions.

(5) A Board must annually, within two months of the end of its financial year, submit to the Head of Department its financial statements for that year, compiled according to the reporting framework determined by the Provincial Minister in consultation with the Provincial Minister responsible for finance.

(6) An auditor appointed by the Board must, subject to subsection (7), audit the records and annual financial statements of the Board and must submit an audit report to the Head of Department and the Board within two months of receipt of the statements referred to in subsection (5).

(7) The Provincial Minister may, after consultation with the Head of Department, determine that a Board is exempted from being audited.

(8) The Provincial Minister must consider the following when making a determination in terms of subsection (7):

- (a) whether the total asset value, including investments of the Board, exceeded R5 000 000 in the previous financial year, with such amount to be adjusted annually on 1 March in accordance with the consumer price index;
- (b) the financial statements of the Board in the previous financial year; and
- (c) whether the Board complied with its duties in terms of this Act in the previous financial year.

(9) Where the Provincial Minister has exempted a Board in terms of subsection (7), the Board must nevertheless submit to the Head of Department financial statements compiled according to the reporting framework determined by the Provincial Minister in consultation with the Provincial Minister responsible for finance.

(10) The Provincial Minister may require a Board that has been exempted in terms of subsection (7) to be audited as set out in subsection (6).

(11) The financial year of a Board is a year ending on 31 March.

(12) If a Board fails to comply with subsection (5) or (9), or in the event of any financial mismanagement by a Board, the Provincial Minister may take reasonable remedial steps that he or she considers necessary, including—

- (a) the appointment of an administrator to administer the financial affairs or operational functions of the Board;
- (b) the suspension or removal of Board members from office; and
- (c) the alteration of the duties and powers of the Board, despite section 14.

(13) Before the Provincial Minister takes any remedial steps contemplated in subsection (12), the Head of Department must issue to the Board a compliance notice and copies thereof to its members setting out—

- (a) a description of the transgression constituting the non-compliance;
- (b) the steps that the Board is required to take and the period within which those steps must be taken to remedy the transgression; and
- (c) a notification to the Board that if it fails to take any steps referred to in paragraph (b), the Head of Department must refer the non-compliance to the Provincial Minister to take remedial steps in terms of subsection (12).

(14) If the Board complies with all the steps referred to in subsection (13)(b) within the period specified in the compliance notice, the Head of Department must notify the Board in writing of its compliance with the terms of the compliance notice.

(15) If the Board fails to comply with any or all of the steps referred to in subsection (13)(b) within the period specified in the compliance notice—

- (a) the Head of Department must, on expiry of the period specified in the compliance notice, notify the Provincial Minister in writing of the non-compliance or partial compliance by the Board; and
- (b) the Provincial Minister must within 30 days of receipt of a notification of non-compliance or partial compliance notify the Board in writing of its non-compliance or partial compliance with the terms of the compliance notice.

(16) The notice contemplated in subsection (15)(b) must state—

- (a) the proposed remedial steps to be taken in terms of subsection (12); and

(b) that the Board is entitled to make written representations to the Provincial Minister within 14 days of receipt of the notice regarding the proposed remedial steps.

(17) On expiry of the 14 days contemplated in subsection (16)(b), whether the Provincial Minister has or has not received any written representations from the Board, the Provincial Minister may, after due consideration of all relevant facts, including the partial compliance of the Board with the terms of the compliance notice and any written representations by the Board, take the proposed remedial steps. 5

(18) If an administrator is appointed in terms of subsection (12)(a), he or she must—

(a) within six months of his or her appointment, furnish the Head of Department with a report on the financial affairs of the Board and any suspected breach of a statutory provision or unlawful act committed by the Board; 10

(b) thereafter, in consultation with the Head of Department, prepare a recovery plan for the Board; and

(c) upon completion of the implementation of the recovery plan, or failure to implement the recovery plan— 15

(i) if necessary, recommend to the Provincial Minister and Head of Department an extension of the recovery plan for a period not exceeding six months; or

(ii) furnish the Provincial Minister and Head of Department with a final report on the financial affairs of the Board and any suspected breach of a statutory provision or unlawful act committed by the Board. 20

(19) The Provincial Minister may, after consultation with the Head of Department and on receipt of the final report contemplated in subsection (18)(c)(ii), determine that—

(a) the Board is capable of administering its own financial affairs; or 25

(b) the Board is capable of administering its own financial affairs with the assistance of an administrator appointed by the Provincial Minister on such further terms and conditions as determined by the Provincial Minister.

(20) Before the Provincial Minister makes a determination in terms of subsection (19)(b), he or she must notify the Board in writing of his or her intention to make such a determination. 30

(21) The notice contemplated in subsection (20) must state—

(a) the determination that the Provincial Minister intends to make; and

(b) that the Board is entitled to make written representations to the Provincial Minister within 14 days of receipt of the notice regarding the proposed determination. 35

(22) On expiry of the 14 days contemplated in subsection (21)(b), whether the Provincial Minister has or has not received any written representations from the Board, the Provincial Minister may, after due consideration of all relevant facts, including any representations by the Board, make the proposed determination. 40

#### **Travelling and other allowances**

25. (1) Subject to tariffs set by the Provincial Minister in consultation with the Provincial Minister responsible for finance, a Board may from its funds reimburse a member of the Board appointed in terms of section 5(1)(a) and (b), an advisor in terms of section 20(5) or any person co-opted to serve on a specialist committee in terms of section 23(3) for— 45

(a) transport expenses between that member's, advisor's or person's normal place of residence or business and the venue of a meeting of the Board or the specialist committee concerned; and

(b) travelling and subsistence expenses incurred as a result of attendance at conferences, seminars or training courses or other business of the Board, but in the case of conferences, seminars and training courses outside the Province, the Provincial Minister's prior written approval must be obtained. 50

(2)(a) A Board may not compensate its members for time spent on Board business.

(b) Subject to tariffs set by the Provincial Minister in consultation with the Provincial Minister responsible for finance, a Board may from its funds compensate an advisor in terms of section 20(5) or a person co-opted to serve on a specialist committee of the Board in terms of section 23(3) for time spent on Board business. 55

(3)(a) A member of a Committee is not entitled to be compensated for time spent on Committee business. 60

(b) Subject to tariffs set by the Provincial Minister in consultation with the Provincial Minister responsible for finance, the Department may from its funds compensate a member of a Committee appointed in terms of section 6(1)(b) for transport expenses incurred as a result of attendance at meetings of the Committee.

(4) In the event that the Board has insufficient available funds, and subject to tariffs set by the Provincial Minister in consultation with the Provincial Minister responsible for finance, the Department may from its funds reimburse a member of a Board appointed in terms of sections 5(1)(a) or (b) for the transport expenses contemplated in subsection (1)(a). 5

#### **Closure of health facility** 10

26. (1) In the event of the closure of a health facility for which a Board or Committee has been established, the Head of Department must, at least three months prior to the closure and after consultation with that Board or Committee, instruct the Board or Committee in writing regarding—

- (a) in the case of a Board or Committee established only for that health facility, the intended closure of that facility and the dissolution of the Board or Committee and, in the case of a Board, any trust that may have been established by the Board; 15
- (b) in the case of a Board or Committee established for more than one health facility, any intended alteration of its composition necessitated by the closure of that facility; and 20
- (c) in the case of a Board established only for that health facility, the disposal of the assets and liabilities of the Board and any trust which may have been established by the Board.

(2) On the closure of a health facility referred to in subsection (1)(a), the Board or Committee serving that health facility and, in the case of a Board, any trust that may have been established by the Board are dissolved, and the Head of Department must, if necessary, take steps to give effect to the instructions contemplated in subsection (1)(c). 25

#### **Limitation of liability of members**

27. A member is not liable for anything done in good faith in the performance of a function in terms of this Act. 30

#### **Regulations**

28. (1) Subject to subsection (3), the Provincial Minister must make regulations regarding—

- (a) procedures for the nomination of members for appointment to Boards and Committees; 35
- (b) the financial governance of Boards;
- (c) the manner in which a Board may donate funds or other moveable property for the provision, improvement or expansion of services and amenities, or donate funds for the acquisition of movable or immovable assets for the benefit of the hospital; 40
- (d) the powers and duties of the chairperson of a Board or Committee;
- (e) the manner in which a Board may make arrangements for the provision of a venue, as well as secretarial, administrative and financial accounting support;
- (f) the manner in which a Committee must pay funds raised for the benefit of the primary health care facility and the functioning of the Committee to the Board designated by the Head of Department in terms of section 18(6); 45
- (g) the manner in which a Board designated in terms of section 18(6) must take receipt of, administer and account for the funds raised by a Committee;
- (h) travelling and other allowances payable in terms of this Act; 50
- (i) the establishment of trusts by Boards; and
- (j) the criteria and process for the clustering of primary health care facilities for the purposes of the establishment of a Committee for a group of primary health care facilities.

(2) Subject to subsection (3), the Provincial Minister may make regulations regarding— 55

- (a) procedures for meetings of a Board or Committee; and

(b) any other matter which may be necessary or expedient to prescribe in order to achieve the objects of this Act.

(3) In the case of regulations that have financial implications for the state, the Provincial Minister must make the regulations with the concurrence of the Provincial Minister responsible for finance.

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### Delegation

29. (1) The Provincial Minister may delegate or assign any of his or her powers or duties in terms of this Act, except the power to make regulations, to the Head of Department.

(2) The Head of Department may delegate or assign any of his or her powers or duties in terms of this Act to—

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- (a) an employee in the Department; or
- (b) the holder of a specific office or position in the Department.

(3) Despite subsection (2), the Head of Department may not delegate a power or assign a duty to a member.

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(4) A delegation or assignment referred to in subsection (1) or (2)—

- (a) must be in writing;
- (b) may be made subject to conditions;
- (c) may be withdrawn or amended in writing by the Provincial Minister or the Head of Department, as the case may be;
- (d) may permit the further delegation of that power or further assignment of that duty;
- (e) does not prevent the Provincial Minister or the Head of Department, as the case may be, from exercising that power or performing that duty; and
- (f) does not divest the Provincial Minister or the Head of Department, as the case may be, of the responsibility regarding the exercise of the delegated power or the performance of the assigned duty.

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### Transitional provisions in respect of central hospitals

30. (1) Despite the repeal of the Western Cape Health Facility Boards Act by this Act, an existing central-hospital board in the Province continues to function in accordance with the provisions of that Act until the national Minister has appointed a representative central-hospital board for the hospital concerned.

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(2) Notwithstanding section 7 of the Western Cape Health Facility Boards Act, when the term of office of a member of an existing central-hospital board lapses prior to the appointment by the national Minister of a representative central-hospital board for the hospital concerned, that member may remain in office until the appointment has been made by the national Minister.

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(3) On the appointment of a representative central-hospital board by the national Minister—

- (a) the assets and liabilities of the existing central-hospital board vest in the representative central-hospital board, on condition that the assets must be utilised by the representative central-hospital board for the benefit of that board or the central hospital it serves; and
- (b) the Provincial Minister may, after consultation with the existing central-hospital board, make a determination in writing regarding any matter that may be necessary to ensure the effective functioning of the representative central-hospital board.

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### Repeals and savings

31. (1) The Western Cape Health Facility Boards Act is repealed.

(2) Subject to section 30—

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(a) a Board established under section 5 of the Western Cape Health Facilities Board Act and in existence immediately before the commencement of this Act continues to function and is regarded as having been established under section 4(1) of this Act;

(b) the juristic identity and the rights and obligations of such a Board are not affected by the repeal of that Act; and

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- (c) any person holding an office in accordance with that Act immediately before the commencement of this Act continues in office for the term of that person's appointment and is regarded as duly appointed in terms of this Act for the unexpired portion of his or her term of office.
- (3) Any proclamation, regulation, notice, order, authority, permission or document issued, promulgated, given or granted and any other action taken under the Western Cape Health Facility Boards Act is, if not inconsistent with this Act, deemed to have been issued, promulgated, given, granted or taken under this Act. 5

**Short title and commencement**

**32.** This Act is called the Western Cape Health Facility Boards and Committees Act, 2016, and comes into operation on a date determined by the Premier by proclamation in the *Provincial Gazette*. 10

**ITEM HEADING**

**SC52/2024 DIRECTORATE CORPORATE SERVICES: DEPARTMENT  
ADMINISTRATION: DESIGNATION OF A COUNCILLOR AND  
SECUNDI TO SERVE ON THE CLINIC COMMITTEES IN  
THEEWATERSKLOOF MUNICIPALITY**

*[English version of the report is the original]*

**FILE NUMBER**

3/3/6

**PURPOSE / AIM OF THE REPORT**

To designate a Councillor and secundi to serve on all the Clinic Committees in Theewaterskloof Municipality.

**BACKGROUND**

A request was received from the Western Cape Department of Health that the Theewaterskloof Municipal Council must designate a Councillor, with a secundi, to serve on the following Clinic Committees in Theewaterskloof Municipality:

- a) Botrivier Clinic
- b) Caledon Clinic
- c) Genadendal Clinic
- d) Grabouw CDC
- e) Riviersonderend Clinic
- f) Villiersdorp Clinic

**DISCUSSION**

The Western Cape Health Facility Boards and Committees Act, 2016 (Act 4 of 2016) provides the following, which must be taken into account when designating a Councillor / Councillors to serve on Clinic Committees:

**Section 6(1)** provides as follows regarding the “**Appointment of members of Committee**”:

The Provincial Minister must appoint to a committee not more than 12 members, including –

- (a) one or more councillors of the municipal council for the municipal area in which the primary health care facility is situated, nominated by the municipal council or a health-related committee of the municipal council;
- (b) .....

Furthermore, **Section 7** provides the following regarding “**Eligibility for appointment as a member**”:

7.(1) To be eligible for appointment as a member a person must –

- (a) be a South African citizen;
- (b) be older than 18 years;
- (c) not be an unrehabilitated insolvent;
- (d) not, at any time, have been convicted of –
  - (i) an offence for which he or she was sentenced to imprisonment without the option of a fine; or
  - (ii) theft, fraud, forgery, the uttering of a forged document, perjury, any offence in terms of the Prevention and Combating of Corrupt Activities Act, 2004 (Act 12 of 2004), or any offence of which dishonesty is an element,

whether in the Republic or elsewhere if the conduct constituting the offence would be an offence in the Republic;

- (e) demonstrate commitment to community service;
- (f) demonstrate support for the mission and values of the health facility concerned; and
- (g) demonstrate a high level of personal integrity and honesty.

**Section 8** provides as follows regarding the “**Term of office of members**”

8.(1) Members are appointed for a period of three years.

- (2) On the expiry of the term of office of a member, that member may remain in office until a successor has been appointed, but not for longer than six months.
- (3) Subject to subsection (4), a member is eligible for reappointment to a Board or Committee at the expiry of his or her term of office.
- (4) A member, other than a member appointed in terms of section 5(1)(c) or 6(1)(c), may not serve on a Board or Committee for more than two consecutive terms. *(Not applicable to a Municipal Council appointment.)*
- (5) Despite subsection (4), a member who has served for two consecutive terms may be reappointed if, in the opinion of the Provincial Minister, exceptional circumstances exist for reappointment or, in the absence of exceptional circumstances, after an interval of not less than one year.

#### **LEGAL RESPONSIBILITY**

As indicated under “discussion”.

#### **FINANCIAL IMPLICATIONS**

None

#### **RISK MANAGEMENT IMPLICATION**

None

**RECOMMENDATION TO COUNCIL:**

It is recommended:

1. That Council resolution C02/2022 – Council Meeting of 25 January 2022 (point 2 and 7 – designation of Councillor and Secundi on Clinic Committees), be repealed.
2. That Alderman/ Councillor ..... be designated to serve on the Botriver Clinic Committee as a Councillor on behalf of Theewaterskloof Municipality with Alderman/ Councillor ..... as a secundi.
3. That Alderman/ Councillor ..... be designated to serve on the Caledon Clinic Committee as a Councillor on behalf of Theewaterskloof Municipality with Alderman/ Councillor ..... as a secundi.
4. That Alderman/ Councillor ..... be designated to serve on the Genadendal Clinic Committee as a Councillor on behalf of Theewaterskloof Municipality with Alderman/ Councillor ..... as a secundi.
5. That Alderman/ Councillor ..... be designated to serve on the Grabouw Clinic Committee as a Councillor on behalf of Theewaterskloof Municipality with Alderman/ Councillor ..... as a secundi.
6. That Alderman/ Councillor ..... be designated to serve on the Riviersonderend Clinic Committee as a Councillor on behalf of Theewaterskloof Municipality with Alderman/ Councillor ..... as a secundi.
7. That Alderman/ Councillor ..... be designated to serve on the Villiersdorp Clinic Committee as a Councillor on behalf of Theewaterskloof Municipality with Alderman/ Councillor ..... as a secundi.

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

PROVINCE OF THE WESTERN CAPE

PROVINSIE WES-KAAP

IPHONDO LENTSHONA KOLONI

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P.N. 273/2016

5 July 2016

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5 Julayi 2016

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

No. 4 of 2016: Western Cape Health Facility Boards and Committees Act, 2016.

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

Nr. 4 van 2016: Wes-Kaapse Wet op Rade en Komitees vir Gesondheidsfasiliteite, 2016.

Kwenziswa isaziso apha sokuba iNkulumbuso yePhondo leNtshona Koloni iwamkele ngokusemthethweni lo Mthetho ulandelayo opapashelwe ulwazi gabalala:—

Nomb 4 ka-2016: UMthetho weeKomiti kunye neeBhodi zaMaziko ezeMpilo weNtshona Koloni, 2016.

*(English text signed by the Premier)*  
*(Assented to 30 June 2016)*

## ACT

**To provide for the establishment, functions and procedures of boards established for hospitals and committees established for primary health care facilities; and to provide for matters incidental thereto.**

**B** E IT ENACTED by the Provincial Parliament of the Western Cape, as follows:—

### Definitions

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

- “**auditor**” means a person registered as an auditor in terms of the Auditing Profession Act, 2005 (Act 26 of 2005); 5
- “**Board**” means a board established in terms of section 4(1);
- “**central hospital**” means a hospital designated as such by the national Minister under the National Health Act;
- “**Committee**” means a committee established in terms of section 4(4); 10
- “**Department**” means the provincial department responsible for health matters in the Province;
- “**district health council**” means a district health council as defined in section 1 of the Western Cape District Health Councils Act, 2010 (Act 5 of 2010);
- “**district health manager**” means a district health manager as defined in section 1 15 of the Western Cape District Health Councils Act, 2010;
- “**existing central-hospital board**” means a board appointed under the Western Cape Health Facility Boards Act for a central hospital and existing immediately before the commencement of this Act;
- “**Head of Department**” means the head of the provincial department responsible 20 for health matters in the Province;
- “**health facility**” means a hospital or primary health care facility;
- “**hospital**” means a building, institution or place designated as a hospital by the Provincial Minister in terms of section 3;
- “**member**” means a member of a Board or Committee, as the case may be; 25
- “**National Health Act**” means the National Health Act, 2003 (Act 61 of 2003);
- “**national Minister**” means the national Minister responsible for health matters;
- “**prescribe**” means prescribe by regulation;
- “**primary health care facility**” means a building, institution or place designated as a primary health care facility by the Provincial Minister in terms of section 3; 30
- “**Province**” means the Province of the Western Cape;
- “**Provincial Minister**” means the Provincial Minister responsible for health matters in the Province;
- “**regulation**” means a regulation made under this Act;
- “**representative central-hospital board**” means a board appointed by the 35 national Minister under section 41(4) of the National Health Act;
- “**this Act**” includes the regulations;
- “**Western Cape Health Facility Boards Act**” means the Western Cape Health Facility Boards Act, 2001 (Act 7 of 2001).

**Objects of Act**

2. The objects of this Act are to provide for—
- (a) the establishment of representative and accountable Boards and Committees as statutory bodies;
  - (b) responsiveness of the management of health facilities to the community and the needs of patients and their families; 5
  - (c) community support for, and involvement in, health facilities and their programmes;
  - (d) a basic set of clearly defined functions for Boards and Committees, which may be incrementally expanded in the public interest as the capacity of a Board or Committee increases; and 10
  - (e) transitional provisions for existing central-hospital boards.

**Designation of hospital or primary health care facility**

3. (1) For the purposes of the establishment of a Board or Committee in terms of this Act, the Provincial Minister may designate as a hospital or primary health care facility any building, institution or place where persons receive treatment, diagnostic or therapeutic interventions or other health services. 15

(2) The Provincial Minister may so designate as a hospital or primary health care facility a building, institution or place that is administered by a municipality only with the concurrence of— 20

- (a) the Provincial Minister responsible for local government; and
- (b) the municipality concerned.

**Establishment of Boards and Committees**

4. (1) The Provincial Minister must establish a Board for each hospital or group of hospitals other than a central hospital or a group of central hospitals. 25

(2) Where a Board is established for a group of hospitals, the Provincial Minister must determine the group by having regard to—

- (a) the geographic distance between the hospitals;
- (b) the size and distribution of the population served by the hospitals; and
- (c) the service volumes of the hospitals. 30

(3) A Board is a juristic person and is capable of suing and being sued and holding property in its own name.

(4) The Provincial Minister must establish a Committee for—

- (a) every primary health care facility; or
- (b) a group of primary health care facilities, determined by the Provincial Minister. 35

(5) The criteria and process for the clustering of primary health care facilities in the case of a Committee appointed for a group of primary health care facilities may be prescribed by the Provincial Minister.

(6) A Committee is not a juristic person and is not capable of suing or being sued or holding property in its own name. 40

**Appointment of members of Board**

5. (1) The Provincial Minister must appoint to a Board not more than 14 members, including—

- (a) persons representing the community or communities served by the hospital for which the Board is established, nominated in terms of subsection (4); 45
- (b) at least one person with technical expertise in business, law, finance or accounting or some other area relevant to the functions of the Board;
- (c) the head of the hospital concerned or, in the case of a Board established for more than one hospital, at least one of the heads of those hospitals; 50
- (d) at least one person representing the clinical staff of the hospital concerned, nominated by the clinical staff of the hospital, but in the case of a Board established for more than one hospital it is not necessary for a person representing the clinical staff of every hospital concerned to be appointed;
- (e) at least one person representing the non-clinical staff of the hospital concerned, nominated by the non-clinical staff of the hospital, but in the case 55

of a Board established for more than one hospital it is not necessary for a person representing the non-clinical staff of every hospital concerned to be appointed; and

- (f) in the case of a Board established for one or more hospitals where health professionals are trained, at least one person representing the academic interests of each hospital concerned, nominated by the Vice-Chancellor or Vice-Chancellors of the university or universities concerned. 5

(2) In addition to the members appointed in terms of subsection (1) the Provincial Minister may appoint to a Board—

- (a) a member of the Provincial Parliament, nominated by the parliamentary committee concerned with health matters; and 10  
 (b) one or more councillors of the municipal council for the municipal area in which the hospital is situated, nominated by the municipal council or a health-related committee of the municipal council.

(3) The members appointed in terms of subsection (1)(a) must constitute at least fifty per cent of the total number of members of the Board. 15

(4) The members referred to in subsection (1)(a) must be nominated by a body that, in the opinion of the Provincial Minister, is sufficiently representative of the interests of the community or communities concerned.

(5) A body referred to in subsection (4)— 20

- (a) may not be a political party;  
 (b) may be, but need not be, a—  
 (i) community health committee or forum;  
 (ii) community development forum;  
 (iii) civic organisation; 25  
 (iv) welfare organisation;  
 (v) representative organisation of patients who use health services or health facilities;  
 (vi) community-based organisation;  
 (vii) non-governmental organisation; or 30  
 (viii) representative organisation of children, women, the elderly, persons with disabilities or persons granted asylum.

(6) The Provincial Minister must prescribe procedures for the invitation of nominations contemplated in subsections (1)(a) and (4).

(7) Where nominations are required in terms of this section, all nominations received within the prescribed period must be considered by the Provincial Minister before the relevant appointments are made. 35

(8) If the Provincial Minister receives no or insufficient nominations required in terms of this section, any suitably qualified person may be appointed a member from the relevant category stipulated in subsection (1) or (2). 40

(9) The appointments to the Board must be made with racial and gender sensitivity and sensitivity to the elderly, the youth and persons with disabilities.

#### Appointment of members of Committee

6. (1) The Provincial Minister must appoint to a Committee not more than 12 members, including— 45

- (a) one or more councillors of the municipal council for the municipal area in which the primary health care facility is situated, nominated by the municipal council or a health-related committee of the municipal council; 45  
 (b) members of the community or communities served by the primary health care facility for which the Committee is established, nominated in terms of subsection (3); and 50  
 (c) the head of the primary health care facility concerned or, in the case of a Committee appointed for more than one primary health care facility, a manager designated by the district health manager.

(2) The members appointed in terms of subsection (1)(b) must constitute at least fifty per cent of the total number of members of the Committee. 55

(3) The members referred to in subsection (1)(b) must be nominated by a body that—

- (a) in the opinion of the Provincial Minister, is sufficiently representative of the interests of the community or communities concerned;  
 (b) is not a political party, but may be, yet need not be, a body referred to in section 5(5)(b). 60

(4) The Provincial Minister may prescribe procedures for the invitation of nominations contemplated in subsections (1)(b) and (3).

(5) Where nominations are required in terms of subsection (1)(b) and (3), all nominations received within the prescribed period must be considered by the Provincial Minister before the relevant appointments are made.

(6) If the Provincial Minister receives no or insufficient nominations required in terms of paragraph (b) of subsection (1), any suitably qualified persons may be appointed as members from the category stipulated in that paragraph.

(7) The appointments to the Committee must be made with racial and gender sensitivity and sensitivity to the elderly, the youth and persons with disabilities.

#### Eligibility for appointment as a member

7. (1) To be eligible for appointment as a member a person must—

- (a) be a South African citizen;
- (b) be older than 18 years;
- (c) not be an unrehabilitated insolvent;
- (d) not, at any time, have been convicted of—
  - (i) an offence for which he or she was sentenced to imprisonment without the option of a fine; or
  - (ii) theft, fraud, forgery, the uttering of a forged document, perjury, any offence in terms of the Prevention and Combating of Corrupt Activities Act, 2004 (Act 12 of 2004), or any offence of which dishonesty is an element, whether in the Republic or elsewhere if the conduct constituting the offence would be an offence in the Republic;
- (e) demonstrate commitment to community service;
- (f) demonstrate support for the mission and values of the health facility concerned; and
- (g) demonstrate a high level of personal integrity and honesty.

#### Term of office of members

8. (1) Members are appointed for a period of three years.

(2) On the expiry of the term of office of a member, that member may remain in office until a successor has been appointed, but not for longer than six months.

(3) Subject to subsection (4), a member is eligible for reappointment to a Board or Committee at the expiry of his or her term of office.

(4) A member, other than a member appointed in terms of section 5(1)(c) or 6(1)(c), may not serve on a Board or Committee for more than two consecutive terms.

(5) Despite subsection (4), a member who has served for two consecutive terms may be reappointed if, in the opinion of the Provincial Minister, exceptional circumstances exist for reappointment or, in the absence of exceptional circumstances, after an interval of not less than one year.

#### Vacancies

9. (1) The chairperson of a Board or Committee must immediately in writing declare an office on the Board or Committee vacant if a member—

- (a) dies;
- (b) submits his or her resignation from office in writing to the chairperson;
- (c) is declared insolvent by a court of the Republic;
- (d) is during his or her term of office convicted of—
  - (i) an offence and sentenced to imprisonment without the option of a fine; or
  - (ii) theft, fraud, forgery, the uttering of a forged document, perjury, any offence in terms of the Prevention and Combating of Corrupt Activities Act, 2004 (Act 12 of 2004), or any offence of which dishonesty is an element, whether in the Republic or elsewhere if the conduct constituting the offence would be an offence in the Republic;
- (e) is absent without leave of the chairperson of the Board or Committee from three consecutive ordinary meetings of the Board or Committee;
- (f) is suspended or removed from office under section 24(12)(b);

- (g) ceases to hold any office by virtue of which that member was appointed to the Board or Committee; or
- (h) fails to disclose to the Board or Committee any direct or indirect personal financial interest in a matter before the Board or Committee, and that member is present during, or participates in, the discussion of, or voting on, that matter. 5
- (2) If a member of a Board or Committee continuously disrupts meetings of the Board or Committee or fails to perform his or her duties in good faith or honestly, the Provincial Minister may initiate an investigation into the matter and, if sufficient grounds are found to exist, remove that member and declare his or her office vacant.
- (3) Within seven days of declaring an office vacant in terms of subsection (1), the chairperson must in writing inform the Provincial Minister of the vacancy. 10
- (4) On receipt of notice of a vacancy in terms of subsection (3), or on the removal of a member under subsection (2), the Provincial Minister must appoint another person to fill the vacancy for the unexpired period of office of the previous incumbent and, for the purposes of section 8(4), the unexpired period constitutes a term of office. 15
- (5) For the purposes of an appointment contemplated in subsection (4) the Provincial Minister must apply the same criteria used for the appointment of the vacating member.
- (6) In the event that a Board or a Committee fails to hold four meetings in a calendar year, the Provincial Minister may declare the Board or Committee concerned dysfunctional and appoint a new Board in terms of section 5 or a new Committee in terms of section 6. 20

#### Duties of Boards

10. (1) A Board must, in respect of each hospital for which it is established—
- (a) participate in strategic planning with a view to advising the hospital management; 25
- (b) monitor the performance, effectiveness and efficiency of the hospital and measures taken by the hospital management to improve the performance and quality of service of the hospital;
- (c) take measures to ensure that the needs, concerns and complaints of patients and the community are properly addressed by the hospital management; 30
- (d) foster community support for the hospital;
- (e) encourage volunteers to offer their services in performing general duties for the hospital in accordance with the applicable policy on volunteers;
- (f) request and review at least once a year the financial statements and annual financial statements of the hospital; 35
- (g) raise funds for the functioning of the Board; and
- (h) at reasonable times and in cooperation with the hospital management conduct scheduled visits to the hospital, without impeding its functioning, and provide constructive written feedback on such visits to the management.
- (2) A Board must take receipt of, administer and account for the funds raised by a Committee for which it is designated in terms of section 18(6) for the benefit of the primary health care facility concerned or the functioning of the Committee, in the manner prescribed by the Provincial Minister. 40

#### Powers of Boards

11. A Board may, in respect of a hospital for which it is established— 45
- (a) advise and make recommendations to the Provincial Minister, the hospital management, the Head of Department or the municipality concerned, as the case may be, on any matter relating to the performance of the Board's functions;
- (b) advise and make recommendations to the Provincial Minister or the municipality concerned, as the case may be, on the naming or renaming of the hospital or a part thereof, including a ward or theatre; 50
- (c) obtain information it requires from the hospital management if the information does not violate the rights of a patient or staff member to privacy and confidentiality; 55
- (d) request from the hospital management copies of routine progress reports that have been generated;
- (e) conduct surveys, meetings and consultative workshops in the community or communities concerned;

- (f) disseminate information to the community or communities concerned on the mission, vision, values, services, performance, standards, policies, strategies, needs and financial status of the hospital;
- (g) appoint staff on a contractual basis to serve the purposes of the Board;
- (h) donate funds or movable property for the provision, improvement or expansion of services and amenities, or donate funds for the acquisition of movable or immovable assets for the benefit of the hospital, in the manner prescribed by the Provincial Minister; and
- (i) raise and administer trust funds or Board funds for the purposes referred to in paragraph (g) or (h), or to give effect to any other provision of this Act.

#### Duties of Committees

12. A Committee must, in respect of each primary health care facility for which it is established—

- (a) request feedback on measures taken by the management of the primary health care facility to improve the quality of service at the facility;
- (b) assist the community to effectively communicate its needs, concerns and complaints to the management of the primary health care facility so that the needs, concerns and complaints can be appropriately addressed;
- (c) foster community support for the primary health care facility;
- (d) at reasonable times and in cooperation with the management of the primary health care facility conduct scheduled visits to the facility, without impeding its functioning, and provide constructive written feedback on such visits to the management;
- (e) encourage volunteers to offer their services in performing general duties in respect of the primary health care facility in accordance with the applicable policy on volunteers; and
- (f) provide constructive feedback to the management of the primary health care facility in order to enhance service delivery.

#### Powers of Committees

13. (1) A Committee may, in respect of a primary health care facility for which it is established—

- (a) conduct surveys, meetings and consultative workshops in the community or communities concerned;
  - (b) disseminate information to the community or communities concerned on the mission, vision, values, services, performance, standards, policies, strategies, needs and financial status of the primary health care facility;
  - (c) advise and make recommendations to the Provincial Minister, the management of the primary health care facility, the Head of Department or the municipality concerned, as the case may be, on any matter relating to the performance of the Committee's functions;
  - (d) obtain information it requires from the management of the primary health care facility if the information does not violate the rights of a patient or staff member to privacy and confidentiality;
  - (e) request from the management of the primary health care facility copies of routine progress reports that have been generated; and
  - (f) conduct fundraising activities for the benefit of the primary health care facility and the functioning of the Committee.
- (2) All funds raised by a Committee—
- (a) must be paid to, administered by, and accounted for by, the Board designated by the Head of Department in terms of section 18(6), in the prescribed manner;
  - (b) may be used only for the benefit of the primary health care facility or facilities concerned or for the functioning of the Committee.
- (3) Moveable property donated to the Committee must be allocated on receipt to the primary health care facility concerned and must be accounted for by that facility in accordance with the asset and inventory management policies applicable to the facility.

**Alteration of functions of Board or Committee**

14. (1) Subject to subsection (4) and any other law, the Provincial Minister may in consultation with a Board or Committee authorise that Board or Committee to perform additional duties or exercise additional powers if the Provincial Minister has reason to believe that—
- (a) the Board or Committee has the capacity to perform those additional duties or exercise those additional powers; and
  - (b) it would be in the public interest for the Board or Committee to do so.
- (2) The Provincial Minister may after consultation with a Board or Committee revoke the authority given to that Board or Committee in terms of subsection (1) to perform an additional duty or exercise an additional power if the Provincial Minister has reason to believe that—
- (a) the Board or Committee no longer has the capacity to perform that additional duty or exercise that additional power; or
  - (b) it would be in the public interest for the Provincial Minister to do so.
- (3) The Provincial Minister may after consultation with a Board or Committee—
- (a) exempt that Board or Committee from performing a duty imposed by section 10 or 12; or
  - (b) revoke a power conferred on the Board or Committee by section 11 or 13.
- (4) When exercising a power contemplated in subsection (1), (2) or (3), the Provincial Minister must act after consultation with the head or heads of the health facility or facilities concerned.

**Performance of duties and exercise of powers**

15. (1) In performing its duties or exercising its powers, a Board or Committee must act in accordance with the relevant and applicable laws and policy made by the national, provincial or local government.
- (2) The Head of Department may request a Board or Committee to provide a quarterly report on its activities.
- (3) The chairperson of a Board or Committee must, within two months of the end of each calendar year, submit a written report to the Provincial Minister on the activities of the Board or Committee during that year.

**Measures for cooperation**

16. (1) The Provincial Minister may take measures to ensure collaborative working relationships between Boards, Committees and district health councils.
- (2) A Board or Committee must forge strong and cooperative relations with the management of the health facility it serves.
- (3) The head of a health facility must—
- (a) take measures to assist the Board or Committee concerned to perform its duties and exercise its powers; and
  - (b) forge strong and cooperative relations with the Board or Committee.
- (4) If irreconcilable differences arise between the management of a health facility and the Board or Committee concerned, the Board or Committee or the head of the health facility may request mediation or arbitration by the Head of Department.

**Chairperson and deputy chairperson**

17. (1) A Board or Committee must, from among the members referred to in section 5(1)(a), 5(1)(b) or 6(1)(b), as the case may be, elect a chairperson and a deputy chairperson—
- (a) at its first meeting; and
  - (b) subsequently, whenever either of those offices becomes vacant.
- (2) An employee of the Department may not be the chairperson of a Board.
- (3) The chairperson and the deputy chairperson are elected for the term of office of the member concerned.
- (4) Within 14 days of the election of a chairperson or deputy chairperson in terms of subsection (1), the chairperson must notify the Head of Department in writing of the name and address of the office bearer concerned.

(5) When the chairperson is absent from a meeting of the Board or Committee or is not available, the deputy chairperson acts as chairperson.

(6) If both the chairperson and deputy chairperson are absent from a meeting of the Board or Committee, the members present must elect one of their number to act as chairperson for that meeting.

(7) The chairperson of a Board is the accounting officer for that Board and has the powers and duties prescribed by the Provincial Minister.

(8) The office of the chairperson or the deputy chairperson becomes vacant if the member concerned—

(a) resigns in writing; or

(b) is removed by a decision of the Board or Committee concerned.

#### General support

18. (1) The hospital for which a Board is established must provide a venue for the Board as well as secretarial, administrative and financial accounting support required by the Board.

(2) If a Board is established for more than one hospital, a venue and secretarial, administrative and financial accounting support required by the Board must be provided by one or more of the hospitals, as determined by—

(a) agreement between the heads of the hospitals concerned; or

(b) the Head of Department, in the absence of such agreement.

(3) Despite subsections (1) and (2), a Board may make alternative arrangements for the provision of a venue as well as secretarial, administrative and financial accounting support from its funds in the manner prescribed by the Provincial Minister.

(4) The primary health care facility or facilities for which a Committee is established must provide a venue for the Committee and, in so far as is possible, secretarial, administrative and financial accounting support required by the Committee.

(5) If a Committee is established for more than one primary health care facility, a venue and, in so far as is possible, secretarial, administrative and financial accounting support required by the Committee must be provided by one or more of the primary health care facilities, as determined by—

(a) agreement between the heads of the primary health care facilities concerned; or

(b) the Head of Department, in the absence of such agreement.

(6) The Head of Department must designate a Board for every Committee for the purposes of taking receipt of, administering and accounting for the funds raised by a Committee.

(7) A Board designated in terms of subsection (6) must receive, administer and account for the funds raised by the Committee in the manner prescribed.

(8) The Department must provide for the induction and training of members newly appointed to a first term of office and must provide additional training if considered necessary and appropriate.

#### Scheduling of meetings

19. (1) The Head of Department must determine the time and place for the first meeting of a Board or Committee.

(2) A Board or Committee must determine the time and place of subsequent ordinary meetings, which must take place at least once every three months and four times in a calendar year.

(3) The chairperson may at any time call a special meeting, and must do so if requested in writing by at least two members of the Board or Committee, as the case may be, and the chairperson is satisfied that the request is reasonable.

(4) The chairperson must notify members of the time, place and reason for a special meeting at least three working days in advance of the meeting, except where a shorter notice period is necessitated by the exceptional urgency of the circumstances.

(5) Notice of all meetings of a Board or Committee must be made public by the Board or Committee concerned.

**Procedure at meetings**

20. (1) The procedure at a meeting of a Board or Committee must, in so far as it has not been prescribed, be determined by the Board or Committee.

(2) A quorum of not less than one half of the members appointed in terms of section 5(1)(a) or 6(1)(b) and one half of the other members appointed in terms of section 5(1) and (2) or 6(1), as the case may be, must be present at a meeting at any time. 5

(3) A decision of a Board or Committee should be by consensus, but in the absence of consensus the decision of a majority of the members present at the meeting is the decision of the Board or Committee.

(4) In the event of an equality of votes on any matter, the chairperson at the meeting has a casting vote and a deliberative vote. 10

(5) A Board may request or permit any person to participate in a meeting of the Board in an advisory capacity.

(6) The chairperson must ensure that—

(a) a proper record is kept of attendance at, minutes of, and resolutions adopted at, every meeting; and 15

(b) a copy of a record referred to in paragraph (a), signed by the chairperson, is sent to the Head of Department if the Head of Department requests it.

**Public attendance at meetings**

21. (1) Subject to subsection (2), all meetings of a Board or Committee are open to members of the public. 20

(2) If a Board or Committee decides on reasonable grounds that members of the public should not be present at a meeting while a particular issue is being discussed, the chairperson must exclude the public from the meeting for the duration of that discussion.

(3) A Board or Committee may use any reasonable means to inform members of the public of Board or Committee meetings. 25

**Executive committee**

22. (1) A Board or Committee may appoint an executive committee composed of members of the Board or Committee, at least half of whom must be members appointed in terms of section 5(1)(a) in the case of a Board and section 6(1)(b) in the case of a Committee. 30

(2) Subject to the directions of a Board or Committee and subsections (3) and (4), an executive committee may perform all the duties and exercise all the powers of the Board or Committee between meetings of the Board or Committee.

(3) An executive committee does not have the power to review or alter a decision of the Board or Committee, except in so far as the Board or Committee directs otherwise. 35

(4) Any action taken or decision made by an executive committee may at the first meeting of the Board or Committee following that action or decision be reviewed and altered by the Board or Committee, without prejudice to any person. 40

**Specialist committees**

23. (1) A Board or Committee may appoint specialist committees consisting of members of the Board or Committee to perform certain duties or exercise certain powers on behalf of the Board or Committee.

(2) Where executive power is delegated to a specialist committee, the mandate, terms of reference, procedure and quorums of the specialist committee must be agreed to and recorded by the Board or Committee. 45

(3) A specialist committee of a Board may co-opt a person or persons not serving on the Board to serve on the specialist committee in an advisory capacity.

(4) Any action taken or decision made by a specialist committee may, at the first meeting of the Board or Committee following that action or decision, be reviewed and altered by the Board or Committee, without prejudice to any person. 50

**Raising and utilisation of Board funds**

24. (1) A Board may receive services, funds or property for the purpose of performing its functions.

- (2) A Board may use funds, property or equipment belonging to it for the purpose of performing its functions.
- (3) A Board may establish a trust for the benefit of a hospital served by it and may accept and administer a trust already established for the benefit of a hospital served by it.
- (4) A Board must keep records of all funds received and spent by it and of its assets, liabilities and transactions.
- (5) A Board must annually, within two months of the end of its financial year, submit to the Head of Department its financial statements for that year, compiled according to the reporting framework determined by the Provincial Minister in consultation with the Provincial Minister responsible for finance.
- (6) An auditor appointed by the Board must, subject to subsection (7), audit the records and annual financial statements of the Board and must submit an audit report to the Head of Department and the Board within two months of receipt of the statements referred to in subsection (5).
- (7) The Provincial Minister may, after consultation with the Head of Department, determine that a Board is exempted from being audited.
- (8) The Provincial Minister must consider the following when making a determination in terms of subsection (7):
- whether the total asset value, including investments of the Board, exceeded R5 000 000 in the previous financial year, with such amount to be adjusted annually on 1 March in accordance with the consumer price index;
  - the financial statements of the Board in the previous financial year; and
  - whether the Board complied with its duties in terms of this Act in the previous financial year.
- (9) Where the Provincial Minister has exempted a Board in terms of subsection (7), the Board must nevertheless submit to the Head of Department financial statements compiled according to the reporting framework determined by the Provincial Minister in consultation with the Provincial Minister responsible for finance.
- (10) The Provincial Minister may require a Board that has been exempted in terms of subsection (7) to be audited as set out in subsection (6).
- (11) The financial year of a Board is a year ending on 31 March.
- (12) If a Board fails to comply with subsection (5) or (9), or in the event of any financial mismanagement by a Board, the Provincial Minister may take reasonable remedial steps that he or she considers necessary, including—
- the appointment of an administrator to administer the financial affairs or operational functions of the Board;
  - the suspension or removal of Board members from office; and
  - the alteration of the duties and powers of the Board, despite section 14.
- (13) Before the Provincial Minister takes any remedial steps contemplated in subsection (12), the Head of Department must issue to the Board a compliance notice and copies thereof to its members setting out—
- a description of the transgression constituting the non-compliance;
  - the steps that the Board is required to take and the period within which those steps must be taken to remedy the transgression; and
  - a notification to the Board that if it fails to take any steps referred to in paragraph (b), the Head of Department must refer the non-compliance to the Provincial Minister to take remedial steps in terms of subsection (12).
- (14) If the Board complies with all the steps referred to in subsection (13)(b) within the period specified in the compliance notice, the Head of Department must notify the Board in writing of its compliance with the terms of the compliance notice.
- (15) If the Board fails to comply with any or all of the steps referred to in subsection (13)(b) within the period specified in the compliance notice—
- the Head of Department must, on expiry of the period specified in the compliance notice, notify the Provincial Minister in writing of the non-compliance or partial compliance by the Board; and
  - the Provincial Minister must within 30 days of receipt of a notification of non-compliance or partial compliance notify the Board in writing of its non-compliance or partial compliance with the terms of the compliance notice.
- (16) The notice contemplated in subsection (15)(b) must state—
- the proposed remedial steps to be taken in terms of subsection (12); and

- (b) that the Board is entitled to make written representations to the Provincial Minister within 14 days of receipt of the notice regarding the proposed remedial steps.
- (17) On expiry of the 14 days contemplated in subsection (16)(b), whether the Provincial Minister has or has not received any written representations from the Board, the Provincial Minister may, after due consideration of all relevant facts, including the partial compliance of the Board with the terms of the compliance notice and any written representations by the Board, take the proposed remedial steps. 5
- (18) If an administrator is appointed in terms of subsection (12)(a), he or she must—
- (a) within six months of his or her appointment, furnish the Head of Department with a report on the financial affairs of the Board and any suspected breach of a statutory provision or unlawful act committed by the Board; 10
- (b) thereafter, in consultation with the Head of Department, prepare a recovery plan for the Board; and
- (c) upon completion of the implementation of the recovery plan, or failure to implement the recovery plan— 15
- (i) if necessary, recommend to the Provincial Minister and Head of Department an extension of the recovery plan for a period not exceeding six months; or
- (ii) furnish the Provincial Minister and Head of Department with a final report on the financial affairs of the Board and any suspected breach of a statutory provision or unlawful act committed by the Board. 20
- (19) The Provincial Minister may, after consultation with the Head of Department and on receipt of the final report contemplated in subsection (18)(c)(ii), determine that—
- (a) the Board is capable of administering its own financial affairs; or 25
- (b) the Board is capable of administering its own financial affairs with the assistance of an administrator appointed by the Provincial Minister on such further terms and conditions as determined by the Provincial Minister.
- (20) Before the Provincial Minister makes a determination in terms of subsection (19)(b), he or she must notify the Board in writing of his or her intention to make such a determination. 30
- (21) The notice contemplated in subsection (20) must state—
- (a) the determination that the Provincial Minister intends to make; and
- (b) that the Board is entitled to make written representations to the Provincial Minister within 14 days of receipt of the notice regarding the proposed determination. 35
- (22) On expiry of the 14 days contemplated in subsection (21)(b), whether the Provincial Minister has or has not received any written representations from the Board, the Provincial Minister may, after due consideration of all relevant facts, including any representations by the Board, make the proposed determination. 40

#### Travelling and other allowances

25. (1) Subject to tariffs set by the Provincial Minister in consultation with the Provincial Minister responsible for finance, a Board may from its funds reimburse a member of the Board appointed in terms of section 5(1)(a) and (b), an advisor in terms of section 20(5) or any person co-opted to serve on a specialist committee in terms of section 23(3) for— 45
- (a) transport expenses between that member's, advisor's or person's normal place of residence or business and the venue of a meeting of the Board or the specialist committee concerned; and
- (b) travelling and subsistence expenses incurred as a result of attendance at conferences, seminars or training courses or other business of the Board, but in the case of conferences, seminars and training courses outside the Province, the Provincial Minister's prior written approval must be obtained. 50
- (2)(a) A Board may not compensate its members for time spent on Board business.
- (b) Subject to tariffs set by the Provincial Minister in consultation with the Provincial Minister responsible for finance, a Board may from its funds compensate an advisor in terms of section 20(5) or a person co-opted to serve on a specialist committee of the Board in terms of section 23(3) for time spent on Board business. 55
- (3)(a) A member of a Committee is not entitled to be compensated for time spent on Committee business. 60

(b) Subject to tariffs set by the Provincial Minister in consultation with the Provincial Minister responsible for finance, the Department may from its funds compensate a member of a Committee appointed in terms of section 6(1)(b) for transport expenses incurred as a result of attendance at meetings of the Committee.

(4) In the event that the Board has insufficient available funds, and subject to tariffs set by the Provincial Minister in consultation with the Provincial Minister responsible for finance, the Department may from its funds reimburse a member of a Board appointed in terms of sections 5(1)(a) or (b) for the transport expenses contemplated in subsection (1)(a). 5

#### Closure of health facility 10

26. (1) In the event of the closure of a health facility for which a Board or Committee has been established, the Head of Department must, at least three months prior to the closure and after consultation with that Board or Committee, instruct the Board or Committee in writing regarding—

- (a) in the case of a Board or Committee established only for that health facility, the intended closure of that facility and the dissolution of the Board or Committee and, in the case of a Board, any trust that may have been established by the Board; 15
- (b) in the case of a Board or Committee established for more than one health facility, any intended alteration of its composition necessitated by the closure of that facility; and 20
- (c) in the case of a Board established only for that health facility, the disposal of the assets and liabilities of the Board and any trust which may have been established by the Board.

(2) On the closure of a health facility referred to in subsection (1)(a), the Board or Committee serving that health facility and, in the case of a Board, any trust that may have been established by the Board are dissolved, and the Head of Department must, if necessary, take steps to give effect to the instructions contemplated in subsection (1)(c). 25

#### Limitation of liability of members

27. A member is not liable for anything done in good faith in the performance of a function in terms of this Act. 30

#### Regulations

28. (1) Subject to subsection (3), the Provincial Minister must make regulations regarding—

- (a) procedures for the nomination of members for appointment to Boards and Committees; 35
- (b) the financial governance of Boards;
- (c) the manner in which a Board may donate funds or other moveable property for the provision, improvement or expansion of services and amenities, or donate funds for the acquisition of movable or immovable assets for the benefit of the hospital; 40
- (d) the powers and duties of the chairperson of a Board or Committee;
- (e) the manner in which a Board may make arrangements for the provision of a venue, as well as secretarial, administrative and financial accounting support;
- (f) the manner in which a Committee must pay funds raised for the benefit of the primary health care facility and the functioning of the Committee to the Board designated by the Head of Department in terms of section 18(6); 45
- (g) the manner in which a Board designated in terms of section 18(6) must take receipt of, administer and account for the funds raised by a Committee;
- (h) travelling and other allowances payable in terms of this Act; 50
- (i) the establishment of trusts by Boards; and
- (j) the criteria and process for the clustering of primary health care facilities for the purposes of the establishment of a Committee for a group of primary health care facilities.

(2) Subject to subsection (3), the Provincial Minister may make regulations regarding— 55

- (a) procedures for meetings of a Board or Committee; and

(b) any other matter which may be necessary or expedient to prescribe in order to achieve the objects of this Act.

(3) In the case of regulations that have financial implications for the state, the Provincial Minister must make the regulations with the concurrence of the Provincial Minister responsible for finance.

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#### Delegation

29. (1) The Provincial Minister may delegate or assign any of his or her powers or duties in terms of this Act, except the power to make regulations, to the Head of Department.

(2) The Head of Department may delegate or assign any of his or her powers or duties in terms of this Act to—

- (a) an employee in the Department; or
- (b) the holder of a specific office or position in the Department.

(3) Despite subsection (2), the Head of Department may not delegate a power or assign a duty to a member.

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(4) A delegation or assignment referred to in subsection (1) or (2)—

- (a) must be in writing;
- (b) may be made subject to conditions;
- (c) may be withdrawn or amended in writing by the Provincial Minister or the Head of Department, as the case may be;
- (d) may permit the further delegation of that power or further assignment of that duty;
- (e) does not prevent the Provincial Minister or the Head of Department, as the case may be, from exercising that power or performing that duty; and
- (f) does not divest the Provincial Minister or the Head of Department, as the case may be, of the responsibility regarding the exercise of the delegated power or the performance of the assigned duty.

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#### Transitional provisions in respect of central hospitals

30. (1) Despite the repeal of the Western Cape Health Facility Boards Act by this Act, an existing central-hospital board in the Province continues to function in accordance with the provisions of that Act until the national Minister has appointed a representative central-hospital board for the hospital concerned.

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(2) Notwithstanding section 7 of the Western Cape Health Facility Boards Act, when the term of office of a member of an existing central-hospital board lapses prior to the appointment by the national Minister of a representative central-hospital board for the hospital concerned, that member may remain in office until the appointment has been made by the national Minister.

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(3) On the appointment of a representative central-hospital board by the national Minister—

- (a) the assets and liabilities of the existing central-hospital board vest in the representative central-hospital board, on condition that the assets must be utilised by the representative central-hospital board for the benefit of that board or the central hospital it serves; and
- (b) the Provincial Minister may, after consultation with the existing central-hospital board, make a determination in writing regarding any matter that may be necessary to ensure the effective functioning of the representative central-hospital board.

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#### Repeals and savings

31. (1) The Western Cape Health Facility Boards Act is repealed.

(2) Subject to section 30—

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- (a) a Board established under section 5 of the Western Cape Health Facilities Board Act and in existence immediately before the commencement of this Act continues to function and is regarded as having been established under section 4(1) of this Act;
- (b) the juristic identity and the rights and obligations of such a Board are not affected by the repeal of that Act; and

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(c) any person holding an office in accordance with that Act immediately before the commencement of this Act continues in office for the term of that person's appointment and is regarded as duly appointed in terms of this Act for the unexpired portion of his or her term of office.

(3) Any proclamation, regulation, notice, order, authority, permission or document issued, promulgated, given or granted and any other action taken under the Western Cape Health Facility Boards Act is, if not inconsistent with this Act, deemed to have been issued, promulgated, given, granted or taken under this Act. 5

**Short title and commencement**

32. This Act is called the Western Cape Health Facility Boards and Committees Act, 10 2016, and comes into operation on a date determined by the Premier by proclamation in the *Provincial Gazette*.

**ITEM HEADING**

63

**SC53/2024      DIRECTORATE CORPORATE SERVICES: DEPARTMENT  
HUMAN RESOURCES: APPOINTMENT OF A SELECTION  
PANEL FOR THE RECRUITMENT PROCESS FOR THE FILLING  
OF THE POSITION OF MUNICIPAL MANAGER**

*[English version of the report is the original]*

**FILE NUMBER**

4/4/1/11

**PURPOSE OF REPORT**

To request the Municipal Council to appoint a selection Committee in respect of the recruitment and selection process re the filling of the vacant position of Municipal Manager.

**BACKGROUND**

On 21 June 2024, Council resolved as follows in respect of the re-advertisement of the post of Municipal Manager:

**RESOLVED BY COUNCIL: 21 JUNE 2024**

*"After the Chairperson had given the Councillors an opportunity, and the item had been thoroughly discussed, on a proposal by Alderman M Plato-Mentoor and seconded by Alderman BB Mhwibiso, it was resolved as follows:*

- 1. Council noted the content of the report.**
- 2. Council accepts the recommendation from the selection committee.**
- 3. Council resolves that the post of Municipal Manager be re-advertised as required by Regulation.**
- 4. That a letter be written to the MEC of Local Government to inform him of the outcome of the recruitment process.**
- 5. Council further resolves that applicants who previously apply for the position of Municipal Manager, do not have to submit a new application and that their application will be considered along with any new applications that might be received."**

**DISCUSSION**

Council however did not appoint a selection committee to conduct the recruitment process and as such it is necessary that a selection committee be appointed.

**FINANCIAL IMPLICATIONS (ITEM AUTHOR)**

None

**LEGAL IMPLICATIONS**

Municipal Systems Amendment Act 32 of 2000

Regulation on the Appointment and Conditions of Employment for Senior Managers  
(GNR 583 GG 37245 on 17 January 2014)

**RISK MANAGEMENT IMPLICATION (ITEM AUTHOR)**

None

**RECOMMENDATION BY ITEM AUTHOR TO COUNCIL :**

**It is recommended:**

- 1. That Council notes the content of the report.**
- 2. That Council appoints a selection committee as prescribed by regulation 12 that will consist of the following:**
  - 2.1. At least 3 and not more than 5 members**
  - 2.2. The Mayor – who will be the chair, or his delegate**
  - 2.3. A Councillor designated by the municipal council; and**
  - 2.4. At least one person who is not a councillor or a staff member of the municipality, and who has the expertise or experience in the area of the advertised post.**

**DISCUSSION DURING THE MEETING:**

*Alderman MR Nongxaza proposed Alderman JR Michels as a member on the selection committee.*

*Proposal was seconded by Alderman BB Mkhwibiso.*

*The following counter-proposal was submitted by Alderman S Fredericks:*

*That the Agenda-item be referred back for discussion at the next Council Meeting.*

*Counter-proposal was seconded by Councillor PJ Stander.*

*The voting process started and each councillor indicate whether they vote for 1. Proposal by Alderman MR Nongxaza and seconded by Alderman BB Mkhwibiso or 2. Counter-proposal by Alderman S Fredericks seconded by Councillor PJ Stander.*

*The result of the voting process is as follows:*

*Proposal by Alderman MR Nongxaza and seconded by Alderman BB Mkhwibiso = 11 votes.*

*Counter Proposal by Alderman S Fredericks and seconded by Councillor PJ Stander = 14 votes.*

NOTE: *Alderman LM de Bruyn was not present during the voting process.*

**RESOLVED BY COUNCIL: 31 JULY 2024**

After the Chairperson had given the Councillors an opportunity, and the item had been thoroughly discussed, on a proposal by Alderman S Fredericks and seconded by Councillor PJ Stander, it was resolved as follows:

**That the Agenda-item be referred back for discussion at the next Council Meeting.**

**RESOLVED BY COUNCIL: 22 AUGUST 2024**

**It was unanimously resolved that the agenda-item be referred back, that "2.5. Member of the Opposition as observer" be included and presented at a next meeting of Council.**

**RECOMMENDATION TO COUNCIL :**

**It is recommended:**

- 1. That Council notes the content of the report.**
- 2. That Council appoints a selection committee as prescribed by regulation 12 that will consist of the following:**
  - 2.1. At least 3 and not more than 5 members**
  - 2.2. The Mayor – who will be the chair, or his delegate**
  - 2.3. A Councillor designated by the municipal council; and**
  - 2.4. At least one person who is not a councillor or a staff member of the municipality, and who has the expertise or experience in the area of the advertised post.**
- 2.5. Member of the Opposition as Observer**