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**PROVINCE OF WESTERN CAPE**

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**WESTERN CAPE DIRECT  
CHARGES ACT, 2000**

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**PROVINSIE WES-KAAP**

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**WES-KAAPSE WET OP  
REGSTREEKSE LASTE, 2000**

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**No 6, 2000**

# ACT

**To provide for the withdrawal of State moneys from the Western Cape Provincial Revenue Fund, as a direct charge, in accordance with the Constitution of the Republic of South Africa, 1996 (Act 108 of 1996), the Constitution of the Western Cape, 1997 (Act 1 of 1998) and the Public Finance Management Act, 1999 (Act 1 of 1999), and for matters incidental thereto.**

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

## **Definitions**

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

“Accounting officer” means a person mentioned in section 36 of the Public Finance Management Act, 1999 (Act 1 of 1999);

“Constitution” means the Constitution of the Republic of South Africa, 1996 (Act 108 of 1996);

“Constitution of the Western Cape” means the Constitution of the Western Cape, 1997 (Act 1 of 1998);

“Direct Charge” means a withdrawal of funds from the Western Cape Provincial Revenue Fund in terms of this Act;

“Exclusion” means money excluded from deposits into the Provincial Revenue Fund as mentioned in section 22 of the Public Finance Management Act, 1999;

“MEC for finance” means the member of the Executive Council of the Province of Western Cape responsible for finance;

“National Treasury” means the Minister of Finance together with the national department or departments responsible for financial and fiscal matters;

“Provincial department” means a department within the Provincial Administration: Western Cape, as listed in Column 1 of Schedule 2 of the Public Service Act, 1994, 20 as amended;

“Provincial Legislature” means the Provincial Parliament of the Western Cape;

“Provincial Public Entity” means a provincial public entity as defined in section 1 of the Public Finance Management Act, 1999, situated in the Province of Western Cape;

“Provincial Revenue Fund” means the Provincial Revenue Fund established in terms of section 226 of the Constitution of the Province of Western Cape;

“Provincial Treasury” means the member of the Executive Council responsible for finance in the Province of Western Cape together with the provincial department responsible for financial matters;

“the Act” means the Public Finance Management Act, 1999;

“Unauthorised Expenditure” means— 5

- (a) overspending of a vote or a main division within a vote;
- (b) expenditure not in accordance with the purpose of a vote or, in the case of a main division, not in accordance with the purpose of the main division;

as mentioned in section 1 of the Public Finance Management Act, 1999.

## **Purpose of Act** 10

2. (1) The purpose of this Act is to provide for direct charges against the Provincial Revenue Fund.

(2) Only the Provincial Treasury may withdraw funds from the Provincial Revenue Fund as a direct charge against the Fund, as provided for in the Constitution or this Act.

## **Withdrawal from Provincial Revenue Fund before annual budget is passed** 15

3. If an annual budget is not passed before the start of the financial year to which it relates, funds may be withdrawn from the Provincial Revenue Fund as a direct charge against the Fund until the budget is passed, in accordance with section 29 of the Act.

## **Withdrawal and investment from Provincial Revenue Fund**

4. In accordance with section 24 of the Act, the Provincial Treasury may, as a direct charge against the Provincial Revenue Fund, withdraw funds from the Fund— 20

- (a) to refund money incorrectly paid into, or not due to, the Provincial Revenue Fund; or
- (b) to deposit into or invest money in the National Revenue Fund.

## **Use of funds in emergency situations** 25

5. Subject to the requirements of section 25 of the Act, the MEC for finance may, as a direct charge against the Provincial Revenue Fund, authorise the use of funds from the Provincial Revenue Fund to defray expenditure of an exceptional nature which is currently not provided for and which cannot, without serious prejudice to the public interest in the Province of Western Cape, be postponed to a future appropriation by the Provincial Legislature. 30

## **Withdrawal of exclusion from Provincial Revenue Fund**

6. (1) From the date on which the withdrawal of an exclusion by the National Treasury takes effect until the end of the relevant financial year, the Provincial Treasury may transfer money from the Provincial Revenue Fund as a direct charge against the Fund to the provincial department or provincial public entity affected by the withdrawal of the exclusion. 35

(2) Subject to subsection (1), such money may be transferred, provided that the amount of the transfer does not exceed the amount that would otherwise have been excluded from payment into the Fund. 40

(3) Subsections (1) and (2) are subject to the provisions of section 23 of the Act.

## **Utilisation of savings as virement between main divisions within vote**

7. (1) An accounting officer may, as a direct charge against the Provincial Revenue Fund and in accordance with section 43 of the Act, utilise a saving, appropriated under a main division within a vote, towards the defrayment of excess expenditure under another main division of the same vote. 45

(2) Despite subsection (1), the Provincial Treasury may direct otherwise.

**Other direct charges**

8. Any other direct charges provided for in any other legislation, which are not inconsistent with the Act and this Act will *mutatis mutandis* apply as if incorporated into this Act.

**Short title and commencement**

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9. This Act is called the Western Cape Direct Charges Act, 2000 and comes into operation on 1 April 2000.