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**REPUBLIC OF SOUTH AFRICA**

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**MANDATING PROCEDURES  
OF PROVINCES  
ACT**

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**REPHABOLIKI YA AFRIKA BORWA**

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**MOLAO WA HO FANA KA  
MATLATAELO A  
MEKGWATSAMAISO YA  
DIPROVENSE**

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**No 52, 2008**

# ACT

**To provide for a uniform procedure in terms of which provincial legislatures confer authority on their delegations to cast votes on their behalf, as required by section 65(2) of the Constitution; and to provide for matters incidental thereto.**

## PREAMBLE

**WHEREAS** Parliament and the provincial legislatures of the Republic of South Africa recognise the need for uniformity amongst the provinces in respect of the procedure for the conferring of authority by a provincial legislature on its delegation to the National Council of Provinces to cast a vote on behalf of that legislature;

**AND RECOGNISING** the need to enact the legislation envisaged by section 65(2) of the Constitution,

**B**E IT THEREFORE ENACTED by the Parliament of the Republic of South Africa, as follows:—

## CONTENTS OF ACT

### CHAPTER 1

#### DEFINITIONS AND APPLICATION

5

1. Definitions
2. Application

### CHAPTER 2

#### REQUIREMENTS IN RESPECT OF FINAL MANDATES AND VOTING ON BEHALF OF PROVINCIAL LEGISLATURE

10

3. Requirements in respect of final mandates
4. Voting on behalf of provincial legislature

### CHAPTER 3

#### PROCEDURES IN RESPECT OF MANDATES

5. Negotiating mandates
6. Final mandates
7. Legislative mandates requiring both negotiating and final mandates
8. Voting mandates

15

## CHAPTER 4

### GENERAL

9. Short title and commencement

#### SCHEDULE 1

#### FORMAT FOR NEGOTIATING MANDATE

5

#### SCHEDULE 2

#### FORMAT FOR FINAL MANDATE

### CHAPTER 1

#### DEFINITIONS AND APPLICATION

#### Definitions 10

1. In this Act, unless the context otherwise indicates—
- “**Constitution**” means the Constitution of the Republic of South Africa, 1996;
- “**final mandate**” means the conferral of authority by a provincial legislature on its provincial delegation to the NCOP to cast a vote when the relevant NCOP select committee considers a Bill or prior to voting thereon in an NCOP Plenary; 15
- “**head of the delegation**” means a person referred to in section 60(3) of the Constitution;
- “**legislative mandate**” means the conferral of authority by a provincial legislature on its provincial delegation to the NCOP to cast a vote on a question contemplated in— 20
- (a) section 64 of the Constitution;
- (b) section 74 of the Constitution;
- (c) section 76 of the Constitution; or
- (d) section 78 of the Constitution;
- “**mandate**” means the conferral of authority by a provincial legislature on its provincial delegation to the NCOP to cast a vote in compliance with the requirements under section 3; 25
- “**NCOP**” means the National Council of Provinces referred to in section 42(1)(b) of the Constitution;
- “**NCOP plenary**” means an ordinary sitting of the NCOP; 30
- “**NCOP select committee**” means a select committee established in terms of Rule 151(1) of the Rules of the NCOP;
- “**negotiating mandate**” means the conferral of authority by a committee designated by a provincial legislature on its provincial delegation to the NCOP of parameters for negotiation when the relevant NCOP select committee considers a Bill after tabling and before consideration of final mandates, and may include proposed amendments to the Bill; 35
- “**provincial delegation to the NCOP**” means a delegation referred to in section 60(1) of the Constitution;
- “**provincial legislature**” means a provincial legislature contemplated in section 104 of the Constitution; 40
- “**voting mandate**” means the conferral of authority by a provincial legislature on the head of its provincial delegation to the NCOP to cast a vote on a Bill in an NCOP plenary.

#### Application 45

2. This Act applies to all provincial legislatures and the NCOP.

## CHAPTER 2

### REQUIREMENTS IN RESPECT OF FINAL MANDATES AND VOTING ON BEHALF OF PROVINCIAL LEGISLATURE

#### Requirements in respect of final mandates

3. Every final mandate required in terms of this Act must be on the letterhead of the provincial legislature and must— 5
- (a) indicate the name and number of the Bill being voted on;
  - (b) indicate whether the provincial legislature votes in favour of or against, or abstains from voting on, the Bill;
  - (c) contain the signature of the Speaker or of a person designated by the Speaker to preside over that specific Bill; 10
  - (d) be addressed to the Chairperson of the NCOP or a person designated by the Chairperson of the NCOP; and
  - (e) follow the format prescribed in Schedule 2.

#### Voting on behalf of provincial legislature 15

4. A Premier of a province, or a delegate of a provincial delegation to the NCOP designated by the Premier, must cast a vote on behalf of a provincial legislature.

## CHAPTER 3

### PROCEDURES IN RESPECT OF MANDATES

#### Negotiating mandates 20

5. A committee designated by a provincial legislature must in accordance with the format prescribed in Schedule 1 confer authority on its provincial delegation to the NCOP of parameters for negotiation when the relevant NCOP select committee considers a Bill after tabling and before consideration of final mandates, and may include proposed amendments to the Bill. 25

#### Final mandates

6. A provincial legislature must confer authority on its provincial delegation to the NCOP to cast a vote when the relevant NCOP select committee considers a Bill prior to voting thereon in an NCOP plenary.

#### Legislative mandates requiring both negotiating and final mandates 30

7. Legislative (negotiating and final) mandates are required in respect of a Bill referred to—
- (a) in section 74(1)(b), (2)(b), (3)(b) and (8) of the Constitution; and
  - (b) in section 76 of the Constitution.

#### Voting mandates 35

8. (1) A provincial legislature must confer the authority on the head of the provincial delegation to the NCOP, or a delegate designated by the head of the delegation, to cast a vote in an NCOP plenary.
- (2) If no matter arises from the deliberations of the NCOP select committee when considering final mandates which may necessitate consideration by a provincial legislature, the provincial delegation to the NCOP must table its province's final mandate in the NCOP plenary as that province's voting mandate. 40

**CHAPTER 4**

**GENERAL**

**Short title and commencement**

**9.** This Act is called the Mandating Procedures of Provinces Act, 2008, and comes into operation on a date fixed by the President by proclamation in the *Gazette*. 5

**SCHEDULE 1**

**FORMAT FOR NEGOTIATING MANDATE**

**[Section 5]**

**OFFICIAL LETTERHEAD OF THE PROVINCIAL LEGISLATURE**

5

To: [The Chairperson of the Select Committee]

Name of Bill: \_\_\_\_\_

10

Number of Bill: \_\_\_\_\_

Date of deliberation: \_\_\_\_\_

Vote of legislature: \_\_\_\_\_

15

[Indicate whether the committee designated by the provincial legislature votes in favour, against or abstains from voting on the Bill, and amendments, if any]

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

20

[Signature of the chairperson of the committee designated by the provincial legislature]

**SCHEDULE 2**

**FORMAT FOR FINAL MANDATE**

**[Section 3]**

**OFFICIAL LETTERHEAD OF THE PROVINCIAL LEGISLATURE**

5

To: [The Chairperson of the NCOP or a person designated by the Chairperson of the NCOP]

Name of Bill: \_\_\_\_\_

10

Number of Bill: \_\_\_\_\_

Date of deliberation: \_\_\_\_\_

Vote of legislature: \_\_\_\_\_  
[Indicate whether the provincial legislature votes in favour, against or abstains from voting on the Bill]

15

\_\_\_\_\_  
Signature Date

20

[Signature of Speaker or person designated by Speaker to preside in House on Bill]

