
GAUTENG PROVINCIAL LEGISLATURE

**PRIVILEGES AND IMMUNITIES
OF
COUNCILLORS ACT, 2002**

No 1, 2002

ACT

To give effect to the provisions of section 28 of the Local Government: Municipal Structures Act, 1998; to define the privileges and immunities of councillors; and to provide for matters incidental thereto.

BE IT ENACTED by the Gauteng Provincial Legislature as follows:—

Definitions

1. In this Act, unless the context otherwise indicates—
 - “**committee**” means any committee of a council, including a mayoral committee; 5
 - “**council**” means the municipal council of a municipality established by the MEC responsible for Local Government matters in terms of section 12(1) of the Local Government: Municipal Structures Act, 1998 (Act No. 117 of 1998), and duly elected in terms of the Local Government: Municipal Electoral Act 2000 (Act No. 27 of 2000); 10
 - “**councillor**” means a member of a council;
 - “**rules and orders**” means the rules and orders of a council as envisaged in section 160(6) of the Constitution of the Republic of South Africa, 1996 (Act No. 108 of 1996).

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2. (1) A councillor has freedom of speech in any meeting of a council and in its committees, subject to the relevant rules and orders of the council.
(2) A councillor does not incur any civil or criminal liability including arrest, imprisonment or damages for—
 - (a) anything he or she has said in, produced before or submitted to the council or any of its committees; 20
 - (b) anything revealed as a result of anything that he or she has said in, produced before or submitted to the council or any of its committees; or
 - (c) any lawful act done under the authority or by order of the council or any of its committees. 25
- (3) Notwithstanding the provisions of subsections (1) and (2), a councillor is not protected against any legal proceedings instituted against him or her for any act that is unlawful.
- (4) A councillor is exonerated from liability if he or she has requested that his or her vote be registered against any resolution or decision of a council or any committee of which he or she is a member on a matter that does not fall within the statutory competence of a council or committee or that a resolution or decision is contrary to any law, regulation or the rules and orders of a council. 30
- (5) Subject to the provisions of any national law, no person shall arrest a councillor or serve any legal or court document upon him or her, while the council or any committee of which he or she is a member, is in sitting. 35
- (6) Any person who contravenes a provision of subsection (5) shall be guilty of an offence and on conviction be liable to a fine or to imprisonment for a period not exceeding six months or to both such fine and imprisonment.

(7) A councillor is not obliged to divulge or disclose any information which is privileged or confidential in terms of Item 10 of Schedule 1 to the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000).

Short title

3. This Act is called the Privileges and Immunities of Councillors Act, 2002. 5

