

Local government elections

extending the interim phase

Recent amendments to the Constitution, read with certain provisions of the Municipal Structures Act, have the effect that the elections for local government, which were due to take place after October 1999, will now take place approximately one year later.

Prior to the abovementioned amendments, the terms of municipal councils were fixed at a period of four years so that elections in respect of local government had to take place at around November 1999. Furthermore, the provisions of the Local Government Transition Act (LGTA) would have remained in place until 30 April 1999 unless it was repealed sooner.

The amendments

Section 159 of the Constitution has been amended in terms of Act 65 of 1998 to extend the term of municipal councils to five years. The transitional arrangement in Schedule 6 item 26 now provides that the LGTA remains operative until after the local government elections and certain sections thereof may not be repealed before 30 April 2000. The Municipal Structures Act, in sections 24 and 93, now provides that the terms of the current municipal councils will run for 5 years until 1 November 2000 and that the election must take place within 90 days of the date of expiry, that is, before 30 January 2001.

The rationale

Why was it necessary to effectively postpone these elections? Was it just a matter of there not being enough time to do the necessary groundwork, or was it simply a case of the majority party buying extra time to effect delivery? The answer probably lies somewhere in between. In terms of the White Paper on Local Government, the Department of Constitutional Development set itself the target of seeing through three pieces of legislation which were considered crucial to the implementation of the final stage of local government. These were the Municipal Demarcation Act, the

Municipal Structures Act and the forthcoming Municipal Systems Bill. The Systems Bill has not seen the light of day yet, although a number of working drafts have been discussed in several intergovernmental fora. A final draft can be expected either shortly before or after the national elections.

Few would argue that effective transformation in local government can occur without the apartheid boundaries having to be redrawn. Neither would there be a sustainable argument that there is little need for uniform structures of local government over the length and breadth of South Africa. Indeed, the Municipal Demarcation Act determines that should demarcation affect the representation of voters in a council, such demarcation will only take effect from the date of the next election for that area. Clearly, should an area not be demarcated in time for the 2000 local government elections, the apartheid boundaries would have to remain until the following elections. However, effective transformation does not only rely on redrawn boundaries and uniform structures. It is also dependent upon municipal systems and procedures which further the ends of democratic governance, developmental local government and the pursuit of social and economic development. The forthcoming Systems Bill aims to provide that basis for future local government.

Clearly, the stage has not yet been set for the ushering in of the final phase of local government as the processes to finalise these laws have proved to be long and arduous.

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