

Report on the Local Government Laws Amendment Bill

The Portfolio Committee on Provincial and Local Government passed this Bill on 22 October 2002 and the National Assembly passed it two days later. The Bill is, at the time of writing, scheduled to be passed by the National Council of Provinces (NCOP) on 7 November. It should be signed into law by the middle of November.

SALGA has participated fully in the deliberations of the Portfolio Committee and was also given the opportunity to make an oral submission. This report deals with some of the more significant amendments to local government legislation.

Amendments

The Remuneration of Public Office Bearers Act

These amendments validate certain proclamations in respect of councillor remuneration that were made by the MECs for local government in the Western Cape and Gauteng in 1999.

The Structures Act

- Section 49 now makes provision for a councillor to act as mayor in the absence of the mayor or deputy mayor.

- Section 81 makes express provision for paying out-of-pocket expenses to a traditional leader who participates in council meetings. The council must determine criteria for, and calculation of, the expenses.
- A minister for local government must consult cabinet colleagues and MECs before revoking an authorisation and must regulate the legal consequences.
- No physical election needs to take place for an unopposed candidate in a ward election.
- A definition of an 'independent ward councillor' has been inserted to clarify certain items in Schedule 2.
- A deadlock-breaking mechanism by lot has been inserted where two candidates receive the same number of votes after an elimination procedure has been applied.

The Systems Act

- A definition of a 'municipal service' has been inserted. A municipal service is a service that a municipality may provide in terms of its powers and functions, irrespective of how it is provided or whether one pays for it.
- The system of delegation now makes reference to delegations by the municipal manager, which must be approved by the council in accordance with its delegation system.
- A general power to levy and recover rates, charges and tariffs has been inserted. The process to pass the required resolution must be read in conjunction with the budget process in the forthcoming Municipal Finance Management Act.
- The list of occasions when municipalities must review and decide on mechanisms to provide municipal services was amended. A distinction is now drawn between triggers for internal mechanisms and those for external ones.
- There is now provision for legal representation for both employees and councillors where they act within the course and scope

- 'Municipal service' is defined as a service that a municipality may provide in terms of its powers and functions, irrespective of how it is provided or whether one pays for it.
- No physical election needs to take place for an unopposed candidate in a ward election.
- Legal representation is to be provided for both employees and councillors where they act within the course and scope of their duties.

of their duties. A municipality must determine the terms and conditions under which it will provide such legal assistance.

- The restraint on the transfer of property has been amended to include provision for lifting a restraint where there is a transfer from the national, provincial or local government. In this case, the municipality may recover such charges from whoever was liable for payment.
- The period of transition was extended to 30 June 2003. This means that authorisation given by the MEC in terms of the Structures Act will only lapse on the 30 June 2003.

An issue that came up regularly was the continued applicability of provincial ordinances in the areas of councillor remuneration, property transfers and the levying of rates. The Committee was unanimous in its recommendation that no effort must be spared to repeal such outdated legislation.

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