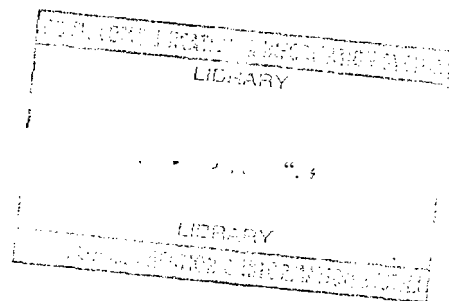


REPUBLIC OF SOUTH AFRICA

LOCAL GOVERNMENT: MUNICIPAL STRUCTURES SECOND AMENDMENT BILL

*(As introduced in the National Assembly as a section 76 Bill)
(The English text is the official text of the Bill)*

(MINISTER FOR PROVINCIAL AND LOCAL GOVERNMENT)



GENERAL EXPLANATORY NOTE:

Words underlined with a solidline indicate insertions in existing enactments.

BILL

To amend the Local Government: Municipal Structures Act, 1998, so as to provide for the retention of the powers, functions and role of the institution of traditional leadership; to provide for powers and functions of traditional authorities in local government matters; and to foster and harmonise partnerships between traditional authorities and municipal councils so as to enhance the culture of co-operative governance between traditional authorities and municipal councils; and to provide for matters connected therewith.

BE IT ENACTED by the Parliament of the Republic of South Africa, as follows:—

Substitution of Part 6 of Chapter 4 of Act 117 of 1998, as amended by Schedule 3 to Act 32 of 2000 and section 5 of Act 33 of 2000

1. The following Part is substituted for Part 6 of Chapter 4 of the Local Government: Municipal Structures Act, 1998:

“Part 6: Traditional leadership

Powers and functions of traditional authorities in local government matters

81. (1) Despite anything contained in any other law, a traditional authority observing a system of customary law continues to exist and to exercise powers and perform functions conferred upon it in terms of indigenous law, customs and statutory law, which powers and functions include—

- (a) the right to administer communal land;
- (b) communicating decisions of the municipal council affecting its area to the people living in the area;
- (c) communicating to the municipal council the views of the people living in its area;
- (d) promoting the development of its area and the people living in the area;
- (e) participating in development planning;
- (f) alerting the municipality to any hazard or calamity threatening its area or the wellbeing of people living in the area;
- (g) making recommendations to the municipality on any matter affecting its area; and
- (h) exercising any other power or performing any other function assigned to it by notice in the *Provincial Gazette*, by the MEC for local

government acting in accordance with a policy framework issued by the Minister.

(2) A municipality must consider a recommendation made in terms of subsection (1)(g) and inform the traditional authority of any decision taken.

Relationship between traditional authorities and municipal councils 5

81A. (1) Traditional authorities and municipal councils must exercise their powers and perform their functions in a manner that respects the functional and institutional integrity of one another.

(2) Traditional authorities and municipal councils must—
 (a) co-operate with one another in areas of common interest; and
 (b) endeavour to resolve any dispute amicably.”

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Repeal of Schedule 6 to Act 117 of 1998

2. Schedule 6 to the Local Government: Municipal Structures Act, 1998, is repealed.

Short title

3. This Act is called the Local Government: Municipal Structures Second 15 Amendment Act, 2000.

**MEMORANDUM ON THE OBJECTS OF THE LOCAL
GOVERNMENT MUNICIPAL STRUCTURES SECOND
AMENDMENT BILL, 2000**

1. BACKGROUND

Traditional leaders have expressed concern that the new municipal boundaries will result in their losing control over various functions traditionally performed by them.

2. CONTENTS OF BILL

In order to deal with the concerns expressed by the traditional leaders, the Minister for Provincial and Local Government proposes amendments to Part 6 of Chapter 4 of the Local Government: Municipal Structures Act, 1998 (Act No. 117 of 1998). Part 6 deals with the participation of traditional leaders in local government.

3. OTHER DEPARTMENTS AND PERSONS CONSULTED

- The Presidency.
- The Chief State Law Adviser.

4. FINANCIAL IMPLICATIONS FOR STATE

There will not be any additional financial implications for the State.

5. IMPLICATIONS FOR PROVINCES

None

6. PARLIAMENTARY PROCEDURE

The State Law Advisers and the Department of Provincial and Local Government are of the opinion that this Bill should be dealt with in accordance with the procedure established by section 76 of the Constitution since it deals with "Traditional leadership", which is a matter referred to in Schedule 4 to the Constitution.