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## GENERAL NOTICE

### NOTICE 2363 OF 1998

#### MINISTRY FOR PROVINCIAL AFFAIRS AND CONSTITUTIONAL DEVELOPMENT

#### LAWS ON REGIONAL LOCAL GOVERNMENT AMENDMENT BILL, 1998

1. I, Mohammed Valli Moosa, Minister for Provincial Affairs and Constitutional Development, under section 154 of the Constitution of the Republic of South Africa, 1996 (Act No. 108 of 1996), hereby publish the Laws on Regional Local Government Amendment Bill, 1998, for public comment.

2. Comments must please be submitted in writing to:

The Director-General  
Attention: Mr S L Louw  
Department of Constitutional Development  
Private Bag X 804  
PRETORIA  
0001.

3. Comments may also be faxed to facsimile number (012) 334-0608 at the above address.
3. Comments must be received by not later than **16 November 1998**.

# LAWS ON REGIONAL LOCAL GOVERNMENT AMENDMENT ACT, 1998

## BILL

**To amend the Regional Services Councils Act, 1985, so as to provide that the Minister of Finance must consult the Minister for Provincial Affairs and Constitutional Development and no longer the Council for the Co-ordination of Local Government Affairs, before determining the manner in which levies are to be calculated and paid; to empower the Minister of Finance to authorize a Council to estimate the liability of any person for any levy and to make an assessment of such levy; to amend the KwaZulu and Natal Joint Services Act, 1990, so as to empower the Minister of Finance to authorize a board to estimate the liability of any person for any levy and to make an assessment of such levy, and to provide for matters connected therewith.**

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

**Amendment of section 12 of Act 109 of 1985, as amended by Section 8 of Act 78 of 1986, Section 14 of Act 49 of 1988, Section 16 of Act 69 of 1989, Section 16 of Act 134 of 1992 and Section 10 of Act 136 of 1992.**

1. Section 12 of the Regional Services Councils Act, 1985, is hereby amended –
  - (a) by the substitution for paragraph (b) of subsection (1) of the following paragraph:
 

“(b) The Minister of Finance may from time to time, after consultation with the [Council for the Co-ordination of Local Government Affairs established by section 2 of the Promotion of Local Government Affairs Act, 1983 (Act No. 91 of 1983)] Minister for Provincial Affairs and Constitutional Development, and by notice in the Gazette, determine the manner in which the regional services levy and the regional establishment levy shall be calculated and paid.”; and
  - (b) by the insertion after paragraph (dD) of subsection (1A) of the following paragraph:

“(dE) authorize a council to estimate the liability of any person for any levy payable under this Act and to make an assessment of such levy and to determine the circumstances under which a council may make such estimate or assessment;”.

**Amendment of Section 13 of Act 109 of 1985, as amended by Section 7 of Act 75 of 1991.**

2. Section 13 of the Regional Services Councils Act, 1985, is hereby amended by the substitution for subsection (3) of the following subsection.

- “(3) Regulations made under this section shall be made only [-  
(a) after consultation with the Council for the Co-ordination of Local Government Affairs established by section 2 of the Promotion of Local Government Affairs Act, 1983 (Act No. 91 of 1983)] after consultation with the Minister for Provincial Affairs and Constitutional Development;”.

**Amendment of Section 16 of Act 84 of 1990, as amended by Section 23 of Act 134 of 1992 and Section 11 of Act 136 of 1992.**

3. Section 16 of the KwaZulu and Natal Joint Services Act, 1990, is hereby amended by the insertion after paragraph (h) of subsection (2) of the following paragraph:

“(hA) authorize a board to estimate the liability of any person for levy payable under this Act and to make and assessment of such levy and to determine the circumstances under which a board may make such estimate or assessment.”.

**Amendment of Section 18 of Act 84 of 1990, as amended by Section 18 of Act 56 of 1993.**

4. Section 18 of the KwaZulu and Natal Joint Services Act, 1990, is hereby amended –

- (a) by the substitution for paragraph (a) of subsection (2) of the following paragraph:

“(a) The Minister of Finance of the Republic may, **[on the recommendation of the Joint Executive Authority and]** subject to the provisions subsection (3), make regulations in regard to any matter referred to in section 16 (excluding a matter contemplated in the provision to subsection (7) thereof) which in his opinion are necessary or expedient for the effective carrying out or furtherance of the provisions and objects of this Act.

- (b) by the substitution for subsection (3) of the following subsection:

“(3) Regulations made under this section shall be made only after consultation with the Minister for Provincial Affairs and Constitutional Development.”.

#### **Short title**

5. This Act shall be called the Laws on Regional Local Government Amendment Act, 1998.

## EXPLANATORY MEMORANDUM ON THE LAWS ON REGIONAL LOCAL GOVERNMENT AMENDMENT BILL, 1998

1. It has become necessary to amend the regulations made in terms of section 12 read with section 13 of the Regional Services Councils Act (RSC-Act) and section 16 read with section 18 of the KwaZulu and Natal Joint Services Act (KwaZulu-Natal Act).
2. The reasons for the amendments are –
  - (a) the manner in which a levy is calculated and paid requires amendments.
  - (b) due to problems experienced by the motor industry regarding the manner in which a levy is calculated and paid on inter-dealer motor vehicle exchanges.
3. In terms of section 13 of the RSC –Act and section 18 of the KwaZulu-Natal Act, the Minister of Finance may amend the relevant regulations only after consultation –
  - (a) in the case of the RSC-Act, with the Council for the Co-ordination of Local Government Affairs; and
  - (b) in the case of the KwaZulu-Natal Act, with the Joint Executive Authority.
4. Both the institutions that must be consulted are defunct. It is therefore necessary that these institutions be replaced by an existing functionary.

It is proposed that both the RSC-Act and KwaZulu-Natal Act be amended to replace references to the Council for the Co-ordination of Local Government Affairs and the Joint Executive by the Minister for Provincial Affairs and Constitutional Development.

5. A further problem that has arisen is the fact that regulation 11(1) of the Calculation and Payment of Regional Services Levies and Regional Establishment Levies Regulations which provides that a council may issue estimated assessments in certain circumstances, was declared *ultra vires* by the Eastern Cape Division of the High Court, due to the fact that section 12 of the RSC-Act does not empower the Minister of Finance to authorize a council to estimate assessments.

- 6 In order to address this problem it is proposed that both the RSC-Act and the KwaZulu-Natal Act, be amended to empower the Minister of Finance to authorize a council or board to estimate the liability of any person to pay a levy.
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