

REPUBLIC OF SOUTH AFRICA

ORGANISED LOCAL GOVERNMENT BILL

(As introduced)

(SELECT COMMITTEE ON CONSTITUTIONAL AFFAIRS AND PUBLIC ADMINISTRATION)

[B 61—97]

REPUBLIEK VAN SUID-AFRIKA

WETSONTWERP OP GEORGANISEERDE PLAASLIKE REGERING

(Soos ingedien)

(GEKOSE KOMITEE OOR STAATKUNDIGE AANGELEENTHEDE EN PUBLIEKE ADMINISTRASIE)

[W 61—97]

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BILL

To provide for the recognition of national and provincial organisations representing the different categories of municipalities; to determine procedures by which local government may designate representatives to participate in the National Council of Provinces; to determine procedures by which local government may nominate persons to the Financial and Fiscal Commission; and to provide for matters connected therewith.

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

Definitions

1. In this Act, unless the context indicates otherwise—
 - (i) “Minister” means the Minister for Provincial Affairs and Constitutional Development; (i) 5
 - (ii) “municipality” means a municipality as defined in section 10B of the Local Government Transition Act, 1993 (Act No. 209 of 1993); (ii)
 - (iii) “national organisation” means the organisation recognised under section 2(1)(a); (iii) 10
 - (iv) “provincial organisation” means an organisation recognised under section 2(1)(b); (iv)
 - (v) “responsible member” means the member of the Executive Council responsible for local government in the province in question. (v)

Recognition of national and provincial organisations 15

2. (1) Subject to section 5, the Minister must, by notice in the *Gazette*—
 - (a) recognise one national organisation representing the majority of the provincial organisations contemplated in paragraph (b); and
 - (b) with the concurrence of the responsible member, recognise one organisation in each province representing the majority of municipalities in the province in question: Provided that all the different categories of municipalities in the province in question are represented in the organisation in question. 20
- (2) (a) The Minister may withdraw any recognition referred to in subsection (1) if—
 - (i) the organisation ceases to represent the organisations or municipalities as contemplated in subsection (1) or ceases to comply with any of the criteria 25 contemplated in section 5; and
 - (ii) the Minister gives the organisation in question 30 days notice of the intended withdrawal.
- (b) If the Minister withdraws the recognition of an organisation contemplated in subsection (1)(b), he or she must act with the concurrence of the responsible member. 30

Designation of representatives to participate in National Council of Provinces

3. (1) (a) For the purposes of section 67 of the Constitution and subject to subsection (2), the national organisation may in terms of the procedures determined by the internal rules of that organisation designate 10 representatives to participate in the National Council of Provinces. 35

(b) Different representatives may be designated for any specified period or for any specified meeting.

(2) Each of the categories of municipalities contemplated in section 2(1)(b) must be represented by at least two representatives designated in terms of subsection (1).

(3) Any designation may be withdrawn and any vacancy filled in accordance with subsection (1). 5

(4) The head of the administration of the national organisation must inform the Secretary of the National Council of Provinces in writing of any designation made or withdrawn and of any vacancies that may occur.

(5) Whenever the recognition of an organisation is withdrawn in terms of section 2(2) any designation made by that organisation lapses. 10

Nomination of persons to Financial and Fiscal Commission

4. The national organisation must in terms of the procedures determined by the internal rules of that organisation nominate two persons for appointment by the President as members of the Financial and Fiscal Commission. 15

Regulations

5. (1) The Minister may, after consultation with the responsible members and having regard to principles of transparency and equity, make regulations determining criteria other than those contemplated in section 2, for the recognition of the organisation referred to in section 2(1)(a) and the organisations referred to in section 2(1)(b). 20

(2) The criteria contemplated in subsection (1) may include—

- (a) political inclusiveness;
- (b) provincial representiveness;
- (c) a balance between urban and rural municipalities.

Repeal of law and transitional arrangement 25

6. (1) Subject to subsection (2), section 10F of the Local Government Transition Act, 1993 (Act No. 209 of 1993), is hereby repealed.

(2) Any organisation recognised under section 10F of the Local Government Transition Act, 1993 (Act No. 209 of 1993), immediately before the coming into operation of this Act, is deemed to have been recognised in terms of section 2 of this Act. 30

Short title

7. This Act is called the Organised Local Government Act, 1997.

MEMORANDUM ON THE OBJECTS OF THE ORGANISED LOCAL GOVERNMENT BILL, 1997

Section 163 of the Constitution of the Republic of South Africa, 1996 (Act No. 108 of 1996), determines that an Act of Parliament must provide for the recognition of a national organisation and provincial organisations representing municipalities, and must determine procedures by which organised local government may designate representatives to the National Council of Provinces (NCOP) and nominate persons to the Financial and Fiscal Commission (FFC).

In order to comply with the provisions of section 163 of the Constitution, clause 2 seeks to make provision for the recognition of a national organisation and nine provincial organisations to represent local government.

Clause 3 seeks to provide for the designation by the national organisation of representatives to participate in proceedings of the NCOP. Local government's participation in the NCOP is important as this will ensure that local government will for the first time participate in the law making process when local government issues are at stake.

Clause 4 proposes the nomination of two persons by the national organisation for appointment by the President as members of the FFC in terms of section 221 of the Constitution. Municipalities are dependent on sufficient funds to perform their functions. The participation of local government in the FFC is therefore of the utmost importance as the FFC is *inter alia* responsible for making recommendations to Parliament in respect of the equitable division of revenue raised nationally among the national, provincial and local spheres of government.

Clause 5 seeks to empower the Minister for Provincial Affairs and Constitutional Development to make regulations prescribing criteria which have to be taken into account when the national organisation and nine provincial organisations are to be recognised.

The Department of Constitutional Development and the State Law Advisers are of the opinion that the Bill must be dealt with in terms of the procedure set out in section 76 of the Constitution.

DEPARTMENTS AND BODIES CONSULTED

- * Local Government MINMEC, which consists of:
 - The nine provincial members of the Executive Councils responsible for local government;
 - The Executive Committee of SALGA;
 - The chairpersons of the nine provincial municipal associations;
 - Representatives of the Department of Finance;
 - Representatives of the FFC; and
 - Representatives of the Portfolio Committee on Constitutional Affairs.
- * The Heads of the nine provincial Departments of Local Government.
- * The Bill was also published in the *Gazette* for public comment as a result of which 12 written submissions were received.