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OF THE REPUBLIC OF SOUTH AFRICA

REPUBLIEK VAN SUID-AFRIKA

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No. 13172

STATE PRESIDENT'S OFFICE

KANTOOR VAN DIE STAATSPRESIDENT

No. 809.

19 April 1991

It is hereby notified that the State President has assented to the following Act which is hereby published for general information:—

No. 45 of 1991: Local Government Affairs Council
Amendment Act (House of As-
sembly), 1991.

No. 809.

19 April 1991

Hierby word bekend gemaak dat die Staatspresident sy goedkeuring geheg het aan die onderstaande Wet wat hierby ter algemene inligting gepubliseer word:—

No. 45 van 1991: Wysigingswet op die Raad op
Plaaslike Bestuursangeleenthede
(Volksraad), 1991.

Act No. 45, 1991

LOCAL GOVERNMENT AFFAIRS COUNCIL AMENDMENT ACT
(HOUSE OF ASSEMBLY), 1991

GENERAL EXPLANATORY NOTE:

- [** Words in bold type in square brackets indicate omissions from existing enactments.
- Words underlined with a solid line indicate insertions in existing enactments.

ACT

To amend the Local Government Affairs Council Act (House of Assembly), 1989, so as to redefine the expression "chief executive officer"; to provide for the appointment of a chief executive officer for the Council and a chief executive officer for an executive committee; to delete the restriction that only a person in the service of the Council may be designated as acting chief executive officer; to provide that a department may also be created in the administration of the Council, and to further regulate the responsibility of a head of a department; to delete the requirement that the conditions of service and remuneration of persons appointed by the Council may only be determined with the concurrence of certain Ministers; to provide for the secondment of persons in the service of the Council to the management body of a declared area; to provide that the chief executive officer of the Council shall be the accounting officer; to alter the date for the adoption of estimates by the Council; to delete the provisions dealing with the borrowing powers of the Council, the repayment of loans and the sinking-fund; and to extend the powers of the Council to delegate; and to provide for matters connected therewith.

(English text signed by the State President.)
(Assented to 8 April 1991.)

BE IT ENACTED by the State President and the House of Assembly of the Republic of South Africa, as follows:—

Amendment of section 1 of Act 84 of 1989

1. Section 1 of the Local Government Affairs Council Act (House of Assembly), 1989 (hereinafter referred to as the principal Act), is hereby amended—

- (a) by the substitution for the definition of "chief executive officer" of the following definition:

"'chief executive officer', in relation to the Council or an executive committee of the Council, means a person referred to in section 12 (1) or (1A), as the case may be;"; and

- (b) by the substitution for the definition of "Minister" of the following definition:

"'Minister' means the Minister of the Budget **[Local Government and Housing: House of Assembly]**";.

Amendment of section 7 of Act 84 of 1989

2. Section 7 of the principal Act is hereby amended by the substitution for subsection (2) of the following subsection:

"(2) The chief executive officer referred to in section 12 **[(4)]** (1) shall give not less than seven days written notice to the members of the Council of the time and place of any meeting, with reference to the purpose of the meeting."

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ALGEMENE VERDUIDELIKENDE NOTA:

- []** Woorde in vet druk tussen vierkantige hake dui skappings uit bestaande verordenings aan.
- _____ Woorde met 'n volstreep daaronder, dui invoegings in bestaande verordenings aan.

WET

Tot wysiging van die Wet op die Raad op Plaaslike Bestuursaangeleenthede (Volksraad), 1989, ten einde die uitdrukking "hoof- uitvoerende beampte" te heromskryf; voorsiening te maak vir die aanstelling van 'n hoof- uitvoerende beampte vir die Raad en 'n hoof- uitvoerende beampte vir 'n uitvoerende komitee; die beperking dat slegs iemand in diens van die Raad as waarnemende hoof- uitvoerende beampte aangewys kan word, te skrap; te bepaal dat 'n departement ook in die administrasie van die Raad geskep kan word, en die verantwoordelikheid van die hoof van 'n departement verder te reël; die vereiste dat die diensvoorwaardes en besoldiging van persone wat deur die Raad aangestel word, slegs met die instemming van sekere Ministers bepaal kan word, te skrap; voorsiening te maak vir die sekondering van persone in diens van die Raad aan die bestuursliggaam van 'n verklaarde gebied; te bepaal dat die hoof- uitvoerende beampte van die Raad die rekenpligtige beampte is; die datum vir die aanneem van 'n begroting deur die Raad te verander; die bepalinge wat handel oor die leningsbevoegdheid van die Raad, die terugbetaling van lenings en die delgingsfonds, te skrap; en die Raad se delegeringsbevoegdheid uit te brei; en om voorsiening te maak vir aangeleenthede wat daarmee in verband staan.

(Engelse teks deur die Staatspresident geteken.)
(Goedgekeur op 8 April 1991.)

DAAR WORD BEPAAL deur die Staatspresident en die Volksraad van die Republiek van Suid-Afrika, soos volg:—

Wysiging van artikel 1 van Wet 84 van 1989

1. Artikel 1 van die Wet op die Raad op Plaaslike Bestuursaangeleenthede (Volksraad), 1989 (hieronder die Hoofwet genoem), word hierby gewysig—
- (a) deur die omskrywing van "hoof- uitvoerende beampte" deur die volgende omskrywing te vervang:
- 10 "hoof- uitvoerende beampte", met betrekking tot die Raad of 'n uitvoerende komitee van die Raad, 'n persoon bedoel in artikel 12 (1) of (1A), na gelang van die geval;"; en
- (b) deur die omskrywing van "Minister" deur die volgende omskrywing te vervang:
- "Minister" die Minister van Begroting [Plaaslike Bestuur en Behuising: Volksraad];".

15 Wysiging van artikel 7 van Wet 84 van 1989

2. Artikel 7 van die Hoofwet word hierby gewysig deur subartikel (2) deur die volgende subartikel te vervang:

- 20 "(2) Die hoof- uitvoerende beampte bedoel in artikel 12 [(4)] (1) gee minstens sewe dae skriftelike kennis aan die lede van die Raad van die tyd en plek van enige vergadering met vermelding van die doel van die vergadering."

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Amendment of section 12 of Act 84 of 1989

3. Section 12 of the principal Act is hereby amended—

- (a) by the substitution for subsection (1) of the following subsection: 5
 “(1) The Council shall appoint a person, to be known as the chief executive officer of **[an executive committee]** the Council, in the administration of **[an executive committee]** the Council at such remuneration and on such conditions of service as may from time to time be determined by the Council, with the concurrence of the Minister and the Minister of the Budget **[and Works]**.”;
- (b) by the insertion after subsection (1) of the following subsection: 10
 “(1A) If an executive committee is established in terms of section 10, the Council shall appoint a person to be known as the chief executive officer of an executive committee concerned, in the administration of such executive committee at such remuneration and on such conditions of service as may from time to time be determined by the Council, with the concurrence of 15
 the Minister and the Minister of the Budget.”;
- (c) by the substitution for subsection (2) of the following subsection:
 “(2) The chief executive officer shall, subject to the control and directions of the Council or an executive committee, as the case may be, be responsible for the carrying out of the resolutions of the Council and the 20
 administration of the affairs of the Council or executive committee, as the case may be.”;
- (d) by the deletion of subsection (4); and
- (e) by the substitution for subsection (5) of the following subsection: 25
 “(5) Whenever **[the]** a chief executive officer **[of an executive committee]** referred to in subsection (1) or (1A) is absent or is unable to perform his functions, or the office of chief executive officer is vacant, the functions of **[the]** that chief executive officer shall be performed by a person **[in the service of the Council]** designated for such purpose by the Council.”.

Amendment of section 13 of Act 84 of 1989 30

4. Section 13 of the principal Act is hereby amended—

- (a) by the substitution for subsection (1) of the following subsection:
 “(1) The Council may, with the approval of the Minister, for the effective performance of its functions create one or more departments in the administration of the Council and of each executive committee, and entrust 35
 each department with such functions and duties as the Council may determine.”; and
- (b) by the substitution for subsection (3) of the following subsection:
 “(3) A head of a department shall be responsible for the administration of his department and shall perform his functions subject to the control and 40
 directions of the chief executive officer **[of the executive committee concerned]** referred to in section 12 (1) or (1A), as the case may be.”.

Amendment of section 14 of Act 84 of 1989

5. Section 14 of the principal Act is hereby amended by the substitution for paragraph (b) of the following paragraph: 45

- “(b) by persons appointed by the Council on such conditions and at such remuneration as the Council **[with the concurrence of the Minister and the Minister of the Budget and Works]** may determine.”.

Substitution of section 15 of Act 84 of 1989

6. The following section is hereby substituted for section 15 of the principal Act: 50

“Transfer or secondment of persons

15. (1) The Council may, with the concurrence of a local authority **[or]**, a local council **[and with the approval of the Minister]** or the management body of a declared area, as the case may be, transfer **[or**

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Wysiging van artikel 12 van Wet 84 van 1989

3. Artikel 12 van die Hoofwet word hierby gewysig—

(a) deur subartikel (1) deur die volgende subartikel te vervang:

5 “(1) Die Raad stel ’n persoon, wat die hoof- uitvoerende beampte van **[’n uitvoerende komitee]** die Raad genoem word, in die administrasie van **[’n uitvoerende komitee]** die Raad aan teen die besoldiging en op die diensvoorwaardes van tyd tot tyd deur die Raad, met die instemming van die Minister en die Minister van Begroting **[en Werke]**, bepaal.”;

(b) deur na subartikel (1) die volgende subartikel in te voeg:

10 “(1A) Indien ’n uitvoerende komitee ingevolge artikel 10 ingestel word, stel die Raad ’n persoon wat die hoof- uitvoerende beampte van die betrokke uitvoerende komitee genoem word, in die administrasie van so ’n uitvoerende komitee aan teen die besoldiging en op die diensvoorwaardes van tyd tot tyd deur die Raad, met die instemming van die Minister en die Minister van Begroting, bepaal.”;

(c) deur subartikel (2) deur die volgende subartikel te vervang:

15 “(2) Die hoof- uitvoerende beampte is, onderworpe aan die beheer en voorskrifte van die Raad of ’n uitvoerende komitee, na gelang van die geval, verantwoordelik vir die uitvoering van die besluite van die Raad en die administrasie van die Raad of uitvoerende komitee se sake, na gelang van die geval.”;

(d) deur subartikel (4) te skrap; en

(e) deur subartikel (5) deur die volgende subartikel te vervang:

20 “(5) Wanneer **[die]** ’n hoof- uitvoerende beampte **[van ’n uitvoerende komitee]** in subartikel (1) of (1A) bedoel afwesig is of nie in staat is om sy werksaamhede te verrig nie, of die amp van hoof- uitvoerende beampte vakant is, word die werksaamhede van **[die]** daardie hoof- uitvoerende beampte verrig deur ’n persoon **[in diens van die Raad]** wat vir dié doel deur die Raad aangewys word.”.

30 Wysiging van artikel 13 van Wet 84 van 1989

4. Artikel 13 van die Hoofwet word hierby gewysig—

(a) deur subartikel (1) deur die volgende subartikel te vervang:

35 “(1) Die Raad kan, met die goedkeuring van die Minister, vir die doeltreffende verrigting van sy werksaamhede een of meer departemente in die administrasie van die Raad en van elke uitvoerende komitee skep, en elke departement belas met die werksaamhede en pligte wat die Raad bepaal.”; en

(b) deur subartikel (3) deur die volgende subartikel te vervang:

40 “(3) ’n Hoof van ’n departement is verantwoordelik vir die administrasie van sy departement en verrig sy werksaamhede onderworpe aan die beheer en voorskrifte van die hoof- uitvoerende beampte **[van die betrokke uitvoerende komitee]** bedoel in artikel 12 (1) of (1A), na gelang van die geval.”.

Wysiging van artikel 14 van Wet 84 van 1989

45 5. Artikel 14 van die Hoofwet word hierby gewysig deur paragraaf (b) deur die volgende paragraaf te vervang:

“(b) deur persone wat deur die Raad aangestel word op die voorwaardes en teen die besoldiging wat die Raad **[met die instemming van die Minister en die Minister van Begroting en Werke]** bepaal.”.

50 Vervanging van artikel 15 van Wet 84 van 1989

6. Artikel 15 van die Hoofwet word hierby deur die volgende artikel vervang:

“Oorplasing of sekondering van persone

15. (1) Die Raad kan, met die instemming van ’n plaaslike bestuur **[of]**, ’n plaaslike raad **[en met die goedkeuring van die Minister]** of die bestuursliggaam van ’n verklaarde gebied, na gelang van die geval, ’n

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second] a person in its service in the prescribed manner, and with the consent of such person, to the service of any such local authority or council, or second such person with his consent to the service of any such local authority, council or management body.

(2) Any person transferred under subsection (1) shall as from the date of his transfer be appointed to a post established at the local authority or council on such conditions as may be applicable to such post and such remuneration as may be determined for such post: Provided that—

- (a) the said conditions and remuneration shall not be less favourable than the conditions and remuneration which were applicable to him as a person employed by the Council;
- (b) any sick or vacation leave which stood to the credit of such person immediately prior to his transfer shall be deemed to be leave credited to him in the service of the local authority or council;
- (c) pensionable service performed by such person before his transfer shall be deemed to be pensionable service performed by him at the local authority or council;
- (d) a person shall not as a consequence of such transfer and appointment acquire a retirement age which is less favourable than that which applied to him in the service of the Council; and
- (e) any disciplinary steps instituted or being considered against such person in respect of alleged misconduct committed before the date of his transfer, shall be dealt with in terms of the provisions of the laws that applied to such person at the time of the alleged misconduct.”.

Substitution of section 20 of Act 84 of 1989

7. The following section is hereby substituted for section 20 of the principal Act:

“Accounting officer

20. The chief executive officer **[of a specific executive committee designated by the Council]** referred to in section 12 (1), shall be the accounting officer of the Council, and shall as such be entrusted with the responsibility of accounting for all moneys received and all payments made by the Council.”.

Amendment of section 23 of Act 84 of 1989

8. Section 23 of the principal Act is hereby amended by the substitution for the words preceding paragraph (a) of subsection (1) of the following words:

“The Council shall annually at a special meeting, held not later than **[31 May]** 30 June after at least 14 days’ notice of the meeting has been given, adopt estimates of—”.

Repeal of sections 24 and 25 of Act 84 of 1989

9. Sections 24 and 25 of the principal Act are hereby repealed.

Amendment of section 31 of Act 84 of 1989

10. Section 31 of the principal Act is hereby amended by the substitution for subsection (2) of the following subsection:

“(2) The Council may delegate any power conferred on it by, under or by virtue of this Act or any other law to an executive committee or to any person in the service of the Council or to any prescribed person, subject to such conditions as the Council may deem fit.”.

Substitution of expression in Act 84 of 1989

11. The principal Act is hereby amended by the substitution for the expression “Minister of the Budget and Works”, wherever it occurs, of the expression “Minister of the Budget”.

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persoon in sy diens op die voorgeskrewe wyse, en met die instemming van sodanige persoon, na die diens van enige sodanige plaaslike bestuur of raad oorplaas of na die diens van enige sodanige plaaslike bestuur, raad of bestuursliggaam sekondeer.

- 5 (2) Iemand wat ingevolge subartikel (1) oorgeplaas is, word vanaf die datum van sy oorplasing aangestel in 'n pos wat by die plaaslike bestuur of raad ingestel is op die voorwaardes wat op daardie pos van toepassing is en teen die besoldiging wat vir daardie pos bepaal is: Met dien verstande dat—
- 10 (a) bedoelde voorwaardes en besoldiging nie minder gunstig mag wees as die voorwaardes en besoldiging wat op hom van toepassing was as 'n persoon in diens van die Raad nie;
- (b) siekte- en vakansieverlof waarmee so iemand onmiddellik voor sy oorplasing gekrediteer was, geag word verlof te wees waarmee hy in
- 15 (c) pensioengewende diens deur so iemand voor sy oorplasing verrig, geag word pensioengewende diens te wees wat deur hom by die plaaslike bestuur of raad verrig is;
- (d) aan iemand nie as gevolg van sodanige oorplasing en aanstelling 'n minder gunstige aftree-ouderdom toegeken word as dié wat hy in diens van die Raad gehad het nie; en
- 20 (e) enige tugstappe ingestel of beoog teen so iemand ten opsigte van beweerde wangedrag gepleeg voor die datum van sy oorplasing, afgehandel word ingevolge die bepalings van die wette wat op so iemand van toepassing was ten tyde van die beweerde wangedrag.”.
- 25

Vervanging van artikel 20 van Wet 84 van 1989

7. Artikel 20 van die Hoofwet word hierby deur die volgende artikel vervang:

“Rekenpligtige beampte

- 30 20. Die hoof- uitvoerende beampte **[van 'n bepaalde uitvoerende komitee deur die Raad aangewys]** in artikel 12 (1) bedoel, is die rekenpligtige beampte van die Raad, en is as sodanig belas met die verantwoording van alle gelde ontvang en alle betalings gedoen deur die Raad.”.

Wysiging van artikel 23 van Wet 84 van 1989

- 35 8. Artikel 23 van die Hoofwet word hierby gewysig deur die woorde wat paragraaf (a) van subartikel (1) voorafgaan deur die volgende woorde te vervang:
- “Die Raad moet jaarliks op 'n spesiale vergadering, wat nie later nie as **[31 Mei]** 30 Junie gehou word nadat minstens 14 dae kennis van die vergadering gegee is, 'n begroting aanneem van—”.

40 Herroeping van artikels 24 en 25 van Wet 84 van 1989

9. Artikels 24 en 25 van die Hoofwet word hierby herroep.

Wysiging van artikel 31 van Wet 84 van 1989

10. Artikel 31 van die Hoofwet word hierby gewysig deur subartikel (2) deur die volgende subartikel te vervang:
- 45 “(2) Die Raad kan enige bevoegdheid by, kragtens of uit hoofde van hierdie Wet of enige ander wet aan hom verleen, aan 'n uitvoerende komitee of aan enige persoon in diens van die Raad of aan 'n voorgeskrewe persoon delegeer, onderworpe aan die voorwaardes wat die Raad dienstig ag.”.

Vervanging van uitdrukking in Wet 84 van 1989

- 50 11. Die Hoofwet word hierby gewysig deur die uitdrukking “Minister van Begroting en Werke”, waar dit ook al voorkom, deur die uitdrukking “Minister van Begroting” te vervang.

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(HOUSE OF ASSEMBLY), 1991**Short title and commencement**

12. (1) This Act shall be called the Local Government Affairs Council Amendment Act (House of Assembly), 1991, and shall subject to subsection (2) come into operation on a date fixed by the State President by proclamation in the *Gazette*.

(2) Sections 1 (*a*), 2, 3, 4 and 7 shall be deemed to have come into operation on 5
30 June 1989.

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Kort titel en inwerkingtreding

12. (1) Hierdie Wet heet die Wysigingswet op die Raad op Plaaslike Bestuurs-
aangeleenthede (Volksraad), 1991, en tree behoudens subartikel (2) in werking op
'n datum deur die Staatspresident by proklamasie in die *Staatskoerant* bepaal.
- 5 (2) Artikels 1(a), 2, 3, 4 en 7 word geag op 30 Junie 1989 in werking te getree het.

