



REPUBLIC OF SOUTH AFRICA

# GOVERNMENT GAZETTE

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## STAATSKOERANT

VAN DIE REPUBLIEK VAN SUID-AFRIKA

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PRESIDENT'S OFFICE

No. 1896.

22 November 1996

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

No. 97 of 1996: Local Government Transition Act Second Amendment Act, 1996.

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KANTOOR VAN DIE PRESIDENT

No. 1896.

22 November 1996

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

No. 97 van 1996: Tweede Wysigingswet op die Oorgangswet op Plaaslike Regering, 1996.

**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 Transition Act, 1993, so as to insert certain definitions and to delete other definitions; to provide that a person who has not been elected as a member of a district council may be appointed as the chairperson of such council; to provide that a district council shall consist of members elected on a proportional basis; to provide for the powers and duties of metropolitan councils, metropolitan local councils, district councils, local councils, rural councils and representative councils and for certain other matters relating to such councils during the interim phase; to provide that the Minister may determine in a regulation made under this Act that any person who contravenes or fails to comply with a provision of such regulation shall be guilty of an offence; and to substitute and add certain Schedules to the Act; and to provide for matters connected therewith.**

(English text signed by the President.)  
(Assented to 12 November 1996.)

**B**E IT ENACTED BY the Parliament of the Republic of South Africa, as follows:—

**Amendment of section 1 of Act 209 of 1993, as amended by section 1 of Act 89 of 1995**

**1. Section 1 of the Local Government Transition Act, 1993 (hereinafter referred to as the principal Act), is hereby amended—**

- (a) by the deletion of the definitions of “Administrator” and “Board”;
- (b) by the insertion after the definition of “local government co-ordinating committee” of the following definition:
- “ ‘MEC’ means the member of the executive council responsible for local government in the province concerned;”;
- (c) by the deletion of the definition of “*Official Gazette*”; and
- (d) by the insertion after the definition of “provincial administration” of the following definition:
- “ ‘*Provincial Gazette*’ means the *Provincial Gazette* of the province concerned;”.

## 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

Om die Oorgangswet op Plaaslike Regering, 1993, te wysig, ten einde sekere woordskrywings in te voeg en ander te skrap; voorsiening te maak dat 'n persoon wat nie as lid van 'n distrikraad verkies is nie, as voorsitter van so 'n raad aangestel kan word; voorsiening te maak dat 'n distrikraad bestaan uit lede wat op 'n proporsionele grondslag gekies word; voorsiening te maak vir die bevoegd-hede en pligte van metropolitaanse rade, metropolitaanse plaaslike rade, distrikrade, plaaslike rade, landelike rade en verteenwoordigende rade en vir sekere ander aangeleenthede wat gedurende die interimfase op sodanige rade betrekking het; voorsiening te maak dat die Minister in 'n regulasie kragtens hierdie Wet uitgevaardig, kan bepaal dat iemand wat 'n bepaling van so 'n regulasie oortree of versuim om daaraan te voldoen aan 'n misdryf skuldig is; en om sekere Bylaes by die Wet te vervang en ander Bylaes by te voeg; en om voorsiening te maak vir aangeleenthede wat daarmee in verband staan.

(Engelse teks deur die President geteken.)  
(Goedgekeur op 12 November 1996.)

**D**AAR WORD BEPAAL deur die Parlement van die Republiek van Suid-Afrika, soos volg:—

**Wysiging van artikel 1 van Wet 209 van 1993, soos gewysig deur artikel 1 van Wet 89 van 1995**

- 5    1. Artikel 1 van die Oorgangswet op Plaaslike Regering, 1993 (hieronder die Hoofwet genoem), word hierby gewysig—
- (a) deur die omskrywing van “Administrateur” te skrap;
- (b) deur na die omskrywing van “Komitee” die volgende omskrywing in te voeg:
- 10        “ ‘LUR’ die lid van die uitvoerende raad verantwoordelik vir plaaslike regering in die betrokke provinsie;”;
- (c) deur die omskrywing van “Offisiële Koerant” te skrap;
- (d) deur na die omskrywing van “provinsiale administrasie” die volgende omskrywing in te voeg:
- 15        “ ‘Provinsiale Koerant’ die Provinsiale Koerant van die betrokke provinsie;”;
- (e) deur die omskrywing van “Raad” te skrap.

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LOCAL GOVERNMENT TRANSITION ACT SECOND  
AMENDMENT ACT, 1996**Amendment of section 9B of Act 209 of 1993, as inserted by section 9 of Act 89 of 1995**

2. Section 9B of the principal Act is hereby amended by the addition to paragraph (b) of subsection (3) of the following proviso:

“: Provided that the MEC may appoint a person who has not been elected as a member of a district council, as chairperson of such council: Provided further that the period of office of a person who has been appointed as chairperson of a district council shall lapse by not later than 1 July 1997, whereafter the chairpersons of all district councils shall be elected.”.

**Amendment of section 9C of Act 209 of 1993, as inserted by section 9 of Act 89 of 1995**

3. Section 9C of the principal Act is hereby amended by the substitution for the words preceding paragraph (a) of subsection (3) of the following words:

“A transitional representative council shall subject to section 10D(2) be vested or charged with the following powers and duties, namely—”.

**Amendment of section 9D of Act 209 of 1993, as inserted by section 9 of Act 89 of 1995**

4. Section 9D of the principal Act is hereby amended by the substitution for subparagraph (i) of paragraph (b) of subsection (1) of the following subparagraph:

“(i) members elected as prescribed by regulation under section 12 on a proportional basis according to the number of members of each of the [by] transitional local councils, transitional representative councils or transitional rural councils, the areas of jurisdiction or areas of which are situated within the area of such district council; and”.

**Insertion of Part VIA in Act 209 of 1993**

5. The following Part is hereby inserted after Part VI of the principal Act:

**“PART VIA****INTERIM PHASE****Definitions**

**10B.** In this Part, unless the context indicates otherwise—  
 ‘chief executive officer’ means the person appointed by the council of a municipality as its chief executive officer or town clerk and includes any person acting lawfully in his or her stead irrespective of the designation of the post occupied by such person, and such person shall be the accounting officer of that municipality, and shall as such be charged with the responsibility of accounting for all moneys received and for all payments made by the municipality, and the acquisition, custody and disposal of all municipal property;  
 ‘council’ means the council of a municipality;  
 ‘demarcation board’ means a Municipal Demarcation Board established under section 10J;  
 ‘district council’ means a services council, sub-regional council, regional council or district council referred to in section 10(3)(i);  
 ‘integrated development plan’ means a plan aimed at the integrated development and management of the area of jurisdiction of the municipality concerned in terms of its powers and duties, and which has been compiled having regard to the general principles contained in Chapter 1 of the Development Facilitation Act, 1995 (Act No. 67 of 1995), and, where applicable, having regard to the subject matter of a land development objective contemplated in Chapter 4 of that Act;  
 ‘local council’ means a transitional local council as defined in section 1(1);



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**Wysiging van artikel 9B van Wet 209 van 1993, soos ingevoeg deur artikel 9 van Wet 89 van 1995**

2. Artikel 9B van die Hoofwet word hierby gewysig deur die volgende voorbehoudsbepaling by paragraaf (b) van subartikel (3) te voeg:

- 5 “: Met dien verstande dat die LUR iemand wat nie as ’n lid van ’n distrikraad verkies is nie, as voorsitter van so ’n raad kan aanstel: Met dien verstande voorts dat die ampstermyn van ’n persoon wat as voorsitter van ’n distrikraad aangestel is nie later as 1 Julie 1997 verstryk nie, waarna die voorsitters van alle distrikrade verkies moet word.”.

10 **Wysiging van artikel 9C van Wet 209 van 1993, soos ingevoeg deur artikel 9 van Wet 89 van 1995**

3. Artikel 9C van die Hoofwet word hierby gewysig deur die woorde wat paragraaf (a) van subartikel (3) voorafgaan deur die volgende woorde te vervang:

- 15 “ ’n Verteenwoordigende oorgangsraad is behoudens artikel 10D(2) beklee en belas met die volgende bevoegdhede en pligte, naamlik—”.

**Wysiging van artikel 9D van Wet 209 van 1993, soos ingevoeg deur artikel 9 van Wet 89 van 1995**

4. Artikel 9D van die Hoofwet word hierby gewysig deur subparagraaf (i) van paragraaf (b) van subartikel (1) deur die volgende subparagraaf te vervang:

- 20 “(i) lede wat verkies word soos by regulasie kragtens artikel 12 voorgeskryf op ’n proporsionele grondslag ooreenkomstig die getal lede van elk van die [deur] plaaslike oorgangsrade, verteenwoordigende oorgangsrade of landelike oorgangsrade waarvan die regsgebiede of gebiede binne die gebied van so ’n distrikraad geleë is; en”.

25 **Invoeging van Deel VIA in Wet 209 van 1993**

5. Die volgende Deel word hierby na Deel VI van die Hoofwet ingevoeg:

**“DEEL VIA****INTERIMFASE****Woordomskrywings**

- 30 **10B.** In hierdie Deel, tensy uit die samehang anders blyk, beteken—  
 ‘afbakingsraad’ ’n Munisipale Afbakingsraad kragtens artikel 10J ingestel;  
 ‘distrikraad’ ’n diensteraad, substreekraad, streekraad of distrikraad in artikel 10(3)(i) bedoel;  
 35 ‘geïntegreerde ontwikkelingsplan’ ’n plan gerig op die geïntegreerde ontwikkeling en bestuur van die regsgebied van die betrokke munisipaliteit ingevolge sy bevoegdhede en pligte, en wat opgestel is met inagneming van die algemene beginsels vervat in Hoofstuk 1 van die Wet op Ontwikkelingsfasilitering, 1995 (Wet No. 67 van 1995), en, waar  
 40 toepaslik, met inagneming van die onderwerp van ’n grondontwikkelingsdoelwit in Hoofstuk 4 van daardie Wet beoog;  
 ‘hoof- uitvoerende beampte’ die persoon wat deur die raad van ’n munisipaliteit as sy hoof- uitvoerende beampte of stadsklerk aangestel is en sluit enige persoon in wat wettig in sy of haar plek optree, ongeag die  
 45 benaming van die pos deur sodanige persoon beklee, en sodanige persoon is die rekenpligtige beampte vir daardie munisipaliteit en word as sodanig belas met die verantwoording vir alle geld ontvang en vir alle betalings deur die munisipaliteit gemaak, en die verkryging, ontvangs en bewaring van en beskikking oor alle munisipale eiendom;  
 50 ‘landelike raad’ ’n landelike oorgangsraad soos in artikel 9A omskryf;  
 ‘metropolitaanse plaaslike raad’ ’n metropolitaanse oorgangsubstruktuur soos in artikel 1(1) omskryf;  
 ‘metropolitaanse raad’ ’n metropolitaanse oorgangsraad soos in artikel 1(1) omskryf;

'metropolitan council' means a transitional metropolitan council as defined in section 1(1);

'metropolitan local council' means a transitional metropolitan substructure as defined in section 1(1);

'municipality' includes a local council, a metropolitan council, a metropolitan local council, a representative council, a rural council and a district council;

'prescribed' means prescribed by regulation under this Act;

'representative council' means a transitional representative council defined in section 9A;

'rural council' means a transitional rural council defined in section 9A.

### **Powers and duties of metropolitan councils and metropolitan local councils**

**10C.** (1) A metropolitan council shall, having regard to the principles of co-operative government, promote—

- (a) integrated economic development;
  - (b) the equitable redistribution of municipal resources; and
  - (c) the equitable delivery of services,
- so as to ensure that imbalances that may exist, are addressed.

(2) Notwithstanding the provisions of sections 7(1)(b), 8(2) and 10(3)(h), a metropolitan council—

- (a) shall have the powers and duties listed in Schedule 2;
- (b) shall have the powers and duties conferred or imposed upon or delegated or assigned to metropolitan councils generally or to a specific metropolitan council by or under any law: Provided that—
  - (i) no power or duty shall be delegated or assigned to a metropolitan council without providing the sufficient resources for the exercise of such power or the performance of such duty: Provided that such delegation or assignment shall be by agreement; and
  - (ii) such delegation or assignment shall be made on a basis which will ensure the sustainability and practicability of the exercise of such power or performance of such duty;
- (c) may exercise any power or perform any duty concerning a matter which is reasonably necessary for or incidental to the effective exercise of its powers or performance of its duties.

(3) A metropolitan local council—

- (a) shall have the powers and duties listed in Schedule 2A;
- (b) shall in addition have all such other powers and duties as are normally conferred or imposed upon primary municipalities;
- (c) shall have such other powers and duties conferred or imposed upon or delegated or assigned to metropolitan local councils by or under any law: Provided that—
  - (i) no power or duty shall be delegated or assigned to a metropolitan local council without providing the sufficient resources for the exercise of such power or the performance of such duty: Provided that such delegation or assignment shall be by agreement; and
  - (ii) such delegation or assignment shall be made on a basis which will ensure the sustainability and practicability of the exercise of such power or performance of such duty;
- (d) may exercise any power or perform any duty concerning a matter which is reasonably necessary for or incidental to the effective exercise of its powers or the performance of its duties.

(4) Notwithstanding anything to the contrary in this Act contained, but subject to section 10N(4)(b), metropolitan councils and metropolitan local councils may agree on the re-allocation of the powers and duties listed in Schedules 2 and 2A: Provided that in the re-allocation of powers and duties

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'munisipaliteit' ook 'n plaaslike raad, 'n metropolitaanse raad, 'n metropolitaanse plaaslike raad, 'n verteenwoordigende raad, 'n landelike raad en 'n distrikraad;  
 'plaaslike raad' 'n plaaslike oorgangsraad soos in artikel 1(1) omskryf;  
 'raad' die raad van 'n munisipaliteit;  
 'verteenwoordigende raad' 'n verteenwoordigende oorgangsraad soos in artikel 9A omskryf;  
 'voorgeskryf' by regulasie kragtens hierdie Wet voorgeskryf.

**Bevoegdhede en pligte van metropolitaanse rade en metropolitaanse plaaslike rade**

**10C.** (1) 'n Metropolitaanse raad bevorder, met inagneming van die beginsels van samewerkende regering—

- (a) geïntegreerde ekonomiese ontwikkeling;
- (b) die billike herverdeling van munisipale bronne; en
- (c) die billike voorsiening van dienste,

ten einde die ongelykhede wat mag bestaan, aan te spreek.

(2) Ondanks die bepalinge van artikels 7(1)(b), 8(2) en 10(3)(h)—

- (a) het 'n metropolitaanse raad die bevoegdhede en pligte in Bylae 2 genoem;
- (b) het 'n metropolitaanse raad die bevoegdhede en pligte wat in die algemeen aan metropolitaanse rade of in die besonder aan 'n spesifieke metropolitaanse raad by of kragtens 'n wet verleen, opgelê, gedelegeer of opgedra is: Met dien verstande dat—
  - (i) geen bevoegdheid of plig aan 'n metropolitaanse raad gedelegeer of opgedra word nie sonder dat die middele wat vir die uitoefening van sodanige bevoegdheid of die verrigting van sodanige plig voldoende is, voorsien word: Met dien verstande dat sodanige delegering of opdrag by ooreenkoms geskied; en
  - (ii) sodanige delegering of opdrag op 'n grondslag geskied wat die volhoubaarheid en uitvoerbaarheid van die uitoefening van sodanige bevoegdheid of die verrigting van sodanige plig sal verseker;
- (c) kan 'n metropolitaanse raad enige bevoegdheid uitoefen of plig verrig betreffende 'n aangeleentheid wat redelikerwys nodig is vir of bykomend is by die doeltreffende uitoefening van sy bevoegdhede of die verrigting van sy pligte.

(3) 'n Metropolitaanse plaaslike raad—

- (a) het die bevoegdhede en pligte in Bylae 2A genoem;
- (b) het daarbenewens al die ander bevoegdhede en pligte wat normaalweg aan primêre munisipaliteite verleen of opgelê word;
- (c) het die ander bevoegdhede en pligte wat by of kragtens enige wet aan metropolitaanse plaaslike rade verleen, opgelê, gedelegeer of opgedra is: Met dien verstande dat—
  - (i) geen bevoegdheid of plig aan 'n metropolitaanse plaaslike raad gedelegeer of opgedra word nie sonder dat die middele wat vir die uitoefening van sodanige bevoegdheid of die verrigting van sodanige plig voldoende is, voorsien word: Met dien verstande dat sodanige delegering of opdrag by ooreenkoms geskied; en
  - (ii) sodanige delegering of opdrag op 'n grondslag geskied wat die volhoubaarheid en uitvoerbaarheid van die uitoefening van sodanige bevoegdheid of die verrigting van sodanige plig sal verseker;
- (d) kan enige bevoegdheid uitoefen of plig verrig betreffende 'n aangeleentheid wat redelikerwys nodig is vir of bykomend is by die doeltreffende uitoefening van sy bevoegdhede of die verrigting van sy pligte.

(4) Ondanks andersluidende bepalinge van hierdie Wet, maar behoudens artikel 10N(4)(b), kan metropolitaanse rade en metropolitaanse plaaslike rade ooreenkom op die hertoewysing van die bevoegdhede en pligte in Bylae 2 en 2A genoem: Met dien verstande dat by die hertoewysing van

practicability, technological advisability and economical and financial efficiency shall be taken into consideration.

(5) (a) Before the contributions contemplated in item 1(c) of Schedule 2 are determined or claimed, the metropolitan council shall consult with all its metropolitan local councils generally or the particular metropolitan local council concerned. 5

(b) A metropolitan local council which feels aggrieved by the determination of a contribution contemplated in item 1(c) of Schedule 2 may, within 30 days after receiving notice of such determination, appeal to the Minister in writing against the determination, setting out the grounds of appeal. 10

(c) The Minister shall consider an appeal referred to in paragraph (b) and may confirm, set aside or alter the determination of the metropolitan council concerned.

(6) If a metropolitan local council cannot or does not exercise a power or perform a duty conferred or imposed upon such council, the metropolitan council may at the request of the MEC, intervene by assuming the responsibility for the relevant power or duty for such period and under such conditions as the MEC may determine: Provided that a metropolitan council shall not incur any financial liability as a result of such intervention and shall in accordance with item 1(b) of Schedule 2 be refunded for any expenditure incurred in respect of the exercise of the power or the performance of the duty. 15 20

(7) (a) Any metropolitan council or metropolitan local council may enter into agreements with each other or with any other person, body or institution in terms of which one party undertakes on behalf of the other to exercise a power or perform a duty which the other party may exercise or perform, subject to such conditions as may be agreed upon. 25

(b) A metropolitan council or metropolitan local council may not enter into an agreement contemplated in paragraph (a) in respect of any of its legislative or expropriation powers or duties, its power to determine levies, taxes and rates or any power or duty requiring a resolution by a majority of all the members of such council. 30

(c) Notwithstanding anything to the contrary in any law contained, any agreement contemplated in paragraph (a) which was entered into prior to the commencement of the Local Government Transition Act Second Amendment Act, 1996, shall be deemed to have been entered into in terms of that paragraph. 35

(8) (a) If a dispute arises between a metropolitan council and a metropolitan local council regarding the allocation or exercise of a power or the performance of a duty, such dispute shall be resolved as determined in Schedule 8: Provided that in the resolution of a dispute the practicability, technological advisability and economical and financial efficiency be taken into consideration in the allocation or the exercise of powers and performance of duties to or by a metropolitan council or a metropolitan local council. 40 45

(b) Until such time as a dispute contemplated in paragraph (a) has been resolved, the council exercising the power or performing the duty at the time when the dispute arises, will remain responsible for the exercise of that power or performance of that duty. 50

#### **Powers and duties of district councils, local councils, rural councils and representative councils**

##### **10D. (1) A district council, a local council and a rural council—**

- (a) shall have the powers and duties contained in the proclamation contemplated in section 10, establishing such council: Provided that a district council, local council and a rural council may establish and control a municipal law enforcement agency subject to the South African Police Service Act, 1995 (Act No. 68 of 1995); 55
- (b) shall have the powers and duties conferred or imposed upon or delegated or assigned to such council by or under any law: Provided that— 60

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die bevoegdheids en pligte uitvoerbaarheid, tegnologiese raadsaamheid en ekonomiese en finansiële doeltreffendheid in ag geneem word.

5 (5) (a) Voordat die bydraes in item 1(c) van Bylae 2 beoog, vasgestel of opgeëis word, moet die metropolitaanse raad oorleg pleeg met al sy metropolitaanse plaaslike rade in die algemeen of met die besondere metropolitaanse plaaslike raad wat betrokke is.

(b) 'n Metropolitaanse plaaslike raad wat veronreg voel weens die vasstelling van 'n bydrae in item 1(c) van Bylae 2 beoog, kan binne 30 dae na ontvangs van kennis van sodanige vasstelling skriftelik na die Minister appelleer, met 'n uiteensetting van die gronde vir appèl.

10 (c) Die Minister oorweeg 'n appèl in paragraaf (b) bedoel en kan die vasstelling van die betrokke metropolitaanse raad bekragtig, tersyde stel of verander.

15 (6) Indien 'n metropolitaanse plaaslike raad nie 'n bevoegdheid of plig wat aan hom verleen of opgelê is, uitoefen of verrig nie of dit nie kan uitoefen of verrig nie, kan die metropolitaanse raad op versoek van die LUR tussenbeide tree deur verantwoordelikheid vir die betrokke bevoegdheid of plig vir die tydperk en op die voorwaardes wat die LUR bepaal, te aanvaar: Met dien verstande dat 'n metropolitaanse raad geen finansiële verpligtinge as gevolg van sodanige tussenkoms sal opdoen nie en ooreenkomstig item 1(b) van Bylae 2 vergoed word vir enige uitgawes aangegaan in verband met die uitoefening van die bevoegdheid of verrigting van die plig.

25 (7) (a) 'n Metropolitaanse raad of metropolitaanse plaaslike raad kan met mekaar of met enige ander persoon, liggaam of instelling ooreenkomste aangaan ingevolge waarvan een party namens die ander onderneem om 'n bevoegdheid uit te oefen of plig te verrig wat die ander party kan uitoefen of verrig, behoudens die voorwaardes waarop ooreengekom word.

30 (b) 'n Metropolitaanse raad of metropolitaanse plaaslike raad kan nie 'n ooreenkoms in paragraaf (a) beoog, aangaan in verband met enige van sy wetgewende of onteieningsbevoegdhede of -pligte, sy bevoegdheid om heffings, belastinge en eiendomsbelasting te bepaal, of enige bevoegdheid of plig wat 'n resoluë deur 'n meerderheid van al die lede van die raad vereis nie;

35 (c) Ondanks andersluidende bepalings van enige ander wet word enige ooreenkoms in paragraaf (a) beoog wat voor die inwerkingtreding van die Tweede Wysigingswet op die Oorgangswet op Plaaslike Regering, 1996, aangegaan is, geag ingevolge daardie paragraaf aangegaan te wees.

40 (8) (a) Indien 'n geskil tussen 'n metropolitaanse raad en 'n metropolitaanse plaaslike raad ontstaan betreffende die toewysing of uitoefening van 'n bevoegdheid of die verrigting van 'n plig, word sodanige geskil ooreenkomstig Bylae 8 bygelê: Met dien verstande dat in die bylê van 'n geskil die uitvoerbaarheid, tegnologiese raadsaamheid en ekonomiese en finansiële doeltreffendheid in ag geneem word by die toewysing aan of die uitoefening van bevoegdhede en die verrigting van pligte deur 'n metropolitaanse raad of metropolitaanse plaaslike raad.

45 (b) Tot tyd en wyl 'n geskil in paragraaf (a) beoog, bygelê word, bly die raad wat die bevoegdheid uitoefen of plig verrig ten tyde van die ontstaan van die geskil, verantwoordelik vir die uitoefening van daardie bevoegdheid of die verrigting van daardie plig.

**Bevoegdhede en pligte van distrikraade, plaaslike rade, landelike rade en verteenwoordigende rade**

55 **10D.** (1) 'n Distrikraad, 'n plaaslike raad en 'n landelike raad—

(a) het die bevoegdhede en pligte vervat in die proklamasie in artikel 10 beoog, wat sodanige raad instel: Met dien verstande dat 'n distrikraad, plaaslike raad en 'n landelike raad 'n munisipale wetstoepassings-agentskap kan instel en beheer behoudens die Wet op die Suid-Afrikaanse Polisiediens, 1995 (Wet No. 68 van 1995);

60 (b) het die bevoegdhede en pligte aan sodanige raad by of kragtens enige wet verleen, opgelê, gedelegeer of opgedra: Met dien verstande dat—

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- (i) no power or duty shall be delegated or assigned to such council without providing the sufficient resources for the exercise of such power or the performance of such duty: Provided that such delegation or assignment shall be by agreement; and
  - (ii) that such delegation or assignment shall be made on a basis which will ensure the sustainability and practicability of the exercise of such power or the performance of such duty; and
  - (c) may exercise any power or perform any duty concerning a matter which is reasonably necessary or which is incidental to the effective exercise of its powers and performance of its duties.
  - (2) A representative council—
  - (a) shall within its area of jurisdiction have those powers and duties as the MEC may, in consultation with the Minister and after consultation with—
    - (i) the representative council concerned; and
    - (ii) the district council concerned,
 by notice in the *Provincial Gazette* identify as a power or duty of the representative council concerned, whereupon such representative council shall be competent to exercise such power or perform such duty within its area of jurisdiction;
  - (b) shall have any other power or duty conferred or imposed upon or delegated or assigned to representative councils generally or to a specific representative council or a category of representative councils by or under any law.
  - (3) Section 10C(6), (7) and (8) shall with the necessary changes apply to a district council, local council, rural council and representative council.
  - (4) A district council—
  - (a) may—
    - (i) at rates determined by the council with the concurrence of the MEC responsible for Finance with the concurrence of the Minister of Finance, levy and claim the levies referred to in section 12(1)(a) of the Regional Services Council Act, 1985 (Act No. 109 of 1985), or section 16(1)(a) of the KwaZulu and Natal Joint Services Act, 1990 (Act No. 84 of 1990), as the case may be; and
    - (ii) claim payment from any local council, rural council or representative council to cover the actual costs of any service performed or rendered on behalf of or to such council; and
  - (b) shall—
    - (i) with the approval of the local councils, rural councils and representative councils concerned, formulate and implement an integrated development plan for its area of jurisdiction; and
    - (ii) with the approval of the local council, rural council or representative council concerned—
      - (aa) formulate and, if so requested, implement an integrated development plan in respect of each local council, rural council and representative council within its area of jurisdiction; and
      - (bb) if so requested, ensure the provision of financial, technical and administrative support service to, as well as the proper functioning of, all the local councils, rural councils and representative councils within its area of jurisdiction:
- Provided that a district council, local council and rural council shall, subject to subsection (4), within 12 months after the coming into operation of the Local Government Transition Act Second Amendment Act, 1996, or such further period as the MEC after consultation with the Minister may determine, formulate and implement an integrated development plan.
- (5) The Minister shall, after consultation with the MECs, establish a



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- (i) geen bevoegdheid of plig aan sodanige raad gedeleger of opgedra word nie sonder dat die middele wat vir die uitoefening van sodanige bevoegdheid of die verrigting van sodanige plig voldoende is, voorsien word: Met dien verstande dat sodanige delegering of opdrag by ooreenkoms geskied; en
- (ii) sodanige delegering of opdrag op 'n grondslag geskied wat die volhoubaarheid en uitvoerbaarheid van die uitoefening van sodanige bevoegdheid of die verrigting van sodanige plig sal verseker; en
- (c) kan enige bevoegdheid uitoefen of plig verrig betreffende 'n aanleentheid wat redelikerwys nodig is vir of bykomend is by die doeltreffende uitoefening van sy bevoegdhede en die verrigting van sy pligte.
- (2) 'n Verteenwoordigende raad—
- (a) het binne sy regsgebied die bevoegdhede en pligte wat die LUR, in oorleg met die Minister en na oorleg met—
- (i) die betrokke verteenwoordigende raad; en
- (ii) die betrokke distrikraad, by kennisgewing in die *Provinsiale Koerant* identifiseer as 'n bevoegdheid of plig van die betrokke verteenwoordigende raad, waarna sodanige verteenwoordigende raad bevoeg is om daardie bevoegdheid of plig binne sy regsgebied uit te oefen of te verrig;
- (b) het enige ander bevoegdheid of plig verleen of opgelê of gedeleger of opgedra aan verteenwoordigende rade in die algemeen of aan 'n spesifieke verteenwoordigende raad of aan 'n kategorie verteenwoordigende rade, by of kragtens enige wet.
- (3) Artikel 10C(6), (7) en (8) is met die nodige veranderings van toepassing op 'n distrikraad, plaaslike raad, landelike raad en verteenwoordigende raad.
- (4) 'n Distrikraad—
- (a) kan—
- (i) teen koerse deur die raad vasgestel met die instemming van die LUR verantwoordelik vir Finansies, met die instemming van die Minister van Finansies, heffings in artikel 12(1)(a) van die Wet op Streeksdiensterade, 1985 (Wet No. 109 van 1985), of artikel 16(1)(a) van die Wet op Gesamentlike Dienste vir KwaZulu en Natal, 1990 (Wet No. 84 van 1990), na gelang van die geval, oplê en vorder;
- (ii) betalings van enige plaaslike raad, landelike raad of verteenwoordigende raad eis ten einde die werklike koste vir enige diens verrig of gelewer namens sodanige raad, te dek; en
- (b) moet—
- (i) met die goedkeuring van die betrokke plaaslike rade, landelike rade en verteenwoordigende rade, 'n geïntegreerde ontwikkelingsplan vir sy regsgebied formuleer en implementeer; en
- (ii) met die goedkeuring van die betrokke plaaslike raad, landelike raad of verteenwoordigende raad—
- (aa) 'n geïntegreerde ontwikkelingsplan ten opsigte van elke plaaslike raad, landelike raad en verteenwoordigende raad binne sy regsgebied formuleer, en indien so versoek, implementeer; en
- (bb) indien daartoe versoek, die voorsiening van finansiële, tegniese en administratiewe ondersteuningsdienste aan, sowel as die behoorlike funksionering van al die plaaslike rade, landelike rade en verteenwoordigende rade binne sy regsgebied, verseker:
- Met dien verstande dat 'n distrikraad, plaaslike raad en landelike raad, behoudens subartikel (4), binne 12 maande na die inwerkingtreding van die Tweede Wysigingswet op die Oorgangswet op Plaaslike Regering, 1996, of die verdere tydperk wat die LUR na oorleg met die Minister bepaal, 'n geïntegreerde ontwikkelingsplan moet formuleer en implementeer.
- (5) Die Minister moet na oorleg met die LUR 'n liggaam instel om

body to advise on the expeditious establishment of municipalities in remaining areas and on the rendering of assistance to municipalities in rural areas for the development of administrative infrastructure and the building of service rendering capacity.

### Alteration of municipalities

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**10E.** (1) The MEC may, subject to subsections (2) and (3), after consultation with any municipality which may be affected and in respect of paragraphs (a), (b), (c) and (d) in accordance with the recommendations of the demarcation board, by notice in the *Provincial Gazette*—

- (a) combine or divide areas of jurisdiction of municipalities under a name mentioned in the notice; 10
- (b) alter the name of a municipality or delimit or re-delimit the area of jurisdiction of any municipality;
- (c) subject to section 5 of the Electoral Commission Act, 1996 (Act No. 51 of 1996), delimit or re-delimit the area of jurisdiction of a municipality into wards; 15
- (d) determine or re-determine the number of seats in a municipality; and
- (e) regulate any other matter which in his or her opinion is necessary as the result of the combination, division, delimitation or re-delimitation referred to in paragraphs (a), (b) and (c). 20

(2) The MEC may, having regard to the criteria listed in Schedule 6, combine, divide, delimit or re-delimit the area of jurisdiction of any municipality if all the municipalities having an interest in the proposed combination, division, delimitation or re-delimitation or which may be affected thereby, signify in writing that they have no objection to the proposed combination, division, delimitation or re-delimitation and that the holding of an inquiry contemplated in section 10J(8) is, in their opinion, not necessary. 25

(3) All persons who were members of a council immediately before the combination, division, delimitation or re-delimitation of its area of jurisdiction as contemplated in subsection (1), shall remain members of a council designated by the MEC for his or her unexpired term of office. 30

### Organised local government

**10F.** (1) (a) The Minister may, on such conditions as he or she may determine, recognise one organisation representing the majority of organisations referred to in paragraph (b). 35

(b) The Minister may, in consultation with the MEC on such conditions as he or she may determine, recognise one organisation in each province representing the majority of municipalities in that province: Provided that all the different categories of municipalities in the province concerned shall be represented in the organisation concerned. 40

(2) (a) The Minister may, if he or she is of the opinion that an organisation does not comply with the conditions referred to in subsection (1), and after giving the organisation concerned 30 days' notice of his or her intention to do so, subject to paragraph (b), withdraw the recognition of such organisation. 45

(b) In the case of an organisation contemplated in subsection (1)(b) the Minister must act in consultation with the MEC.

### Financial matters

- 10G.** (1) Every municipality shall— 50
- (a) conduct its affairs in an effective, economical and efficient manner with a view to optimising the use of its resources in addressing the needs of the community;
  - (b) conduct its financial affairs in an accountable and transparent manner;
  - (c) prepare a financial plan in accordance with the integrated development plan in respect of all its powers, duties and objectives; 55
  - (d) structure and manage its administration and budgeting and planning



advies te verskaf aangaande die spoedige instelling van munisipaliteite in oorblywende gebiede en aangaande die lewering van bystand aan munisipaliteite in landelike gebiede vir die ontwikkeling van administratiewe infrastruktuur en die opbou van diensleweringkapasiteit.

## 5 Verandering van munisipaliteite

**10E.** (1) Behoudens subartikels (2) en (3) kan die LUR, na oorleg met enige munisipaliteit wat geaffekteer kan word, en ten opsigte van paragrafe (a), (b), (c) en (d), in ooreenstemming met die aanbevelings van die afbakeningsraad, by kennisgewing in die *Provinsiale Koerant*—

- 10 (a) die regsgebiede van munisipaliteite kombineer of verdeel, onder 'n naam in die kennisgewing vermeld;
- (b) die naam van 'n munisipaliteit verander, of die regsgebied van 'n munisipaliteit afbaken of herafbaken;
- 15 (c) behoudens artikel 5 van die Wet op die Verkiesingskommissie, 1996 (Wet No. 51 van 1996), die regsgebied van 'n munisipaliteit in wyke afbaken of herafbaken;
- (d) die getal setels in 'n munisipaliteit bepaal of herbepaal; en
- (e) enige ander aangeleentheid reël wat na sy of haar mening nodig is as gevolg van die kombinerings, verdeling, afbakening of herafbakening in paragrafe (a), (b) en (c) bedoel.

20 (2) Die LUR kan, met inagneming van die riglyne in Bylae 6 genoem, die regsgebied van enige munisipaliteit kombineer, verdeel, afbaken of herafbaken indien alle munisipaliteite wat 'n belang het by die voorgestelde kombinerings, verdeling, afbakening of herafbakening of daardeur geaffekteer kan word, skriftelik aandui dat hulle geen beswaar het teen die voorgestelde kombinerings, verdeling, afbakening of herafbakening en dat die hou van 'n ondersoek in artikel 10J(8) beoog, na hul mening, nie nodig is nie.

30 (3) Alle persone wat onmiddellik voor die kombinerings, verdeling, afbakening of herafbakening van die regsgebied van 'n munisipaliteit in subartikel (1) beoog lede van die raad was, bly aan as lede van 'n raad deur die LUR aangewys, vir sy of haar onverstreke ampstermyn.

## Georganiseerde plaaslike bestuur

35 **10F.** (1) (a) Die Minister kan, op die voorwaardes wat hy of sy bepaal, een organisasie erken wat die meerderheid van organisasies in paragraaf (b) bedoel, verteenwoordig.

(b) Die Minister kan, in oorleg met die LUR, op die voorwaardes wat hy of sy bepaal, een organisasie in elke provinsie erken wat die meerderheid van munisipaliteite in daardie provinsie verteenwoordig. Met dien verstande dat al die verskillende kategorieë munisipaliteite in die betrokke provinsie in die betrokke organisasie verteenwoordig is.

40 (2) (a) Die Minister kan, indien hy of sy van oordeel is dat 'n organisasie nie aan die voorwaardes in subartikel (1) bedoel, voldoen nie, en nadat hy of sy die betrokke organisasie 30 dae kennis gegee het van sy of haar voorneme om dit te doen, behoudens paragraaf (b), die erkenning van sodanige organisasie terugtrek.

45 (b) In die geval van 'n organisasie in subartikel (1)(b) bedoel, tree die Minister in oorleg met die LUR op.

## Finansiële aangeleenthede

50 **10G.** (1) Elke munisipaliteit—

- (a) bestuur sy sake op 'n effektiewe, ekonomiese en doeltreffende wyse met die oog op die optimale aanwending van sy hulpbronne om na die behoeftes van die gemeenskap om te sien;
- (b) bestuur sy finansiële sake op 'n verantwoordbare en deursigtige wyse;
- 55 (c) berei 'n finansiële plan voor ooreenkomstig die geïntegreerde ontwikkelingsplan ten opsigte van al sy bevoegdhede, pligte en doelstellings;
- (d) struktureer en bestuur sy administrasie en begrotings- en beplannings-

- processes to give priority to the basic needs of its community, and promote social and economic development within its area of jurisdiction and support the implementation of national and provincial development programmes;
- (e) manage its financial resources to meet and sustain its objectives; 5
- (f) regularly monitor and assess its performance against its integrated development plan; and
- (g) annually report to and receive comments from its community regarding the objectives set in its integrated development plan.
- (2) (a) The chief executive officer of a municipality— 10
- (i) shall, subject to this Act and the regulations made thereunder, cause such accounting records to be kept as are necessary to reflect the transactions and financial state of affairs of the municipality;
- (ii) shall cause to be kept in the accounting records contemplated in subparagraph (i) a revenue account which shall be credited with all money which accrues to and is received by the municipality and be debited with all expenses of the municipality; 15
- (iii) shall cause all the money received by him or her on behalf of the municipality to be deposited in a banking account in the name of the municipality. 20
- (b) The accounting records contemplated in paragraph (a)(i) shall be kept at a place determined by the municipality, and shall not be removed from that place without the municipality's consent, and the MEC shall be informed of such consent. 25
- (c) Every municipality shall establish and maintain a system of internal control and, as far as practicable, institute internal audit, including audit committees, as an independent appraisal function.
- (d) Notwithstanding anything to the contrary in any law contained— 30
- (i) the financial year of all municipalities shall end on 30 June in each year;
- (ii) the accounts of municipalities shall be audited by the Auditor-General.
- (e) (i) The chief executive officer of a municipality shall cause financial statements to be compiled in the format determined by the Auditor-General in respect of a financial year and submitted to the Auditor-General within three months after the end of that financial year or such longer period as the Auditor-General may approve. 35
- (ii) The chairperson of the council shall after receipt of a report from the Auditor-General submit that report, not later than the second succeeding ordinary meeting of the municipality, which shall not take place behind closed doors, for discussion and to decide what corrective steps, if any, are to be taken: Provided that notice of such meeting and the fact that the council will be considering a report of the Auditor-General, shall be given in a newspaper circulating in the area of the council at least seven days before such meeting takes place, which meeting shall be open to the public: Provided further that the chief executive officer shall be present at such meeting for the purpose of responding to questions put to him or her in his or her capacity as accounting officer: Provided further that the Auditor-General or his or her representative may address such meeting, or a meeting of any committee of the council if he or she deems it to be in the public interest. 40 45 50
- (iii) Within 30 days after the meeting referred to in subparagraph (ii), the chairperson of the council shall submit to the Auditor-General, the MEC and the MEC responsible for Finance, a copy of the minutes of that meeting containing the comments of the municipality with regard to the report of the Auditor-General and indicating what steps were taken or are to be taken in connection with any matter revealed by such report. 55
- (f) If a person who is or was in the employ of a municipality causes or caused the municipality a loss or damage because he or she— 60

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- wyses ten einde voorkeur aan die basiese behoeftes van sy gemeenskap te verleen, en bevorder sosiale en ekonomiese ontwikkeling in sy regsgebied en ondersteun die implementering van nasionale en provinsiale ontwikkelingsprogramme;
- 5 (e) bestuur sy finansiële hulpbronne ten einde sy doelstellings te bereik en te handhaaf;
- (f) kontroleer en beoordeel gereeld sy werkprestasie teen sy geïntegreerde ontwikkelingsplan; en
- 10 (g) doen jaarliks verslag aan en ontvang kommentaar van sy gemeenskap betreffende die doelstellings in sy geïntegreerde ontwikkelingsplan vevat.
- (2) (a) Die hoof- uitvoerende beampte van 'n munisipaliteit—
- (i) laat, behoudens hierdie Wet en die regulasies daarkragtens uitgevaardig die rekeningboeke hou wat nodig is om die transaksies en die finansiële stand van sake van die munisipaliteit aan te toon;
- 15 (ii) laat, in die rekeningboeke in subparagraaf (i) bedoel, 'n inkomsterekening byhou wat gekrediteer word met alle geld wat die munisipaliteit toeval en deur die munisipaliteit ontvang word en word gedebiteer met alle uitgawes van die munisipaliteit;
- 20 (iii) laat alle geld deur hom of haar ten behoeve van die munisipaliteit ontvang, in 'n bankrekening in die naam van die munisipaliteit deponeer.
- (b) Die rekeningboeke in paragraaf (a)(i) beoog, word gehou op 'n plek deur die munisipaliteit bepaal, en word nie sonder die toestemming van die munisipaliteit van daardie plek verwyder nie, en die LUR word van sodanige toestemming verwittig.
- 25 (c) Elke munisipaliteit moet 'n stelsel van interne beheer instel en onderhou en sover moontlik interne audit, met inbegrip van auditkomitees, as 'n onafhanklike evalueringsfunksie instel.
- 30 (d) Ondanks andersluidende bepalinge van enige ander wet—
- (i) eindig die boekjaar van alle munisipaliteite op 30 Junie in elke jaar;
- (ii) word die rekeninge van munisipaliteite deur die Ouditeur-generaal geouditeer.
- (e) (i) Die hoof- uitvoerende beampte van 'n munisipaliteit laat, binne
- 35 drie maande na die einde van 'n boekjaar of die langer tydperk wat die Ouditeur-generaal goedkeur, finansiële state ten opsigte van daardie boekjaar in die formaat deur die Ouditeur-generaal bepaal, opstel en aan die Ouditeur-generaal voorlê.
- (ii) Die voorsitter van die raad moet na ontvangs van 'n verslag van die Ouditeur-generaal daardie verslag nie later nie as by die tweede daaropvolgende gewone vergadering van die munisipaliteit, wat nie agter geslote deure mag plaasvind nie, voorlê vir bespreking en om te besluit watter regstellende stappe, as daar is, gedoen moet word: Met dien verstande dat kennis van so 'n vergadering en van die feit dat die raad 'n verslag van die Ouditeur-generaal sal oorweeg, in 'n nuusblad wat in die regsgebied van die raad in omloop is, gegee word ten minste sewe dae voordat so 'n vergadering plaasvind, welke vergadering vir die publiek oop moet wees: Met dien verstande voorts dat die hoof- uitvoerende beampte by so 'n vergadering teenwoordig is met die doel om te antwoord op vrae wat aan hom of haar in sy of haar hoedanigheid as rekenpligtige beampte gestel word: Met dien verstande voorts dat die Ouditeur-generaal of sy of haar verteenwoordiger so 'n vergadering, of 'n vergadering van 'n komitee van die raad, kan toelig indien hy of sy dit in die openbare belang ag.
- 40 (iii) Binne 30 dae na die vergadering in subparagraaf (ii) bedoel, lê die voorsitter van die raad 'n afskrif van die notule van daardie vergadering waarin die kommentaar van die munisipaliteit aangaande die verslag van die Ouditeur-generaal vevat is en aangedui word watter stappe gedoen is of beoog word in verband met enige aangeleentheid wat uit die verslag blyk, aan die Ouditeur-generaal, die LUR en die LUR verantwoordelik vir Finansies voor.
- 45 (f) Indien iemand wat in diens van 'n munisipaliteit is of was, die munisipaliteit 'n verlies of skade berokken deurdat hy of sy—
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- (i) failed to collect money owing to the municipality for the collection of which he or she is or was responsible;
  - (ii) is or was responsible for an irregular payment of money of the municipality or for a payment of such money not supported by a proper voucher;
  - (iii) due to an omission to carry out his or her duties, is or was responsible for fruitless expenditure of money of the municipality;
  - (iv) is or was responsible for a deficiency in, or for the destruction of or damage to money of the municipality, stamps, face value documents and forms having a potential value, securities, equipment, stores or any other property of the municipality; or
  - (v) due to an omission to carry out his or her duties, is or was responsible for a claim against the municipality,
- the chief executive officer of that municipality, or, if the chief executive officer was responsible for such loss or damage, the council, shall determine the amount of such loss or damage and take disciplinary action where possible and in appropriate cases recover the loss or damage.
- (g) Any loss suffered by a municipality and which the chief executive officer, or if the chief executive officer is responsible, the council, suspects to be due to any fraudulent or corrupt act or an act of bribery committed by any person, shall forthwith be reported by the chief executive officer or the council, as the case may be, to the South African Police Service.
- (h) If the council is of the opinion that the municipality is unable to determine the amount or circumstances of any such loss, the council may at the municipality's expense appoint a person registered under the Public Accountants' and Auditors' Act, 1991 (Act No. 80 of 1991), to assist the municipality to determine the amount of the loss or the circumstances in which it occurred.
- (i) Where a voucher or other proof of receipt or payment is in any way defective or has been lost or destroyed and the council is satisfied with the explanation of the responsible person, the council may make an order dispensing with the production of a voucher or such other proof, or may make such other order as may appear just in the circumstances.
- (j) An expenditure concerned shall be unauthorised if—
- (i) a payment is made by the chief executive officer without provision having been made therefor by any budget, or a payment or part of a payment resulting in the total amount of the approved annual operating or capital expenditure budget being exceeded;
  - (ii) a chief executive officer is unable to produce to the Auditor-General in respect of a payment, an appropriate Minister's, MEC's, council's or other authority required in terms of a law; or
  - (iii) a chief executive officer makes a payment inconsistent with a provision of any law.
- (k) Unauthorised expenditure referred to in paragraph (j) shall be disallowed and shall not form a charge against a fund or account concerned until it has been approved by the responsible authority, in accordance with the normal budgetary procedure applicable to the fund or account concerned, and any unauthorised expenditure or part thereof as determined by the Minister, MEC or council, as the case may be, which has not been authorised, shall be recovered from the chief executive officer if he or she is unwilling to recover the amount concerned from the beneficiary or the person responsible for the unauthorised expenditure: Provided that where unauthorised expenditure has been effected—
- (i) on a written instruction of a councillor notwithstanding the fact that he or she does not have the necessary authority; or
  - (ii) as a result of a council resolution in favour of which a councillor voted, unless it is recorded that such councillor voted against such resolution,
- and after the chief executive officer has recorded his or her objections

- (i) versuim het om geld aan die munisipaliteit verskuldig, vir die invordering waarvan hy of sy verantwoordelik was, te vorder;
- (ii) vir 'n onregmatige uitbetaling van geld van die munisipaliteit of vir die uitbetaling van sodanige geld wat nie deur 'n behoorlike bewysstuk gestaaf word nie, verantwoordelik is of was;
- (iii) weens versuim om sy of haar pligte uit te voer, vir 'n vrugtelose uitgawe van geld van die munisipaliteit verantwoordelik is of was;
- (iv) vir 'n tekort in, of vernietiging of beskadiging van geld van die munisipaliteit, seëls, sigwaarde-stukke en vorms wat 'n potensiele waarde het, sekuriteite, uitrusting, voorrade of enige ander eiendom van die munisipaliteit verantwoordelik is of was; of
- (v) weens versuim om sy of haar pligte uit te voer vir 'n eis teen die munisipaliteit verantwoordelik is of was,
- moet die hoof- uitvoerende beampte van daardie munisipaliteit of, indien die hoof- uitvoerende beampte verantwoordelik was vir sodanige verlies of skade, die raad, die bedrag van sodanige verlies of skade vasstel en waar moontlik tugstappe instel en in toepaslike gevalle die verlies of skade verhaal.
- (g) Enige verlies wat deur 'n munisipaliteit gely is en wat die hoof- uitvoerende beampte, of as die hoof- uitvoerende beampte daarvoor verantwoordelik is, die raad, vermoed as gevolg van 'n bedrieglike of korrupte daad of omkoperij deur enige persoon gepleeg is, word onverwyld deur die hoof- uitvoerende beampte of die raad, na gelang van die geval, aan die Suid-Afrikaanse Polisiediens gerapporteer.
- (h) Indien die raad van oordeel is dat die munisipaliteit nie in staat is om die bedrag of omstandighede van sodanige verlies te bepaal nie, kan die raad op koste van die munisipaliteit 'n persoon wat kragtens die Wet op Openbare Rekenmeesters en Ouditeurs, 1991 (Wet No. 80 van 1991), geregistreer is, aanstel om die munisipaliteit by te staan om die bedrag van die verlies of die omstandighede waarin dit plaasgevind het, vas te stel.
- (i) Waar 'n bewysstuk of ander bewys van ontvangs of betaling in enige opsig gebrekkig is of verlore of vernietig is, en die raad tevrede is met die verduideliking van die verantwoordelike persoon, kan die raad 'n bevel gee waarby van die voorlegging van 'n bewysstuk of sodanige ander bewys afgesien word, of dié ander bevel gee wat in die omstandighede billik is.
- (j) 'n Betrokke uitgawe is ongemagtig indien—
- (i) 'n betaling deur die hoof- uitvoerende beampte gemaak is sonder dat voorsiening daarvoor by 'n begroting gemaak is, of 'n betaling of 'n deel van 'n betaling meebring dat die totale bedrag van die goedgekeurde jaarlikse lopende- of kapitale- bestedingsbegroting oorskry word;
- (ii) 'n hoof- uitvoerende beampte nie met betrekking tot 'n betaling 'n toepaslike magtiging van 'n Minister, LUR, raad of ander instansie wat ingevolge 'n wet vereis word, aan die Ouditeur-generaal kan voorlê nie; of
- (iii) 'n hoof- uitvoerende beampte 'n betaling maak wat strydig met 'n bepaling van 'n wet is.
- (k) Ongemagtigde uitgawes in paragraaf (j) bedoel, word afgekeur en maak nie 'n las teen die betrokke fonds of rekening uit nie totdat dit deur die verantwoordelike gesag goedgekeur is, in ooreenstemming met die normale begrotingsprosedure wat op die betrokke fonds of rekening van toepassing is, en enige ongemagtigde uitgawe of deel daarvan soos deur die Minister, LUR of raad, na gelang van die geval, bepaal, wat nie gemagtig is nie, word van die hoof- uitvoerende beampte verhaal indien hy of sy nie die betrokke bedrag wil verhaal nie van die begunstigde of persoon verantwoordelik vir die ongemagtigde uitgawe: Met dien verstande dat waar ongemagtigde uitgawes aangegaan is—
- (i) in skriftelike opdrag van 'n raadslid ondanks die feit dat hy of sy nie oor die nodige bevoegdheid beskik nie; of
- (ii) as gevolg van 'n raadsbesluit ten gunste waarvan 'n lid gestem het, tensy daar aangeteken is dat so 'n lid teen die besluit gestem het, en nadat die hoof- uitvoerende beampte sy of haar besware teen so 'n



against such instruction or resolution, such expenditure shall be recovered from the councillor concerned: Provided further that all such unauthorised expenditure shall forthwith be reported by the chief executive officer to the MEC, the MEC responsible for Finance and the Auditor-General.

(l) For the purposes of paragraph (k), a reference to 'responsible authority' shall be construed as a reference to the authority which normally approves the local government's budget: Provided that where an unauthorised expenditure has been effected on the written instruction of a councillor or as a result of a council resolution referred to in the proviso to paragraph (k), a reference to 'responsible authority' shall be construed as a reference to the MEC responsible for Finance.

(m) (i) The MEC may after consultation with the MEC responsible for Finance, whenever he or she is of the opinion that the finances of a municipality are or may become unsound, instruct the council concerned to take such steps as he or she may specify in writing.

(ii) For the purposes of subparagraph (i), the term 'unsound' includes any failure to claim or to collect income or to control expenditure or to compile and approve an operating budget, or to comply with subsections (1), (2), (3), (4), (6) and (7).

(iii) In the event of a council failing to carry out and implement an instruction referred to in subparagraph (i), the MEC may take such steps or cause such steps to be taken as he or she may deem necessary in order to restore the finances of a council to a sound footing.

(3) (a) A municipality shall annually on or before the date determined by law, compile and by a two-thirds majority of all the members of its council, approve a budget for—

- (i) operating income and expenditure; and
- (ii) capital expenditure which must reflect the source of finance, future capital charges, operating and maintenance costs as well as the consequential influence thereof on levies, rates and services charges.

(b) A municipality shall—

- (i) not budget for a year-end deficit on its operating account; and
- (ii) ensure that the budget is in accordance with its integrated development plan.

(c) In addition to the budget referred to in paragraph (a), a municipality shall compile capital programmes including an investment programme for municipal infrastructure, having regard to the integrated development plan.

(4) (a) A municipality shall only incur expenditure in accordance with its approved budget: Provided that any decision required to be taken by a council to incur expenditure shall be taken by a majority of the votes cast.

(b) In so far as it may be essential for the pursuit of the national economic policy, the Minister of Finance, after consultation with the Minister, may determine maximum expenditure limits for the budgets or components of such budgets of municipalities for a financial year.

(c) The budgets referred to in subsection (3)(a) shall be submitted to the Minister of Finance within 14 days from the adoption thereof by the council for the purpose of monitoring whether the maximum expenditure limits referred to in paragraph (b) have been complied with: Provided that the Minister of Finance may delegate this monitoring function to the MEC responsible for Finance.

(d) If a budget contemplated in paragraph (c) does not comply with the maximum expenditure limits referred to in paragraph (b), such budget shall be referred back to the council concerned for reconsideration and amendment thereof at the next council meeting: Provided that the Minister of Finance may exempt a particular municipality from complying with the said maximum expenditure limits.

(5) (a) A municipality shall award contracts for goods and services in accordance with a system which is fair, equitable, transparent, competitive and cost-effective.

(b) Notwithstanding paragraph (a), a municipality may, in accordance



opdrag of besluit aangeteken het, word sodanige uitgawes op die betrokke raadslid verhaal: Met dien verstande voorts dat al sodanige ongemagtigde uitgawes onverwyld deur die hoof- uitvoerende beampte aan die LUR, die LUR verantwoordelik vir Finansies en die Ouditeur-generaal gerapporteer word.

(l) By die toepassing van paragraaf (k) word 'n verwysing na 'verantwoordelike gesag' uitgelê as 'n verwysing na die gesag wat normaalweg die munisipaliteit se begroting goedkeur: Met dien verstande dat waar 'n ongemagtigde uitgawe in skriftelike opdrag van 'n raadslid of as gevolg van 'n raadsbesluit bedoel in die voorbehoud by paragraaf (k) aangegaan is, 'n verwysing na 'verantwoordelike gesag' uitgelê word as 'n verwysing na die LUR verantwoordelik vir Finansies.

(m) (i) Die LUR kan na oorleg met die LUR verantwoordelik vir Finansies, wanneer hy of sy ook al van oordeel is dat die finansies van 'n munisipaliteit ongesond is of moontlik ongesond kan raak, die betrokke raad opdrag gee om die stappe te doen wat hy of sy skriftelik uiteensit.

(ii) By die toepassing van subparagraaf (i) beteken die uitdrukking 'ongesond' ook 'n versuim om inkomste te eis of in te vorder of om uitgawes te beheer of om 'n bedryfsbegroting op te stel en goed te keur of om aan subartikels (1), (2), (3), (4), (6) en (7) te voldoen.

(iii) In die geval waar 'n raad versuim om 'n opdrag in subparagraaf (i) bedoel, uit te voer en te implementeer, kan die LUR die stappe doen of laat doen wat hy of sy nodig ag ten einde die finansies van 'n raad op 'n gesonde grondslag te plaas.

(3) (a) 'n Munisipaliteit stel jaarliks, voor of op 'n datum by wet voorgeskryf, 'n begroting op en keur dit by wyse van 'n tweederde-meerderheid van al die lede van sy raad goed vir—

(i) lopende inkomste en uitgawes; en

(ii) kapitaaluitgawes wat die bron van finansiering, toekomstige kapitale onkoste, lopende en onderhoudskoste sowel as die gevolglike invloed daarvan op heffings, tariewe en dienstegeld, aandui.

(b) 'n Munisipaliteit—

(i) begroot nie vir 'n jaareinde tekort op sy lopende rekening nie; en

(ii) sien toe dat die begroting in ooreenstemming met sy geïntegreerde ontwikkelingsplan is.

(c) Bykomend by die begroting in paragraaf (a) bedoel, stel 'n munisipaliteit kapitale programme met inbegrip van 'n beleggingsprogram vir munisipale infrastruktuur saam met inagneming van die geïntegreerde ontwikkelingsplan.

(4) (a) 'n Munisipaliteit gaan slegs uitgawes aan in ooreenstemming met sy goedgekeurde begroting: Met dien verstande dat 'n besluit wat deur 'n raad geneem moet word om uitgawes aan te gaan, deur 'n meerderheid van die stemme wat uitgebring is, geneem word.

(b) Vir sover dit noodsaaklik mag wees vir die nastrewe van 'n nasionale ekonomiese beleid, kan die Minister van Finansies, na oorleg met die Minister, die maksimum uitgaweperke vir die begrotings of komponente van sodanige begrotings van munisipaliteite vir 'n boekjaar vasstel.

(c) Die begrotings in subartikel (3)(a) bedoel, moet binne 14 dae nadat dit deur die raad aangeneem is aan die Minister van Finansies voorgelê word sodat gemoniteer kan word of aan die maksimum uitgaweperke in paragraaf (b) bedoel, voldoen is: Met dien verstande dat die Minister van Finansies hierdie moniteringstaak aan die LUR verantwoordelik vir Finansies kan deleger.

(d) Indien 'n begroting in paragraaf (c) beoog nie te voldoen aan die maksimum uitgaweperke in paragraaf (b) bedoel nie, word sodanige begroting na die betrokke raad terugverwys vir heroorweging en wysiging daarvan by die volgende raadsvergadering: Met dien verstande dat die Minister van Finansies 'n bepaalde munisipaliteit van voldoening aan die genoemde maksimum uitgaweperke kan vrystel.

(5) (a) 'n Munisipaliteit staan kontrakte vir dienste en goedere toe, wat in ooreenstemming is met 'n regverdige, onpartydige, deursigtige, kompetende en koste-effektiewe stelsel.

(b) Ondanks paragraaf (a) kan 'n munisipaliteit, in ooreenstemming met

with a framework prescribed by national legislation, in awarding contracts give preference to the protection or advancement of persons or categories of persons disadvantaged by unfair discrimination, and shall make the granting of such preferences public in the manner determined by the council.

(c) A municipality may dispense with the calling of tenders in the case of an emergency or of a sole supplier or within such limits as may be prescribed by a national law.

(6) A local council, metropolitan local council and rural council shall, subject to any other law, ensure that—

(a) properties within its area of jurisdiction are valued or measured at intervals prescribed by law;

(b) a single valuation roll of all properties so valued or measured is compiled and is open for public inspection; and

(c) all procedures prescribed by law regarding the valuation or measurement of properties are complied with:

Provided that if, in the case of any property or category of properties, it is not feasible to value or measure such property, the basis on which the property rates thereof shall be determined, shall be as prescribed: Provided further that the provisions of this subsection shall be applicable to district councils in so far as such councils are responsible for the valuation or measurement of property within a remaining area or within the areas of jurisdiction of representative councils.

(7) (a) (i) A local council, metropolitan local council and rural council may by resolution, levy and recover property rates in respect of immovable property in the area of jurisdiction of the council concerned: Provided that a common rating system as determined by the metropolitan council shall be applicable within the area of jurisdiction of that metropolitan council: Provided further that the council concerned shall in levying rates take into account the levy referred to in item 1(c) of Schedule 2: Provided further that this subparagraph shall apply to a district council in so far as such council is responsible for the levying and recovery of property rates in respect of immovable property within a remaining area or in the area of jurisdiction of a representative council.

(ii) A municipality may by resolution supported by a majority of the members of the council levy and recover levies, fees, taxes and tariffs in respect of any function or service of the municipality.

(b) In determining property rates, levies, fees, taxes and tariffs (hereinafter referred to as charges) under paragraph (a), a municipality may—

(i) differentiate between different categories of users or property on such grounds as it may deem reasonable;

(ii) in respect of charges referred to in paragraph (a)(ii), from time to time by resolution amend or withdraw such determination and determine a date, not earlier than 30 days from the date of the resolution, on which such determination, amendment or withdrawal shall come into operation; and

(iii) recover any charges so determined or amended, including interest on any outstanding amount.

(c) After a resolution as contemplated in paragraph (a) has been passed, the chief executive officer of the municipality shall forthwith cause to be conspicuously displayed at a place installed for this purpose at the offices of the municipality as well as at such other places within the area of jurisdiction of the municipality as may be determined by the chief executive officer, a notice stating—

(i) the general purport of the resolution;

(ii) the date on which the determination or amendment shall come into operation;

(iii) the date on which the notice is first displayed; and

'n raamwerk deur nasionale wetgewing voorgeskryf, by die toekenning van kontrakte voorkeur verleen aan die beskerming of bevordering van persone of kategorieë persone wat deur onregverdig diskriminasie benadeel is, en die gee van sodanige voorkeure openbaar maak op 'n wyse deur die raad bepaal.

(c) 'n Munisipaliteit kan afsien van die aanvra van tenders in 'n noodgeval of in die geval van 'n enkele voorsiener of binne die perke deur 'n nasionale wet voorgeskryf.

(6) 'n Plaaslike raad, metropolitaanse plaaslike raad en landelike raad moet, behoudens die bepalings van enige ander wet, verseker dat—

(a) eiendomme binne sy regsgebied gewaardeer of opgemeet word met tussenposes by wet voorgeskryf;

(b) 'n enkele waardasierol van alle eiendomme aldus gewaardeer of opgemeet, saamgestel word en vir openbare inspeksie beskikbaar is; en

(c) alle prosedures by wet voorgeskryf betreffende die waardasie of opmeet van eiendomme nagekom word:

Met dien verstande dat indien dit, in die geval van enige eiendom of kategorie eiendomme, nie uitvoerbaar is om sodanige eiendom te waardeer of op te meet nie, die grondslag waarop die eiendomsbelasting daarvan bepaal word, soos voorgeskryf is: Met dien verstande voorts dat die bepalings van hierdie subartikel op distrikrade van toepassing is vir sover sodanige rade verantwoordelik is vir die waardasie of opmeting van eiendom binne 'n oorblywende gebied of binne die regsgebiede van verteenwoordigende rade.

(7) (a) (i) 'n Plaaslike raad, 'n metropolitaanse plaaslike raad en 'n landelike raad kan by resoluë eiendomsbelasting hef en vorder met betrekking tot onroerende eiendom binne die regsgebied van die betrokke raad: Met dien verstande dat 'n gemeenskaplike belastingstelsel soos deur die metropolitaanse raad bepaal, van toepassing is binne die regsgebied van daardie metropolitaanse raad: Met dien verstande voorts dat die betrokke raad by die heffing van belasting die heffing bedoel in item 1(c) van Bylae 2 in aanmerking neem: Met dien verstande voorts dat hierdie subparagraaf van toepassing is op 'n distrikraad vir sover sodanige raad verantwoordelik is vir die heffing en vordering van eiendomsbelasting met betrekking tot onroerende eiendom binne 'n oorblywende gebied of binne die regsgebied van 'n verteenwoordigende raad.

(ii) 'n Munisipaliteit kan by resoluë wat deur 'n meerderheid van die lede van die raad gesteun word, heffings, gelde, belasting en tariewe hef of verhaal met betrekking tot enige werksaamheid of diens van die munisipaliteit.

(b) By die bepaling van eiendomsbelasting, heffings, gelde, belasting en tariewe (hieronder kostes genoem) kragtens paragraaf (a), kan 'n munisipaliteit—

(i) onderskei tussen verskillende kategorieë verbruikers of eiendom op gronde wat hy as billik beskou;

(ii) met betrekking tot kostes in paragraaf (a)(ii) bedoel, van tyd tot tyd, by resoluë sodanige vasstelling wysig of intrek, en 'n datum vasstel wat nie vroeër as 30 dae vanaf die datum van die resoluë is nie, waarop sodanige vasstelling, wysiging of intrekking in werking tree; en

(iii) enige kostes wat so vasgestel of gewysig is, met inbegrip van rente op enige uitstaande bedrag, verhaal.

(c) Nadat 'n resoluë in paragraaf (a) beoog, aangeneem is, laat die hoof- uitvoerende beampde van die munisipaliteit onverwyld 'n kennisgewing ooglopend vertoon, op 'n plek wat vir dié doel ingerig is, by die munisipale kantore sowel as op die ander plekke binne die regsgebied van die munisipaliteit wat die hoof- uitvoerende beampde bepaal, waarin—

(i) die algemene strekking van sodanige resoluë uiteengesit word;

(ii) die datum vermeld word waarop die vasstelling of wysiging in werking tree;

(iii) die datum vermeld word waarop die kennisgewing vir die eerste keer vertoon is; en

- (iv) that any person who desires to object to such determination or amendment shall do so in writing within 14 days after the date on which the notice is first displayed.
- (d) Where—
- (i) no objection is lodged within the period referred to in paragraph (c)(iv), the determination or amendment shall come into operation as contemplated in paragraph (b)(ii); 5
- (ii) an objection is lodged within the period referred to in paragraph (c)(iv), the municipality shall consider every objection and may amend or withdraw the determination or amendment and may determine a date other than the date contemplated in paragraph (b)(ii) on which the determination or amendment shall come into operation, whereupon paragraph (c)(i) shall with the necessary changes apply. 10
- (e) The chief executive officer shall forthwith send a copy of the notice referred to in paragraph (c) to the MEC and cause a copy thereof to be published in the manner determined by the council. 15
- (f) Nothing in this section contained shall derogate from section 9 of the Electricity Act, 1987 (Act No. 41 of 1987).
- (8) (a) (i) A municipality may obtain money and raise loans for capital expenditure and any resolution to do so shall require a majority of all the members of the council: Provided that the Minister of Finance may by notice in the *Gazette* determine reasonable conditions and criteria with regard to the raising of loans by municipalities, and such conditions and criteria may include the limiting or disallowance of such loans. 20
- (ii) Loans for bridging finance, which shall include bank overdrafts, may only be raised by a municipality during a financial year in order to finance current expenditure in anticipation of the receipt of revenue in that particular financial year, and not as a continuous and unlimited revolving credit. 25
- (b) A municipality—
- (i) shall not raise loans denominated in a foreign currency; and
- (ii) shall not incur any other liability or risk payable in a foreign currency without the prior approval of the Minister of Finance and subject to such conditions as he or she may determine. 30
- (c) Any money borrowed by a municipality in accordance with this subsection and the interest thereon, shall be the financial obligation of the municipality concerned and shall be chargeable to and payable from the revenues and assets of that municipality. 35
- (9) (a) A municipality may, subject to such investment policy (if any) as the Minister may determine by notice in the *Gazette*, with the concurrence of the Minister of Finance and subject to paragraph (b), invest in the following instruments or investments:
- (i) Deposits with banks registered in terms of the Banks Act, 1990 (Act No. 94 of 1990); 40
- (ii) securities issued by the National Government;
- (iii) investments with the Public Investment Commissioners as contemplated by the Public Investment Commissioners Act, 1984 (Act No. 45 of 1984); 50
- (iv) deposits with the Corporation for Public Deposits as contemplated by the Corporation for Public Deposits Act, 1984 (Act No. 46 of 1984);
- (v) a municipality's own stock or similar type of debt;
- (vi) internal funds of a municipality which have been established in terms of a law to pool money available to the municipality and to employ such money for the granting of loans or advances to departments within a municipality, to finance capital expenditure; 55
- (vii) bankers, acceptance certificates or negotiable certificates of deposit of banks; 60
- (viii) long-term securities offered by insurance companies in order to meet

- (iv) vermeld word dat enige persoon wat teen sodanige vasstelling of wysiging beswaar wil maak, dit skriftelik moet doen binne 14 dae na die datum waarop die kennisgewing vir die eerste keer vertoon is.

(d) Waar—

- 5 (i) geen beswaar, binne die tydperk in paragraaf (c)(iv) bedoel, geopper is nie, tree die vasstelling of wysiging in werking soos in paragraaf (b)(ii) beoog;
- 10 (ii) 'n beswaar binne die tydperk bedoel in paragraaf (c)(iv) geopper is, oorweeg die munisipaliteit elke beswaar en kan die vasstelling of wysiging wysig of intrek en 'n ander datum as dié in paragraaf (b)(ii) beoog, bepaal waarop die vasstelling of wysiging in werking tree, waarna paragraaf (c)(i) met die nodige veranderinge van toepassing is.

- 15 (e) Die hoof- uitvoerende beampte stuur onverwyld 'n afskrif van die kennisgewing in paragraaf (c) bedoel aan die LUR en laat 'n afskrif daarvan publiseer op die wyse deur die raad bepaal.

(f) Niks in hierdie artikel vervat, doen afbreuk aan artikel 9 van die Elektrisiteitswet, 1987 (Wet No. 41 van 1987), nie.

- 20 (8) (a) (i) 'n Munisipaliteit kan geld bekom en lenings aangaan vir kapitale uitgawes en enige besluit om dit te doen, vereis 'n meerderheid van al die lede van die raad: Met dien verstande dat die Minister van Finansies by kennisgewing in die *Staatskoerant* redelike voorwaardes en riglyne met betrekking tot die aangaan van lenings deur munisipaliteite kan bepaal, en sodanige voorwaardes en riglyne kan die beperking en afkeuring van sodanige lenings insluit.

- 25 (ii) Lenings vir oorbruggingsfinansiering, wat oortrokke bankrekenings insluit, word slegs deur 'n munisipaliteit aangegaan gedurende 'n boekjaar ten einde lopende uitgawes te finansier in afwagting van die ontvangs van inkomste in daardie besondere boekjaar, en nie as 'n aanhoudende en onbeperkte wentelkrediet nie.

30 (b) 'n Munisipaliteit—

- (i) gaan nie lenings aan wat in 'n buitelandse geldeenheid uitgedruk is nie; en
- 35 (ii) loop geen ander verpligting of risiko op wat in 'n buitelandse geldeenheid betaalbaar is nie sonder die voorafverkreë goedkeuring van die Minister van Finansies en onderworpe aan die voorwaardes wat hy of sy bepaal.

- (c) Enige geld ooreenkomstig hierdie subartikel geleen en die rente daarop is die finansiële verantwoordelikheid van die betrokke munisipaliteit en word gedebiteer teen en is betaalbaar uit die inkomste en bates van daardie munisipaliteit.

- 40 (9) (a) 'n Munisipaliteit kan, behoudens die beleggingsbeleid (as daar is) wat die Minister, met die instemming van die Minister van Finansies, by kennisgewing in die *Staatskoerant* bepaal, en behoudens paragraaf (b), in die volgende instrumente of beleggings belê:

- 45 (i) Deposito's by banke ingevolge die Bankwet, 1990 (Wet No. 94 van 1990), geregistreer;
- (ii) sekuriteite deur die Nasionale Regering uitgereik;
- 50 (iii) beleggings by die Openbare Beleggingskommissaris soos beoog in die Wet op die Openbare Beleggingskommissaris, 1984 (Wet No. 45 van 1984);
- (iv) deposito's by die Korporasie vir Openbare Deposito's, soos beoog in die Wet op die Korporasie vir Openbare Deposito's, 1984 (Wet No. 46 van 1984);
- 55 (v) 'n munisipaliteit se eie effekte of soortgelyke skuld;
- (vi) interne fondse van 'n munisipaliteit wat ingevolge 'n wet ingestel is om gelde op te pot wat tot die munisipaliteit se beskikking is en om sodanige geld aan te wend vir die toestaan van lenings of voorskotte aan departemente in 'n munisipaliteit, vir die finansiering van kapitale uitgawes;
- 60 (vii) bank-aksepsertifikate of verhandelbare depositosertifikate van banke;
- (viii) langtermynsekuriteite deur versekeringsmaatskappye aangebied ten



- the redemption fund requirements of municipalities; and
- (ix) any other instruments or investments in which a municipality was under a law permitted to invest before the commencement of the Local Government Transition Act Second Amendment Act, 1996: Provided that such instruments shall not extend beyond the date of maturity or redemption thereof. 5
- (b) The Minister may, with the concurrence of the Minister of Finance by notice in the *Gazette* determine instruments or investments other than those in paragraph (a) in which a municipality may invest.
- (c) A municipality must within 30 days after an investment with currency of 12 months or longer has been made in terms of paragraph (a) or (b), publish in a local newspaper in circulation within its area of jurisdiction full details of any investments so made. 10
- (10) A municipality may establish dedicated funds, provisions and reserves to meet specified objectives. 15
- (11) A municipality shall ensure that—
- (i) the acquisition and disposal;
- (ii) the utilisation and control; and
- (iii) the maintenance,
- of its assets are carried out in an economic, efficient and effective manner. 20
- (12) No claim of any creditor of any municipality may attach to or be paid out of the national revenue fund, or attach to or be paid by the national or any provincial government, unless specifically and duly authorised by such government.

**Certain acts committed by council members or employees of municipalities, and by certain other people, are prohibited** 25

- 10H.** (1) Except with the consent of the council, no council member or employee of a municipality shall—
- (a) accept any commission, remuneration or reward from any person other than the municipality for or in connection with the performance or non-performance of his or her functions as a member or an employee of the municipality or in connection with any transaction to which the municipality is a party; 30
- (b) enter into any transaction with the municipality in a capacity other than that of a member or employee of the municipality, unless such transaction is connected with the provision of accommodation to him or her in the area under the municipality's jurisdiction or the rendering of a service to him or her as a resident of such area; 35
- (c) perform work for or on behalf of the municipality in a capacity other than that of a member or employee of that municipality; or 40
- (d) appear on behalf of any other person before the municipality or any committee or other institution of the municipality in a capacity other than that of a member or employee of that municipality.
- (2) Any council member or employee of a municipality who has accepted any commission, remuneration or reward in contravention of subsection (1), shall pay to the municipality an amount equal to the amount of such commission, remuneration or reward, or where it did not consist of money, the value thereof as determined by the municipality. 45
- (3) (a) No transaction of purchase, sale, hire or lease shall be entered into by a municipality with an employee of that municipality or with the spouse, partner or business associate of such employee without the prior approval of the council having been obtained: Provided that this provision shall not apply where such a transaction is entered into with an employee in accordance with his or her conditions of service. 50
- (b) No council member shall directly or indirectly become involved in any contract with the municipality or share in the profits or losses of any contract with the municipality or in any other manner obtain a financial interest in any of the businesses of the municipality without the prior 55



einde aan die delgingsfondsvereistes van munisipaliteite te voldoen;  
en

- (ix) enige ander instrumente of beleggings waarin 'n munisipaliteit kragtens 'n wet toegelaat is om te belê voor die inwerkingtreding van die Tweede Wysigingswet op die Oorgangswet op Plaaslike Regering, 1996: Met dien verstande dat sodanige instrumente nie na die datum van opeisbaarheid of delging daarvan verleng word nie.

(b) Die Minister kan, met die instemming van die Minister van Finansies, by kennisgewing in die *Staatskoerant* ander instrumente of beleggings as dié in paragraaf (a) vasstel waarin 'n munisipaliteit kan belê.

(c) 'n Munisipaliteit moet binne 30 dae nadat 'n belegging met 'n tydspan van 12 maande of langer ingevolge paragraaf (a) of (b) gemaak is, volle besonderhede van sodanige belegging publiseer in 'n plaaslike koerant wat in sy regsgebied in omloop is.

(10) 'n Munisipaliteit kan toegewyde fondse, voorsienings en reserwes instel om bepaalde doelstellings te bereik.

(11) 'n Munisipaliteit moet verseker dat—

(i) die verkryging en beskikking;

(ii) die aanwending en beheer; en

(iii) die onderhoud,

van sy bates op 'n ekonomiese, doeltreffende en effektiewe wyse uitgevoer word.

(12) Geen eis van enige skuldeiser van 'n munisipaliteit kan toegevoeg word aan of betaal word uit die nasionale inkomstefonds, of toegevoeg word aan of betaal word deur die nasionale of provinsiale regerings nie, tensy spesifiek en behoorlik deur sodanige regering gemagtig.

#### **Sekere handeling verrig deur lede van die raad of werknemers van munisipaliteite, en deur sekere ander persone, is verbode**

**10H.** (1) Behalwe met die toestemming van die raad mag geen lid van die raad of werknemer van 'n munisipaliteit—

(a) enige kommissie, besoldiging of beloning van iemand behalwe die munisipaliteit vir of in verband met die verrigting of nie-verrigting van sy of haar werksaamhede as 'n lid of werknemer van die munisipaliteit of in verband met 'n transaksie waarby die munisipaliteit 'n party is, aanneem nie;

(b) 'n transaksie met die munisipaliteit in 'n ander hoedanigheid as 'n lid of werknemer van die munisipaliteit aangaan nie, tensy sodanige transaksie verband hou met die voorsiening van akkommodasie aan hom of haar binne die regsgebied van die munisipaliteit of die lewering van 'n diens aan hom of haar as inwoner van daardie gebied;

(c) werk vir of ten behoeve van die munisipaliteit in 'n ander hoedanigheid as 'n lid of werknemer van die munisipaliteit verrig nie; of

(d) namens iemand anders voor die munisipaliteit of enige komitee of ander instelling van die munisipaliteit verskyn in 'n ander hoedanigheid as 'n lid of werknemer van daardie munisipaliteit nie.

(2) Enige raadslid of werknemer van 'n munisipaliteit wat enige kommissie, besoldiging of beloning in stryd met subartikel (1) aangeneem het, moet aan die munisipaliteit 'n bedrag betaal gelykstaande met die bedrag van sodanige kommissie, besoldiging of beloning, of waar dit nie uit geld bestaan het nie, die waarde daarvan soos deur die munisipaliteit bepaal.

(3) (a) Geen koop-, verkoop-, huur- of verhuurtransaksie mag deur 'n munisipaliteit met 'n werknemer van daardie munisipaliteit, of met die gade, vennoot of sakevennoot van so 'n werknemer aangegaan word, sonder die vooraf verkreë toestemming van die raad nie: Met dien verstande dat hierdie bepaling nie van toepassing is nie waar sodanige transaksie aangegaan word met 'n werknemer in ooreenstemming met sy of haar diensvoorwaardes.

(b) Geen lid van die raad mag direk of indirek betrokke raak by enige kontrak met die munisipaliteit of deel in die winste of verliese van enige kontrak met die munisipaliteit of op enige ander wyse 'n finansiële belang verkry in enige van die bedrywighede van die munisipaliteit sonder die

approval of the council having been obtained, and in the event of more than 20 per cent of the council members objecting to the granting of such approval, the matter shall be referred to the MEC for his or her approval.

(c) If the spouse of a council member or a partner of such member or a partner of the member's spouse, or the employer of a member or the employer of the member's spouse becomes directly or indirectly involved in any contract with the municipality or directly or indirectly shares in the profits or losses of any contract with the municipality or in any other manner obtains a financial interest in the business of the municipality, such member shall disclose to the council the nature and extent of such interest to enable the council to submit the particulars thereof to the MEC for consideration.

(d) (i) A council member who has any material interest in any contract which is about to be entered into by the municipality, shall declare his or her interest and full particulars thereof at the first meeting of the council at which it is possible for him or her to do so, and he or she shall withdraw in the event of such contract being discussed by the council during any meeting of the council and he or she shall not participate in any voting in connection therewith.

(ii) A council member who becomes materially interested in a contract which has been entered into by the municipality, shall declare his or her interest and full particulars thereof at the first meeting of the council at which it is possible for him or her to do so.

(e) A declaration of interest under paragraph (d) shall be recorded in the minutes of the meeting of the council at which such declaration is made.

(f) A council member who contravenes a provision of paragraph (b), (c) or (d), shall be guilty of an offence and on conviction be liable to a fine or to imprisonment for a period not exceeding 12 months.

(4) If the MEC—

(a) after an allegation has come to his or her notice; or

(b) after he or she received a report from a council, a chief executive officer, the Auditor-General, the Public Protector appointed under section 110 of the Constitution of the Republic of South Africa, 1993 (Act No. 200 of 1993), or an Attorney-General,

is *prima facie* of the opinion that a council member, a chief executive officer or an employee has acted unlawfully or is responsible for any act or omission which has resulted or may result in fraud, corruption or maladministration, or is of the opinion that the allegation is of such a nature that it justifies further action, he or she shall, subject to subsection (5), appoint a commission of inquiry in terms of the respective provincial laws to inquire into the matter: Provided that in the absence of a provincial law relating to a commission of inquiry, the provisions of sections 2, 3, 4, 5 and 6 of the Commissions Act, 1947 (Act No. 8 of 1947), and the regulations made thereunder, shall with the necessary changes apply to the municipality concerned in so far as they are applicable to the functions of the municipality.

(5) The MEC may, instead of appointing a commission of inquiry—

(a) appoint any person to conduct an investigation into a matter referred to in subsection (4); and

(b) declare any provision of a provincial law contemplated in subsection (4) or the Commission's Act, 1947, applicable to the investigation.

(6) If the MEC, after considering a report referred to in subsection (4) or a report of a commission contemplated in subsection (5), is of the opinion that a council, a member or a chief executive officer or employee either intentionally acted unlawfully or is responsible for any act or omission which has resulted or may result in fraud, corruption or maladministration, he or she may take such steps as he or she may deem necessary so as to deal with the matter.

vooraf verkree goedkeuring van die raad nie, en in die geval waar meer as 20 persent van die lede van die raad teen die verlening van sodanige goedkeuring beswaar maak, word die aangeleentheid na die LUR vir sy of haar goedkeuring verwys.

5 (c) Indien die gade van 'n lid van die raad of 'n vennoot van so 'n lid, of 'n vennoot van die lid se gade, of die werkgewer van 'n lid of die werkgewer van 'n lid se gade direk of indirek betrokke raak by enige kontrak met die munisipaliteit of direk of indirek deel in die winste of  
10 verliese van enige kontrak met die munisipaliteit of op enige ander wyse 'n finansiële belang in die bedrywigheid van die munisipaliteit verkry, moet so 'n lid die aard en omvang van sodanige belang aan die raad openbaar ten einde die raad in staat te stel om die besonderhede daarvan aan die LUR vir oorweging voor te lê.

15 (d) (i) 'n Lid van die raad wat 'n wesenlike belang het by enige kontrak wat deur die munisipaliteit aangegaan staan te word, moet op die eerste vergadering van die raad waarop dit vir hom of haar moontlik is om dit te doen, sy of haar belang en die volle besonderhede daarvan verklaar en hy of sy moet hom of haar onttrek in die geval waar so 'n kontrak deur die raad gedurende 'n vergadering van die raad bespreek word, en hy of sy  
20 mag nie deelneem aan enige stemming in verband daarmee nie.

(ii) 'n Lid van die raad wat 'n wesenlike belang verkry in 'n kontrak wat deur 'n munisipaliteit aangegaan is, moet op die eerste vergadering van die raad waarop dit vir hom of haar moontlik is om dit te doen, sy of haar belang en volle besonderhede daarvan verklaar.

25 (e) 'n Verklaring van belang kragtens paragraaf (d) word opgeneem in die notule van die vergadering van die raad waarby so 'n verklaring gemaak is.

(f) 'n Lid van die raad wat 'n bepaling van paragraaf (b), (c) of (d) oortree, is aan 'n misdryf skuldig en by skuldigbevinding strafbaar met 'n  
30 boete of met gevangenisstraf vir 'n tydperk van hoogstens 12 maande.

(4) Indien die LUR—

(a) nadat 'n klag onder sy of haar aandag gekom het; of  
(b) nadat hy of sy 'n verslag van die raad, 'n hoof- uitvoerende beampte, die Ouditeur-generaal, die Openbare Beskermer aangestel kragtens  
35 artikel 110 van die Grondwet van die Republiek van Suid-Afrika, 1993 (Wet No. 200 van 1993), of 'n Prokureur-generaal ontvang het, *prima facie* van oordeel is dat 'n lid van die raad, 'n hoof- uitvoerende beampte of werknemer onwettig opgetree het of verantwoordelik is vir enige daad of versuim wat aanleiding gegee het tot bedrog, korrupsie of wanadministrasie of daartoe aanleiding kan gee, of van oordeel is dat die  
40 klag van so 'n aard is dat dit verdere optrede regverdig, moet hy of sy behoudens subartikel (5) 'n kommissie van ondersoek ingevolge die betrokke provinsiale wette aanstel om die aangeleentheid te ondersoek: Met dien verstande dat in die afwesigheid van 'n provinsiale wet betreffende 'n kommissie van ondersoek, die bepalings van artikels 2, 3, 4,  
45 5 en 6 van die Kommissiewet, 1947 (Wet No. 8 van 1947), en die regulasies daarkragtens uitgevaardig, met die nodige veranderings op die betrokke munisipaliteit van toepassing is, vir sover hulle op die werksaamhede van die munisipaliteit van toepassing is.

50 (5) Die LUR kan, in plaas daarvan om 'n kommissie van ondersoek aan te stel—

(a) enige persoon aanstel om ondersoek in te stel na 'n aangeleentheid in subartikel (4) bedoel; en

55 (b) verklaar dat enige bepaling van 'n provinsiale wet in subartikel (4) bedoel of die Kommissiewet, 1947, op die ondersoek van toepassing is.

(6) Indien die LUR, na oorweging van 'n verslag in subartikel (4) bedoel of 'n verslag van 'n kommissie in subartikel (5) beoog, van oordeel is dat 'n raad, 'n lid of 'n hoof- uitvoerende beampte of werknemer óf opsetlik onwettig opgetree het óf verantwoordelik is vir enige daad of versuim wat tot bedrog, korrupsie of wanadministrasie aanleiding gegee het of kan gee, kan hy of sy die stappe doen wat hy of sy nodig ag om met die  
60 aangeleentheid te handel.

**Furnishing of information**

**10I.** The Minister or the MEC may by notice in writing or by notice in the *Gazette* or *Provincial Gazette*, respectively, request any municipality to supply to him or her or to a national department of State or a provincial department or a body approved by him or her in a manner and form determined by him or her, any information listed in such notice and in such notice determine the period within which the relevant information must be supplied. 5

**Establishment of Demarcation Boards**

**10J.** (1) There is hereby established a National Demarcation Board which shall consist of nine members appointed by the Minister from among the persons contemplated in subsection (4)(b). 10

(2)(a) If the MEC does not act in accordance with the recommendation of a municipal demarcation board as contemplated in section 10E, the matter shall be referred to the National Demarcation Board for a decision. 15

(b) The other powers and duties of the National Demarcation Board shall be as prescribed.

(3) There is hereby established for each province a board, to be known as the Municipal Demarcation Board, which shall exercise the powers and perform the duties conferred upon or assigned to it in terms of this Act. 20

(4) Each demarcation board shall consist of six members, who shall, subject to the criteria listed in Schedule 5, be appointed by the MEC on a part-time basis, namely:

- (a) Two persons designated by the MEC;
- (b) two persons designated by the Minister; and
- (c) two persons designated by the relevant provincial organisation contemplated in section 10F. 25

(5) The MEC shall designate a member of the demarcation board as chairperson and another member as deputy chairperson.

(6) (a) The remuneration and allowances of the members, including the chairperson and the deputy chairperson of a demarcation board, shall be determined by the MEC with the concurrence of the MEC responsible for Finance. 30

(b) A member of the demarcation board who receives remuneration, allowances or other benefits by virtue of his or her employment by or position in the national or a provincial government or any local government and who continues to receive such remuneration, allowances or other benefits while serving as a member of the demarcation board, shall not receive any remuneration, allowance or other benefit of a member of the demarcation board, except to the extent required to place such member in the position in which he or she would have been were it not for such employment or position: Provided that this provision shall not preclude a member from receiving a reasonable subsistence and travelling allowances in respect of meetings of the board actually attended by such member. 35 40

(7) (a) The provisions of sections 2, 3, 4, 5 and 6 of the Commissions Act, 1947 (Act No. 8 of 1947), or if the MEC so decides, the corresponding provisions of any similar law applicable in the province concerned, shall with the necessary changes apply to the demarcation board, and any committee of the demarcation board in so far as the sections concerned are applicable to the functions of such demarcation board or such committee of the demarcation board. 45 50

(b) A member of the demarcation board or of any committee thereof may, after due notice to the occupant, at all reasonable times enter upon and inspect any land or premises for the purposes of an inquiry being held, and the chairperson of the demarcation board may authorise any other person so to enter upon and inspect any land or premises. 55

(8) (a) Subject to paragraph (b) and, where applicable, section 5 of the

**Verstreking van inligting**

**10I.** Die Minister of die LUR kan by skriftelike kennisgewing of by kennisgewing in onderskeidelik die *Staatskoerant* of *Provinsiale Koerant* 'n munisipaliteit versoek om op die wyse en in die vorm deur hom of haar bepaal, enige inligting in sodanige kennisgewing genoem, aan hom of haar, of 'n nasionale Staatsdepartement of 'n provinsiale departement of 'n liggaam deur hom of haar goedgekeur, te verstrek en in sodanige kennisgewing die tydperk bepaal waarbinne die inligting verstrek moet word.

**Instel van Afbakeningsrade**

**10J.** (1) Daar word hierby 'n Nasionale Afbakeningsraad ingestel wat bestaan uit nege lede deur die Minister aangestel uit die persone in subartikel (4)(b) beoog.

(2) (a) Indien 'n LUR nie ooreenkomstig 'n aanbeveling van 'n munisipale afbakeningsraad optree soos in artikel 10E beoog nie, word die aangeleentheid na die Nasionale Afbakeningsraad vir 'n beslissing verwys.

(b) Die ander bevoegdhede en pligte van die Nasionale Afbakeningsraad is soos voorgeskryf.

(3) Daar word hierby vir elke provinsie 'n raad ingestel, wat bekend staan as die Munisipale Afbakeningsraad, wat die bevoegdhede uitoefen en pligte verrig wat by of kragtens hierdie Wet aan hom verleen of opgedra word.

(4) Elke afbakeningsraad bestaan uit ses lede, wat behoudens die riglyne in Bylae 5 genoem deur die LUR op 'n deeltydse grondslag aangestel word, naamlik:

(a) Twee persone deur die LUR aangewys;

(b) twee persone deur die Minister aangewys; en

(c) twee persone aangewys deur die betrokke provinsiale organisasie in artikel 10F beoog.

(5) Die LUR wys 'n lid van die afbakeningsraad as voorsitter en 'n ander lid as ondervoorsitter aan.

(6) (a) Die besoldiging en toelaes van die lede, met inbegrip van die voorsitter en ondervoorsitter van 'n afbakeningsraad word deur die LUR met die instemming van die LUR wat vir Finansies verantwoordelik is, bepaal.

(b) 'n Lid van 'n afbakeningsraad wat besoldiging, toelaes of ander voordele uit hoofde van sy of haar diens of posisie in die nasionale of provinsiale regering of 'n plaaslike regering ontvang en wat voortgaan om sodanige besoldiging, toelaes of ander voordele te ontvang terwyl hy of sy as lid van die afbakeningsraad dien, ontvang geen besoldiging, toelae of ander voordeel van 'n lid van 'n afbakeningsraad nie, behalwe in die mate wat nodig is om sodanige lid in die posisie te plaas waarin hy of sy sou gewees het as dit nie vir sodanige indiensneming of posisie was nie: Met dien verstande dat hierdie bepaling nie 'n lid belet om redelike reis- en verblyftoelaes ten opsigte van die vergaderings van die raad wat werklik deur sodanige lid bygewoon word, te ontvang nie.

(7) (a) Die bepalings van artikels 2, 3, 4, 5 en 6 van die Kommissiewet, 1947 (Wet No. 8 van 1947), of indien die LUR so besluit, die ooreenstemmende bepalings van enige soortgelyke wet wat in die betrokke provinsie van toepassing is, is met die nodige aanpassings van toepassing op die afbakeningsraad, en enige komitee van die afbakeningsraad vir sover die betrokke artikels op die werksaamhede van sodanige afbakeningsraad of sodanige komitee van die afbakeningsraad van toepassing is.

(b) 'n Lid van die afbakeningsraad of van enige komitee daarvan kan, na behoorlike kennisgewing aan die okkupeerder, te alle redelike tye enige grond of eiendom betree en inspekteer vir die doeleindes van 'n ondersoek wat gehou word, en die voorsitter van die afbakeningsraad kan enige ander persoon magtig om aldus enige grond of eiendom te betree en te inspekteer.

(8) (a) Behoudens paragraaf (b) en, waar toepaslik, artikel 5 van die Wet



Electoral Commission Act, 1996 (Act No. 51 of 1996), the demarcation board shall at the request of the MEC hold an inquiry and shall submit a report and recommendations to the MEC on—

- (i) the desirability or otherwise of delimiting or re-delimiting the area of jurisdiction of a municipality;
- (ii) the combination of the area of jurisdiction with that of another municipality, or the division of the area of jurisdiction of a municipality;
- (iii) the delimitation or re-delimitation of the area of jurisdiction of a municipality into wards; and
- (iv) the determination or re-determination of the number of seats in a municipality.

(b) When the demarcation board makes a recommendation as contemplated in paragraph (a), it shall take into account the criteria listed in Schedule 6.

(9) The MEC shall be responsible for the provision of secretarial and administrative services and technical assistance to the demarcation board.

### Regulations concerning Demarcation Boards

**10K.** (1) The Minister may, after consultation with the MEC and the relevant organisations contemplated in section 10F, make regulations concerning—

- (a) the qualifications for, the appointment as, the term of office of, and the vacation of office as, members of the demarcation board;
- (b) the acting of another person as chairperson of the demarcation board;
- (c) the convening of, the procedure at and a quorum for the meetings of a demarcation board and the manner in which decisions will be taken by such demarcation board;
- (d) the performance of the administrative work of the board;
- (e) the appointment of committees by the demarcation board;
- (f) any matter incidental to the functions of the demarcation board which shall or may be prescribed; and
- (g) in general, any matter which the Minister may deem necessary or expedient to prescribe in order to achieve the objects of this Act, and the generality of this paragraph shall not be limited by the preceding paragraphs.

(2) A regulation made under subsection (1) may provide that any person who contravenes a provision thereof or fails to comply therewith shall be guilty of an offence and on conviction be liable to a fine, or to imprisonment for a period not exceeding five years.

### Regulations concerning by-elections and voters' rolls

**10L.** (1) The Minister may, after consultation with the MEC and the relevant organisations contemplated in section 10F, make regulations concerning—

- (a) the maintenance and updating of voters' rolls for the purposes of municipal elections;
- (b) the conducting of and procedures for by-elections;
- (c) the expenses for the holding of by-elections;
- (d) a code of conduct which shall be complied with by political parties and candidates for by-elections, as well as for the establishment, constitution, powers and duties of election tribunals and election appeal tribunals and for the sanctions which may be applied by such tribunals for contraventions of such code; and
- (e) corrupt and illegal practices and other related offences.

(2) Any regulation made under subsection (1) shall be in accordance with the principles contained in Schedule 4.

(3) A regulation made under subsection (1) may provide that any person who contravenes a provision thereof or fails to comply therewith shall be guilty of an offence and on conviction be liable to a fine, or to imprisonment for a period not exceeding five years.



TWEDE WYSIGINGSWET OP DIE OORGANGSWET OP  
PLAASLIKE REGERING, 1996

Wet No. 97, 1996

op die Verkiesingskommissie, 1996 (Wet No. 51 van 1996), hou die afbakingsraad op versoek van die LUR 'n ondersoek en lê 'n verslag en aanbevelings aan die LUR voor oor—

- 5 (i) die wenslikheid of andersins van die afbakening of herafbakening van die regsgebied van 'n munisipaliteit;
  - (ii) die kombinerings van die regsgebied met dié van 'n ander munisipaliteit of die verdeling van die regsgebied van 'n munisipaliteit;
  - 10 (iii) die afbakening of herafbakening van die regsgebied van 'n munisipaliteit in wyke; en
  - (iv) die bepaling of herbepaling van die getal setels in 'n munisipaliteit.
- (b) Wanneer die afbakingsraad 'n aanbeveling doen in paragraaf (a) beoog, word die riglyne in Bylae 6 genoem, in ag geneem.
- 15 (9) Die LUR is verantwoordelik vir die voorsiening van sekretariële en administratiewe dienste en tegniese bystand aan die afbakingsraad.

**Regulasies betreffende Afbakeningsrade**

- 10K.** (1) Die Minister kan, na oorleg met die LUR en die betrokke organisasies in artikel 10F beoog, regulasies uitvaardig betreffende—
- 20 (a) die kwalifikasies vir, die aanstelling as, die ampstermyn van, en die ontruiming van ampte as lede van die afbakingsraad;
  - (b) die waarneem deur 'n ander persoon as voorsitter van die afbakingsraad;
  - 25 (c) die byeenroep van, die prosedure by en die kworum vir die vergaderings van 'n afbakingsraad en die wyse waarop besluite deur sodanige afbakingsraad geneem word;
  - (d) die verrigting van die administratiewe werk van die raad;
  - (e) die aanstel van komitees deur die afbakingsraad;
  - 30 (f) enige aangeleentheid bykomend by die werksaamhede van die afbakingsraad wat voorgeskryf moet of kan word; en
  - (g) in die algemeen, enige aangeleentheid wat die Minister nodig of dienstig ag om voor te skryf ten einde die oogmerke van hierdie Wet te bereik, en die algemeenheid van hierdie paragraaf word nie deur die voorafgaande paragrafe beperk nie.
- 35 (2) 'n Regulasie wat kragtens subartikel (1) uitgevaardig word, kan bepaal dat iemand wat 'n bepaling daarvan oortree of versuim om daaraan te voldoen aan 'n misdryf skuldig is en by skuldigbevinding strafbaar is met 'n boete, of met gevangenisstraf vir 'n tydperk van hoogstens vyf jaar.

**Regulasies betreffende tussenverkiesings en kieserslyste**

- 40 **10L.** (1) Die Minister kan, na oorleg met die LUR en die betrokke organisasies in artikel 10F beoog, regulasies uitvaardig betreffende—
- (a) die byhou en opdatering van kieserslyste vir die doeleindes van munisipale verkiesings;
  - (b) die hou van en prosedures vir tussenverkiesings;
  - 45 (c) die uitgawes vir die hou van tussenverkiesings;
  - (d) 'n gedragkode waaraan politieke partye en kandidate vir tussenverkiesings moet voldoen, asook vir die instelling, samestelling, bevoegdhede en pligte van verkiesingstribunale en verkiesingsappèltribunale en vir die sanksies wat deur daardie tribunale ten opsigte van oortredings van so 'n kode toegepas kan word; en
  - 50 (e) korrupte en onwettige bedrywighede en ander verbandhoudende misdrywe.
- (2) Enige regulasie kragtens subartikel (1) uitgevaardig, moet in ooreenstemming wees met die beginsels in Bylae 4 vervat.
- 55 (3) 'n Regulasie wat kragtens subartikel (1) uitgevaardig word, kan bepaal dat iemand wat 'n bepaling daarvan oortree of versuim om daaraan te voldoen aan 'n misdryf skuldig is en by skuldigbevinding strafbaar is met 'n boete, of met gevangenisstraf vir 'n tydperk van hoogstens vyf jaar.

**Co-operative Government**

**10M.** (1) The MEC shall promote and support the development of local government in order to enable municipalities to exercise their powers and perform their duties in the management of their affairs, and shall annually provide information to the Minister in this regard.

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(2) The MEC and each municipality shall promote and support co-operation between municipalities in order to develop the capacity of each municipality to exercise its powers and perform its duties so as to manage its affairs.

**Transitional provisions relating to sections 3, 9, 10 and 10C**

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**10N.** (1) A committee established under section 3 shall be disestablished on the day immediately following upon the day on which the last election or elections contemplated in section 9 have been held for the province concerned.

(2) The powers conferred upon the MEC by section 10 shall lapse in respect of the area of jurisdiction of a local council, metropolitan council, metropolitan local council, rural council or representative council on the day immediately prior to the commencement of the Local Government Transition Act Second Amendment Act, 1996.

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(3) Any proclamation made under section 10 and which was in force immediately prior to the commencement of the Local Government Transition Act Second Amendment Act, 1996, shall, notwithstanding the provisions of subsection (2), remain in force.

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(4) The MEC may, with the concurrence of the Minister, by proclamation in the *Provincial Gazette*—

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(a) amend or repeal a proclamation referred to in subsection (3): Provided that such proclamation may be amended with retrospective effect to a date not earlier than the publication thereof;

(b) notwithstanding anything to the contrary in this Act contained, amend or repeal a regulation contemplated in section 9(2); or

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(c) re-allocate the powers and duties which have been agreed upon in terms of section 10C(3).

(5) In the event of an inconsistency between a proclamation referred to in subsections (3) or (4) and the provisions of this Act, the latter shall prevail: Provided that the provisions of this subsection shall not apply to those provisions of a proclamation dealing with the allocation of powers and duties of municipalities.”.

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**Repeal of section 11 of Act 209 of 1993**

**6.** (1) Section 11 of the principal Act is hereby repealed.

(2) Subsection (1) shall, in respect of each province, come into operation on the day immediately after the day on which the election for members of municipalities have been held for the province concerned.

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**Substitution of section 12 of Act 209 of 1993**

**7.** The following section is hereby substituted for section 12 of the principal Act:

**“Regulations**

45

**12.** (1) The Minister may, after consultation with the [Administrator] MEC, make regulations concerning—

(a) anything which shall or may be prescribed under this Act;

(b) any matter referred to in this Act which in his or her opinion are necessary or expedient for the effective carrying out or furtherance of the provisions and objects of this Act.

50

(2) A regulation made under subsection (1) may provide that any person who contravenes a provision thereof or fails to comply therewith shall be

**Saamwerkende Regering**

**10M.** (1) Die LUR bevorder en ondersteun die ontwikkeling van plaaslike regering ten einde munisipaliteite in staat te stel om hulle bevoegdhede uit te oefen en pligte te verrig in die bestuur van hulle sake, en voorsien jaarliks inligting in hierdie verband aan die Minister.

(2) Die LUR en elke munisipaliteit bevorder en ondersteun samewerking tussen munisipaliteite ten einde die kapasiteit van elke munisipaliteit om sy bevoegdhede uit te oefen en pligte te verrig, te ontwikkel ten einde sy sake te bestuur.

**Oorgangsbepalings betreffende artikels 3, 9, 10 en 10C**

**10N.** (1) 'n Komitee wat kragtens artikel 3 ingestel is, word ontbind op die dag wat onmiddellik volg op die dag waarop die laaste verkiesing of verkiesings in artikel 9 beoog, vir die betrokke provinsie gehou is.

(2) Die bevoegdhede by artikel 10 aan die LUR verleen, vervel ten opsigte van die regsgebied van 'n plaaslike raad, metropolitaanse raad, metropolitaanse plaaslike raad, landelike raad of verteenwoordigende raad op die dag onmiddellik voor die inwerkingtreding van die Tweede Wysigingswet op die Oorgangswet op Plaaslike Regering, 1996.

(3) Enige proklamasie kragtens artikel 10 uitgevaardig en wat onmiddellik voor die inwerkingtreding van die Tweede Wysigingswet op die Oorgangswet op Plaaslike Regering, 1996, van krag was, bly ondanks die bepalinge van subartikel (2) van krag.

(4) Die LUR kan, met die instemming van die Minister, by proklamasie in die *Provinsiale Koerant*—

(a) 'n proklamasie in subartikel (3) bedoel, wysig of herroep: Met dien verstande dat sodanige proklamasie met terugwerkende krag gewysig kan word na 'n datum wat nie vroeër as die datum van publikasie daarvan is nie;

(b) ondanks andersluidende bepalinge van hierdie Wet, 'n regulasie in artikel 9(2) beoog, wysig of herroep; of

(c) die bevoegdhede en pligte waaroor ingevolge artikel 10C(3) ooreengekom is, hertoewys.

(5) In die geval van 'n teenstrydigheid tussen 'n proklamasie in subartikel (3) of (4) bedoel en die bepalinge van hierdie Wet, geniet laasgenoemde voorrang: Met dien verstande dat die bepalinge van hierdie subartikel nie van toepassing is nie op daardie bepalinge van 'n proklamasie wat handel met die toewysing van bevoegdhede en pligte van munisipaliteite.”.

**Herroeping van artikel 11 van Wet 209 van 1993**

**6.** (1) Artikel 11 van die Hoofwet word hierby herroep.

(2) Subartikel (1) tree, ten opsigte van elke provinsie, in werking op die dag onmiddellik na die dag waarop die verkiesing van lede van munisipaliteite vir die betrokke provinsie gehou is.

**Vervanging van artikel 12 van Wet 209 van 1993**

**7.** Artikel 12 van die Hoofwet word hierby deur die volgende artikel vervang:

**“Regulasies**

**12.** (1) Die Minister kan, na oorleg met die [Administrateur] LUR, regulasies uitvaardig betreffende—

(a) enigiets wat kragtens hierdie Wet voorgeskryf moet of kan word;

(b) enige aangeleentheid in hierdie Wet bedoel wat na sy of haar mening nodig of dienstig is vir die doeltreffende uitvoering of bevordering van die bepalinge en oogmerke van hierdie Wet.

(2) 'n Regulasie kragtens subartikel (1) uitgevaardig, kan bepaal dat iemand wat 'n bepaling daarvan oortree of versuim om daaraan te voldoen

guilty of an offence and on conviction be liable to a fine, or to imprisonment for a period not exceeding five years."

### Substitution of Schedule 2 to Act 209 of 1993

8. The following Schedule is hereby substituted for Schedule 2 to the principal Act:

#### "SCHEDULE 2

5

#### POWERS AND DUTIES OF METROPOLITAN COUNCILS REFERRED TO IN SECTION 10C(1)

##### Levies, Payments and Contributions

##### 1. A metropolitan council may—

- |     |                                                                                                                                                                                                                                                                                                                                                                                          |          |
|-----|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------|
| (a) | at rates determined by the council with the concurrence of the MEC responsible for Finance with the concurrence of the Minister of Finance, levy and claim the levies referred to in section 12(1)(a) of the Regional Services Councils Act, 1985 (Act No. 109 of 1985), or section 16(1)(a) of the KwaZulu and Natal Joint Services Act, 1990 (Act No. 84 of 1990), as the case may be; | 10<br>15 |
| (b) | claim payments from any metropolitan local council to cover the actual costs of any service performed or rendered on behalf of or to such metropolitan local council;                                                                                                                                                                                                                    |          |
| (c) | determine and claim an equitable contribution from all metropolitan local councils: Provided that such contribution shall be determined, and the utilisation of the sum total thereof shall be, as prescribed.                                                                                                                                                                           | 20       |

##### Grants and Transfers

- |    |                                                                                                                                                                  |    |
|----|------------------------------------------------------------------------------------------------------------------------------------------------------------------|----|
| 2. | The receipt, allocation and distribution of grants in accordance with an objective formula, or in the case of a specific transfer as determined by the Minister. | 25 |
|----|------------------------------------------------------------------------------------------------------------------------------------------------------------------|----|

##### Integrated Development Plan

- |     |                                                                                                                                                                                                                        |    |
|-----|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----|
| 3.  | A metropolitan council shall, taking into account the development needs and priorities as determined by metropolitan local councils—                                                                                   |    |
| (a) | formulate and implement a metropolitan integrated development plan incorporating metropolitan land use planning, transport planning, infrastructure planning and the promotion of integrated economic development; and | 30 |
| (b) | co-ordinate and monitor local integrated development plans.                                                                                                                                                            |    |

##### Water

- |     |                                                                                                                                                                               |    |
|-----|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----|
| 4.  | The bulk supply of water, including—                                                                                                                                          | 35 |
| (a) | the conservation of water;                                                                                                                                                    |    |
| (b) | the purification of water;                                                                                                                                                    |    |
| (c) | the distribution of water other than local supply reticulation;                                                                                                               |    |
| (d) | the primary bulk supply to local supply points;                                                                                                                               |    |
| (e) | the installation, positioning and maintenance of bulk meters;                                                                                                                 | 40 |
| (f) | the determination of bulk tariffs;                                                                                                                                            |    |
| (g) | the development and operation of a bulk water supply and distribution strategy for its area of jurisdiction after consultation with the metropolitan local council concerned; |    |
| (h) | the establishment and operation of a water co-ordinating system in association with external bulk suppliers;                                                                  | 45 |
| (i) | the implementation of a bulk water supply and distribution plan for its area of jurisdiction;                                                                                 |    |
| (j) | the establishment and maintenance of an integrated bulk supply                                                                                                                |    |

aan 'n misdryf skuldig is en by skuldigbevinding strafbaar is met 'n boete, of gevangenisstraf vir 'n tydperk van hoogstens vyf jaar.'.

### Vervanging van Bylae 2 by Wet 209 van 1993

8. Bylae 2 by die Hoofwet word hierby deur die volgende Bylae vervang:

5

#### “BYLAE 2

#### BEVOEGDHEDE EN PLIGTE VAN METROPOLITAANSE RADE IN ARTIKEL 10C(1) BEDOEL

##### Heffings, Betalings en Bydraes

1. 'n Metropolitaanse raad kan—
- 10 (a) teen koerse deur die raad met die instemming van die LUR verantwoordelik vir Finansies met die instemming van die Minister van Finansies bepaal, die heffings bedoel in artikel 12(1)(a) van die Wet op Streeksdiensterade, 1985 (Wet No. 109 van 1985), of artikel 16(1)(a) van die Wet op Gesamentlike Dienste vir KwaZulu en Natal, 1990 (Wet No. 84 van 1990), na gelang van die geval, hef en vorder;
- 15 (b) betalings van 'n metropolitaanse plaaslike raad eis om die werklike kostes van enige diens namens of aan sodanige metropolitaanse plaaslike raad verrig of gelever, te dek;
- 20 (c) 'n billike bydrae van alle metropolitaanse plaaslike rade vasstel en eis: Met dien verstande dat sodanige bydrae vasgestel word en die aanwending van die somtotaal daarvan sal wees soos voorgeskryf.

##### Toekennings en Oordragte

2. Die ontvangs, toewysing en verspreiding van toekennings in ooreenstemming met 'n objektiewe formule, of in die geval van 'n bepaalde oordrag soos deur die Minister bepaal.
- 25

##### Geïntegreerde Ontwikkelingsplan

3. 'n Metropolitaanse raad moet, met inagneming van die ontwikkelingsbehoefte en voorkeure deur 'n metropolitaanse plaaslike raad bepaal—
- 30 (a) 'n metropolitaanse geïntegreerde ontwikkelingsplan formuleer en implementeer wat grondgebruikbeplanning, vervoerbeplanning, infrastruktuurbeplanning en die bevordering van geïntegreerde ekonomiese ontwikkeling insluit; en
- (b) plaaslike geïntegreerde ontwikkelingsplanne koördineer en monitor.

35

##### Water

4. Grootmaat-watervoorsiening, met inbegrip van—
- (a) die bewaring van water;
- (b) die suiwering van water;
- 40 (c) die verspreiding van water uitgesonderd die plaaslike voorsieningsnetwerk;
- (d) die primêre grootmaatvoorsiening aan plaaslike verskaffingspunte;
- (e) die installasie, plasing en onderhoud van grootmaat-meters;
- (f) die bepaling van grootmaat-tariewe;
- 45 (g) die ontwikkeling en bedryf van 'n grootmaat-watervoorsienings- en verspreidingsstrategie vir sy regsgebied na oorleg met die betrokke metropolitaanse plaaslike raad;
- (h) die instel en bedryf van 'n waterkoördineringsstelsel in samewerking met eksterne grootmaat-voorsieners;
- 50 (i) die implementering van 'n grootmaat-watervoorsienings- en verspreidingsplan vir sy regsgebied;
- (j) die instel en onderhoud van 'n geïntegreerde grootmaat-voorsiening,

- control and monitoring system for its area of jurisdiction;
- (k) the determination of a uniform base for the structuring of user tariffs.

### Sewerage

5. Bulk sewage purification works and main sewage disposal including— 5
- (a) the formulation and implementation of policy relating to sewerage functions;
- (b) the design, construction, operation and maintenance of trunk mains and bulk sewage pump stations; 10
- (c) bulk sewage collection and disposal;
- (d) the planning of bulk conveyance of sewage and industrial effluent and the treatment thereof at treatment plants;
- (e) the determination and maintenance of a local development guide plan or master plan for bulk conveyance and treatment of sewage and industrial effluent; 15
- (f) the implementation of a master plan of bulk conveyance and treatment of sewage and industrial effluent;
- (g) the establishment and management of a co-ordinating system for the bulk sewerage system, with the concurrence of the other role-players; 20
- (h) the establishment of a system to monitor the flows in the bulk conveyance system;
- (i) the provision, operation and maintenance of bulk sewage and effluent infrastructure, including sludge disposal;
- (j) the determination of a uniformly structured bulk tariff for the purification and bulk conveyance of sewage; 25
- (k) the development of a uniform basis for the structuring of user tariffs.

### Electricity

6. Subject to the provisions of any other law, the bulk supply of electricity, including the transmission and distribution and where applicable, the generation of electricity to reticulators in terms of any law. 30

### Roads

7. The construction and maintenance of arterial roads that transcend more than one metropolitan local council boundary, including— 35
- (a) roads with significant traffic volumes;
- (b) roads forming major public transport corridors;
- (c) roads used extensively by traffic from outside the metropolitan local council within which such roads are situated;
- (d) roads in respect of which access and egress have been limited in accordance with a law; 40
- (e) roads of a major nature linking significant urban growth points or potential growth points;
- (f) the construction and maintenance of stormwater drainage systems and infrastructure that transcend more than one metropolitan local council boundary, 45
- but excluding national roads, toll roads, provincial freeways and provincial arterial roads.

### Passenger Transport Services

8. (a) The provision and regulation of passenger transport services. 50
- (b) The co-ordination of passenger transport services after consultation with the metropolitan local councils concerned.
- (c) The provision and control of public transport facilities.



- kontrole- en moniteringstelsel vir sy regsgebied;  
(k) die bepaling van 'n eenvormige basis vir die strukturering van gebruikerstariewe.

### Riolering

- 5           **5.** Grootmaat-rioolsuiweringswerke en hoofrioolverwydering, met inbegrip van—  
(a) die formulering en implementering van beleid wat verband hou met rioleringsfunksies;  
10       (b) die ontwerp, konstruksie, bedryf en onderhoud van hooflyn- en grootmaat-rioolpompstasies;  
(c) grootmaat-rioolversameling en -verwydering;  
(d) die beplanning van grootmaat-vervoer van riool- en industriële afval en die verwerking daarvan by verwerkingsaanlegte;  
15       (e) die bepaling en onderhoud van 'n plaaslike ontwikkelingsgidsplan of meesterplan vir die grootmaat-vervoer en verwerking van riool- en industriële afval;  
(f) die implementering van 'n meesterplan vir die grootmaat-vervoer en -verwerking van riool- en industriële afval.  
20       (g) die instel en bestuur van 'n koördineringsstelsel vir die grootmaat-rioolstelsel, met die instemming van die ander rolspelers;  
(h) die instel van 'n stelsel om die vloei in die grootmaat-vervoerstelsel te meet;  
(i) die voorsiening, bedryf en onderhoud van grootmaat-riool en industriële afvalwaterinfrastruktuur, met inbegrip van slykverwydering;  
25       (j) die bepaling van 'n eenvormig gestruktureerde grootmaattarief vir die suiwering en grootmaat-vervoer van riool;  
(k) die ontwikkeling van 'n eenvormige grondslag vir die strukturering van gebruikerstariewe.

### Elektrisiteit

- 30           **6.** Behoudens die bepalings van enige ander wet, die grootmaatvoorsiening van elektrisiteit, met inbegrip van die transmissie en verspreiding en waar van toepassing die opwek van elektrisiteit aan netwerke ingevolge enige wet.

### Paaie

- 35           **7.** Die konstruksie en onderhoud van hoofverkeerspaaie wat oor meer as een metropolitaanse plaaslike raads grens strek, met inbegrip van—  
(a) paaie met beduidende volumes verkeer;  
(b) paaie wat hoof- openbare vervoerdeurgange uitmaak;  
40       (c) paaie wat op groot skaal gebruik word deur verkeer afkomstig van buite die metropolitaanse plaaslike raad waarin sodanige paaie geleë is;  
(d) paaie ten opsigte waarvan toegang tot, of uitgang van, in ooreenstemming met 'n wet beperk is;  
(e) hoofpaaie wat beduidende stedelike groeipunte of potensiële groeipunte verbind;  
45       (f) die konstruksie en onderhoud van stormwaterdreineringsstelsels en -infrastruktuur wat oor meer as een metropolitaanse plaaslike raads grens strek,  
50       maar nie ook nasionale paaie, tolpaaie, provinsiale deurpaaie en provinsiale hoofverkeerspaaie nie.

### Passasiersvervoerdienste

- 55           **8.** (a) Die voorsiening en reëling van passasiersvervoerdienste.  
(b) Die koördinerings van passasiersvervoerdienste na oorleg met die betrokke metropolitaanse plaaslike rade.  
(c) Die voorsiening en beheer van openbare vervoerfasiliteite.

**Traffic Matters**

9. (a) The co-ordination and determination of policy for traffic matters which affect more than one metropolitan council.

(b) The provision and control of road traffic engineering which affects more than one metropolitan local council.

(c) Traffic law enforcement, if so requested by the metropolitan local council concerned.

5

**Fresh Produce Markets**

10. The establishment, conduct and control of fresh produce markets which affect more than one metropolitan local council.

10

**Waste Disposal Facilities**

11. (a) The determination of a waste disposal strategy.

(b) The identification of sites for the placing of waste disposal facilities.

(c) The establishment, operation and control of waste disposal sites, bulk waste transfer facilities and waste disposal facilities for more than one metropolitan local council.

15

**Cemeteries and Crematoria**

12. The establishment, conduct and control of cemeteries and crematoria utilised by more than one metropolitan local council.

**Airports**

20

13. The establishment and operation of airports, excluding national and international airports and landing strips.

**Sport Facilities**

14. The establishment, conduct and control of sport facilities of international standards.

25

**Promotion of Tourism**

15. The promotion of tourism.

**Municipal Health Services**

16. Subject to any other law, the planning, evaluation, monitoring and co-ordination of municipal health services.

30

**Abattoirs**

17. The establishment, management and control of metropolitan abattoirs.

**Fire-fighting Services and Disasters**

18. The provision and control of fire-fighting services and the planning for and management of disasters.

35

**Libraries**

19. The establishment, management and control of libraries serving the metropolitan area.

**Museums**

40

20. The establishment, management and control of museums.

**Verkeersaangeleenthede**

9. (a) Die koördinerings- en bepaling van beleid vir verkeersaangeleenthede wat meer as een metropolitaanse plaaslike raad raak.

5 (b) Die voorsiening en beheer van padverkeersingenieurswese wat meer as een metropolitaanse plaaslike raad raak.

(c) Verkeerswetstoepassing indien daartoe versoek deur die betrokke metropolitaanse plaaslike raad.

**Vars produktemarkte**

10 10. Die instel, bedryf en beheer van varsproduktemarkte wat meer as een metropolitaanse plaaslike raad raak.

**Afvalverwyderingsfasiliteite**

11. (a) Die bepaling van 'n afvalverwyderingsbeleid.

15 (b) Die identifisering van terreine vir die plasing van afvalverwyderingsfasiliteite.

(c) Die instel, bedryf en beheer van afvalverwyderingsterreine, grootmaat-afvaloorplatingsfasiliteite en afvalverwyderingsfasiliteite vir meer as een metropolitaanse plaaslike raad.

**Begraafplase en Krematoriums**

20 12. Die instel, bedryf en beheer van begraafplase en krematoriums wat deur meer as een metropolitaanse plaaslike raad gebruik word.

**Lughawens**

13. Die instel en bedryf van lughawens, uitgesonderd nasionale en internasionale lughawens en landingstroke.

**Sportgeriewe**

25 14. Die instel, bedryf en beheer van sportgeriewe van internasionale standarde.

**Bevordering van Toerisme**

15. Die bevordering van toerisme.

**Munisipale Gesondheidsdienste**

30 16. Behoudens enige ander wet, die beplanning, evaluering, monitering en koördinerings van munisipale gesondheidsdienste.

**Abattoirs**

17. Die instel, bestuur en beheer van metropolitaanse abattoirs.

**Brandbestrydingsdienste en Rampe**

35 18. Die voorsiening en beheer van brandbestrydingsdienste en die beplanning vir en bestuur van rampe.

**Biblioteke**

19. Die instel, bestuur en beheer van biblioteke wat die metropolitaanse gebied bedien.

**Museums**

40 20. Die instel, bestuur en beheer van museums.

**Environmental Management**

21. The co-ordination of environmental affairs.

**Municipal Law Enforcement Agency**

22. The establishment and control of municipal law enforcement agencies, subject to the South African Police Service Act, 1995 (Act No. 68 of 1995)." 5

**Insertion of Schedule 2A in Act 209 of 1993**

9. The following Schedule is hereby inserted after Schedule 2 to the principal Act:

**"SCHEDULE 2A****POWERS AND DUTIES OF METROPOLITAN LOCAL COUNCILS 10  
REFERRED TO IN SECTION 10C(2)****Recovery of Costs**

1. The claiming of payments from a metropolitan council to cover the actual costs of any service performed or rendered on behalf of or to such council. 15

**Integrated Development Plan**

2. A metropolitan local council shall formulate and implement a local integrated development plan, incorporating local land use planning, transport planning, infrastructure planning and the promotion of integrated local economic development, in accordance with the metropolitan integrated development plan. 20

**Water**

3. Water reticulation.

**Sewerage**

4. Sewage disposal and the provision of a sewerage system. 25

**Electricity**

5. The retail reticulation of electricity.

**Roads**

6. The construction and maintenance of roads and local stormwater drainage systems. 30

**Traffic Matters**

7. (a) Traffic law enforcement.  
(b) The testing of vehicles and drivers.  
(c) Matters pertaining to road safety.

**Waste Disposal 35**

8. The disposal of waste.

**Cemeteries and Funeral Parlours**

9. The establishment and control of cemeteries and funeral parlours.

**Omgewingsbestuur**

21. Die koördinerings van omgewingsaangeleenthede.

**Munisipale Wetstoepassingsagentskap**

5 22. Die instel en beheer van munisipale wetstoepassingsagentskappe behoudens die Wet op die Suid-Afrikaanse Polisiediens, 1995 (Wet No. 68 van 1995)."

**Invoeging van Bylae 2A in Wet 209 van 1993**

9. Die volgende Bylae word hierby na Bylae 2 by die Hoofwet ingevoeg:

**"BYLAE 2A**

10 **BEVOEGDHEDE EN PLIGTE VAN METROPOLITAANSE  
PLAASLIKE RADE IN ARTIKEL 10C(2) BEDOEL**

**Verhaal van kostes**

15 1. Die vordering van betalings van 'n metropolitaanse raad om die werklike koste te dek van 'n diens wat namens of aan sodanige raad verrig of gelewer is.

**Geïntegreerde Ontwikkelingsplan**

20 2. 'n Metropolitaanse plaaslike raad moet 'n plaaslike geïntegreerde ontwikkelingsplan formuleer en implementeer wat plaaslike grondgebruikbeplanning, vervoerbeplanning, infrastruktuurbeplanning en die bevordering van geïntegreerde plaaslike ekonomiese ontwikkeling ooreenkomstig die metropolitaanse geïntegreerde ontwikkelingsplan insluit.

**Water**

3. Die retikulerings van water.

**Riolering**

25 4. Riolerverwydering en die voorsiening van 'n rioleringstelsel.

**Elektrisiteit**

5. Die kleinmaatvoorsiening van elektrisiteit.

**Paaie**

30 6. Die konstruksie en onderhoud van paaie en plaaslike stormwaterdreineringsstelsels.

**Verkeersaangeleenthede**

7. (a) Verkeerswetstoepassing.  
(b) Die toets van voertuie en bestuurders.  
(c) Aangeleenthede betreffende padveiligheid.

35 **Afvalverwydering**

8. Die verwydering van afval.

**Begraafplase en Lykdienstlokale**

9. Die instel en beheer van begraaftplase en lykdienstlokale.

**Airports**

10. The establishment and operation of airports, excluding national or international airports and landing strips.

**Libraries**

11. The establishment and operation of libraries. 5

**Amusement Facilities and Beaches**

12. The establishment, conduct and control of amusement facilities and the control of beaches.

**Public nuisances**

13. The control of public nuisances. 10

**Environmental Affairs**

14. The management and control of environmental affairs.

**Tourism**

15. The promotion of tourism.

**Municipal Health Services** 15

16. The provision of municipal health services.

**Billboards and Advertisements**

17. The control of billboards and the display of advertisements in public places.

**Building Control** 20

18. The control of building activities.

**Cleansing**

19. The provision of cleansing services in streets and public places.

**Business Licensing**

20. The licensing and control of places selling food. 25

**Animals**

21. The licensing and control of animals as well as the provision and control of facilities for the accommodation, impounding, care and burial of animals.

**Markets** 30

22. The establishment and control of markets, excluding fresh produce markets.

**Pontoons, Ferries, Jetties, Piers and Harbours**

23. The provision and control of pontoons, ferries, jetties, piers and harbours other than major ports. 35

**Street Trading**

24. The control of street trading.



**Lughawens**

10. Die instel en bedryf van lughawens uitgesonderd nasionale of internasionale lughawens en landingstroke.

**Biblioteke**

5 11. Die instel en bedryf van biblioteke.

**Vermaaklikheidsgeriewe en Strande**

12. Die instel, bedryf en beheer van vermaaklikheidsgeriewe en die beheer van strande.

**Openbare Steurnisse**

10 13. Die beheer van openbare steurnisse.

**Omgewingsaangeleenthede**

14. Die bestuur en beheer van omgewingsaangeleenthede.

**Toerisme**

15. Die bevordering van toerisme.

15 **Munisipale Gesondheidsdienste**

16. Die voorsiening van munisipale gesondheidsdienste.

**Reklameborde en Advertensies**

17. Die beheer van reklameborde en die vertoon van advertensies in openbare plekke.

20 **Boubeheer**

18. Die beheer van boubedrywigheide.

**Skoonmaak**

19. Die voorsiening van skoonmaakdienste in strate en openbare plekke.

**Lisensiëring van Besighede**

25 20. Die lisensiëring en beheer van plekke wat voedsel verkoop.

**Diere**

21. Die lisensiëring en beheer van diere asook die voorsiening en beheer van geriewe vir die akkommodasie, skut, versorging en begrawe van diere.

**Markte**

30 22. Die instel en beheer van markte, maar nie ook varsproduktemarkte nie.

**Ponte, Veerbote, Hawehoofde, Piere en Hawens**

23. Die voorsiening en beheer van ponte, veerbote, hawehoofde, piere en hawens maar nie ook belangrike hawens nie.

35 **Straathandel**

24. Die beheer van straathandel.

**Lighting**

25. The lighting of streets and public places.

**Public Places**

26. The management and control of public places and gatherings in public places.

5

**Fireworks**

27. The control of fireworks.

**Child Care Facilities**

28. Management of child care facilities.

**Municipal Law Enforcement Agency**

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29. The establishment and control of municipal law enforcement agencies, subject to the South African Police Service Act, 1995 (Act No. 68 of 1995)."

**Amendment of Schedule 4 to Act 209 of 1993, as amended by section 4 of Act 12 of 1996**

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10. Schedule 4 to the principal Act is hereby amended by the substitution for the heading thereto of the following heading:

**"PRINCIPLES REFERRED TO IN [SECTION 9(4)] SECTIONS 9(4) AND 10L(3)".**

**Amendment of Schedule 6 to Act 209 of 1993**

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11. Schedule 6 to the principal Act is hereby amended—

(a) by the substitution for the heading thereto of the following heading:

**"CRITERIA REFERRED TO IN SECTION [11(6)(b)] 10J(6)(b)"; and**

(b) by the addition of the following item:

**"9. The will of the local community."**

25

**Addition of Schedule 8 to Act 209 of 1993**

12. The following Schedule is hereby added to the principal Act:

**"SCHEDULE 8****RESOLUTION OF DISPUTES CONTEMPLATED IN SECTION 10C(7)**

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1. If a dispute arises, the municipalities concerned shall jointly or severally have the right to declare a dispute by giving notice in writing to this effect to the other municipality or municipalities, and thereafter the municipalities concerned or their representatives shall attempt to settle the dispute by consensus within seven days of the dispute having been declared and should they fail to resolve the dispute, the municipalities may agree to attempt to resolve the dispute by mediation within a further period of 14 days.

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2. Mediation means a process whereby—

(a) the municipalities concerned agree on a mediator;

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(b) the mediator familiarises himself or herself with the position held by both municipalities and how the possible outcome might affect all other interested municipalities;

(c) the mediator and the municipalities or their representatives discuss the dispute at a meeting attended by the municipalities in dispute;

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TWEDE WYSIGINGSWET OP DIE OORGANGSWET OP  
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**Beligting**25. Die beligting van strate en openbare plekke.**Openbare plekke**

5 26. Die bestuur en beheer van openbare plekke en byeenkomste in openbare plekke.

**Vuurwerke**27. Die beheer van vuurwerke.**Kindersorggeriewe**28. Die bestuur van kindersorggeriewe.10 **Munisipale Wetstoepassingsagentskap**

29. Die instel en beheer van munisipale wetstoepassingsagentskappe behoudens die Wet op die Suid-Afrikaanse Polisie, 1995 (Wet No. 68 van 1995)."

15 **Wysiging van Bylae 4 by Wet 209 van 1993, soos gewysig deur artikel 4 van Wet 12 van 1996**

10. Bylae 4 by die Hoofwet word hierby gewysig deur die opskrif daarby deur die volgende opskrif te vervang:

**"BEGINSELS IN [ARTIKEL 9(4)] ARTIKELS 9(4) EN 10L(3) BEDOEL".**

**Wysiging van Bylae 6 by Wet 209 van 1993**

- 20 11. Bylae 6 by die Hoofwet word hierby gewysig—
- (a) deur die opskrif daarvan deur die volgende opskrif te vervang:  
**"RIGLYNE IN ARTIKEL [11(6)(b)] 10J(6)(b) BEDOEL";** en
  - (b) deur die volgende item by te voeg:  
**"9. Die wil van die plaaslike gemeenskap."**

25 **Byvoeging van Bylae 8 by Wet 209 van 1993**

12. Die volgende Bylae word hierby by die Hoofwet gevoeg:

**"BYLAE 8****BYLEGGING VAN GESKILLE IN ARTIKEL 10C(7) BEOOG**

- 30 1. Indien 'n geskil ontstaan, het die betrokke munisipaliteite die reg om gesamentlik of afsonderlik 'n geskil te verklaar deur skriftelike kennis te dien effekte aan die ander munisipaliteit of munisipaliteite te gee, waarna die betrokke munisipaliteite of hulle verteenwoordigers moet poog om die geskil deur konsensus by te lê binne sewe dae na verklaring van die geskil, en indien hulle versuim om die geskil by te lê, kan die munisipaliteite ooreenkom om te probeer om die geskil binne 'n verdere tydperk van 14 dae by wyse van mediasie by te lê.

- 35 2. Mediasie beteken 'n proses waarby—
- (a) die betrokke munisipaliteite ooreenkom op 'n mediator;
  - 40 (b) die mediator homself of haarself vertrou maak met die standpunt van beide munisipaliteite en hoe die moontlike uitslag alle ander belanghebbende munisipaliteite mag affekteer;
  - (c) die mediator en die munisipaliteite of hul verteenwoordigers die geskil bespreek by 'n vergadering wat deur die munisipaliteite in die geskil bygewoon word;

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- (d) the municipalities thereafter attempt to resolve the dispute by consensus; and
- (e) the municipalities share the mediator's costs equally.

3. Where no consensus can be reached by a municipality as to whether a dispute shall be declared with another municipality a decision shall be taken by a majority of all the members of the council.

4. If the municipalities are unable to resolve the dispute by consensus, the dispute shall be referred to a single arbitrator to be agreed upon between the municipalities, or failing such agreement within 14 days, to an arbitrator who shall be an advocate or attorney of not less than five years' experience as such, nominated on the application of either municipality, by the MEC.

5. The provisions of the Arbitration Act, 1965 (Act No. 42 of 1965), shall with the necessary changes apply to an arbitration contemplated in item 4. The decision of the arbitrator shall be final and binding on the municipalities.

6. The arbitrator shall take into account the effect or impact of his or her decision on the municipalities which may be affected thereby.

7. The municipalities shall share all costs in the arbitration process equally.

**Substitution of expressions in Act 209 of 1993**

13. The principal Act is hereby amended—

- (a) by the substitution for the expression "Administrator", wherever it occurs, of the expression "MEC"; and
- (b) by the substitution for the expression "*Official Gazette*", wherever it occurs, of the expression "*Provincial Gazette*".

**Transitional provisions**

14. Notwithstanding the provisions of section 15, the auditing of the accounting records and financial statements of a municipality, in respect of any financial year which ended before or on 31 December 1996, shall be done in terms of the laws governing such audits and new budgets shall be compiled for the period 1 January 1997 to 30 June 1997.

**Short title and commencement**

15. (1) This Act shall be called the Local Government Transition Act Second Amendment Act, 1996.

(2) Section 2 shall be deemed to have come into operation on 1 November 1995.

(3) Section 4 shall come into operation on 1 July 1997.

(4) Section 10G(2)(d) of the principal Act, as inserted by section 5 of this Act, shall be deemed to have come into operation on 1 July 1996.

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(d) die munisipaliteite daarna poog om die geskil deur konsensus by te lê;  
en

(e) die munisipaliteite die kostes van die mediator gelykop deel.

5       3. Indien 'n munisipaliteit nie konsensus kan bereik oor die vraag of 'n  
geskil met 'n ander munisipaliteit verklaar moet word nie, word die vraag  
deur 'n meerderheid van al die lede van die raad beslis.

10       4. Indien die munisipaliteite nie in staat is om die geskil by wyse van  
konsensus by te lê nie, word die geskil verwys na 'n enkele arbiter op wie  
die munisipaliteite ooreenkom, of by gebrek aan sodanige ooreenkoms  
binne 14 dae, na 'n arbiter wat 'n advokaat of prokureur met minstens vyf  
jaar ondervinding as sodanig is, en wat op aansoek van enige van die  
munisipaliteite deur die LUR benoem word.

15       5. Die bepalinge van die Arbitrasiewet, 1965 (Wet No. 42 van 1965), is  
met die nodige veranderings van toepassing op 'n arbitrasie in item 4  
beoog. Die beslissing van die arbiter is finaal en bindend op die  
munisipaliteite.

6. Die arbiter neem die effek of impak van sy of haar beslissing op die  
munisipaliteite wat daardeur geraak kan word, in ag.

20       7. Die munisipaliteite deel al die kostes van die arbitrasieverrigtinge  
gelykop."

**Vervanging van uitdrukkings in Wet 209 van 1993**

13. Die Hoofwet word hierby gewysig—

- (a) deur die uitdrukking "Administrateur", waar dit ook al voorkom, deur die  
uitdrukking "LUR" te vervang; en  
25       (b) deur die uitdrukking "*Offisiële Koerant*", waar dit ook al voorkom, deur die  
uitdrukking "*Provinsiale Koerant*" te vervang.

**Oorgangsbepalings**

14. Ondanks die bepalinge van artikel 15, moet die ouditering van die rekeningkun-  
dige rekords en finansiële state van 'n munisipaliteit ten opsigte van enige boekjaar wat  
30       voor 31 Desember 1996 geëindig het, geskied ingevolge die wette wat sodanige  
ouditering beheer en nuwe begrotings moet vir die tydperk 1 Januarie 1997 tot 30 Junie  
1997 opgestel word.

**Kort titel en inwerkingtreding**

15. (1) Hierdie Wet heet die Tweede Wysigingswet op die Oorgangswet op Plaaslike  
35       Regering, 1996.

(2) Artikel 2 word geag op 1 November 1995 in werking te getree het.

(3) Artikel 4 tree op 1 Julie 1997 in werking.

(4) Artikel 10G(2)(d) van die Hoofwet, soos ingevoeg deur artikel 5 van hierdie Wet,  
word geag op 1 Julie 1996 in werking te getree het.

