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THE PRESIDENCY

No. 514 9 April 2003

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

**No. 1 of 2003: Local Government:
Municipal Structures Amendment Act,
2003.**



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Act No. 1, 2003 LOCAL GOVERNMENT: MUNICIPAL STRUCTURES
AMENDMENT ACT, 2003

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.

*(English text signed by the President.)
(Assented to 4 April 2003.)*

ACT

To amend the Local Government: Municipal Structures Act, 1998, so as to regulate the effect of a change in the type of municipality on the terms of office of members of executive committees and executive mayors; and to provide for matters connected therewith.

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

Substitution of section 45 of Act 117 of 1998

1. The following section is hereby substituted for section 45 of the Local Government: Municipal Structures Act, 1998 (hereinafter referred to as the principal Act):

“Election of members of executive committees

45. A municipal council must elect the members of its executive committee from among its members at a meeting that must be held—

- (a) within 14 days **[of]** after the council’s election; **[or]**
- (b) if it is a district council, within 14 days after the last of the local councils has appointed its representatives to the district council; or
- (c) within 14 days after the date with effect from which the type of the municipality has been changed from any of those mentioned in section 8(e), (f), (g) or (h), 9(c), (d), (e) or (f) or 10(b) or (c) to any of those mentioned in section 8(a), (b), (c) or (d), 9(a) or (b), or 10(a).”

Substitution of section 46 of Act 117 of 1998

2. The following section is hereby substituted for section 46 of the principal Act:

“Term of office of members

46. The members of an executive committee are elected for a term ending, subject to section 47, when—

- (a) the type of the municipality has been changed from any of those mentioned in section 8(a), (b), (c) or (d), 9(a) or (b) or 10(a) to any of those mentioned in section 8(e), (f), (g) or (h), 9(c), (d), (e) or (f) or 10(b) or (c); or
- (b) the next municipal council is declared elected.”

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Amendment of section 48 of Act 117 of 1998

3. Section 48 of the principal Act is hereby amended—

(a) by the substitution for subsection (5) of the following subsection:

“(5) (a) No person may hold office as mayor or [deputy mayor] both mayor and executive mayor for more than two consecutive terms in the same council. 5

(b) No person may hold office as deputy mayor or both deputy mayor and deputy executive mayor for more than two consecutive terms in the same council.

(c) If a person is elected— 10

(i) to fill a vacancy in the office of mayor or deputy mayor, the period between that election and the next election of a mayor or deputy mayor is not regarded as a term; or

(ii) as mayor or deputy mayor where the type of the municipality has been changed from any of those mentioned in section 8(e), (f), (g) or (h), 9(c), (d), (e) or (f) or 10(b) or (c) to any of those mentioned in section 8(a), (b), (c) or (d), 9(a) or (b) or 10(a) during the term of the municipal council concerned, the period between that election and the next election of a mayor or deputy mayor is not regarded as a term.” 15 20

(b) by the substitution for subsection (6) of the following subsection:

“(6) A mayor whose two consecutive terms have expired as provided for in subsection (5)(a), may not immediately after the expiry be elected as deputy mayor.”

Amendment of section 55 of Act 117 of 1998 25

4. Section 55 of the principal Act is hereby amended by the substitution for subsection (1) of the following subsection:

“(1) If a municipal council chooses to have an executive mayor it must elect an executive mayor and, if the MEC for local government in the province so approves, also an executive deputy mayor, from among its members at a meeting that must be held— 30

(a) within 14 days [of] after the council’s election; [or]

(b) if it is a district council, within 14 days after the last of the local councils has appointed its representatives to the district council; or

(c) within 14 days after the date with effect from which the type of the municipality has been changed from any of those mentioned in section 8(a), (b), (c) or (d), 9(a), (b), (e) or (f) or 10(a) or (c) to any of those mentioned in section 8(e), (f), (g) or (h), 9(c) or (d) or 10(b).” 35

Substitution of section 57 of Act 117 of 1998

5. The following section is hereby substituted for section 57 of the principal Act: 40

“Term of office of executive mayors

57. (1) An executive mayor and a deputy executive mayor [— (a)] must be elected for a term ending, subject to [section] sections 58 and 59, when—

(a) the type of the municipality has been changed from any of those mentioned in section 8(e), (f), (g) or (h), 9(c) or (d) or 10(b) to any of those mentioned in section 8(a), (b), (c) or (d), 9(a), (b), (e) or (f) or 10(a) or (c); or 45

(b) the next council is declared elected. [and

(b) may not serve as executive mayor or deputy executive mayor for more than two consecutive terms. When a person is elected to fill a vacancy in the office of executive mayor or deputy executive mayor, the period between that election and the next election of an executive mayor or deputy executive mayor is regarded as a term.] 50

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(2) (a) No person may hold office as executive mayor or both executive mayor and mayor for more than two consecutive terms in the same council.

(b) No person may hold office as deputy executive mayor or both deputy executive mayor and deputy mayor for more than two consecutive terms in the same council.

(c) If a person is elected—

(i) to fill a vacancy in the office of executive mayor or deputy executive mayor, the period between that election and the next election of an executive mayor or deputy executive mayor is not regarded as a term; or

(ii) as executive mayor or deputy executive mayor where the type of the municipality has been changed from any of those mentioned in section 8(a), (b), (c) or (d), 9(a), (b), (e) or (f) or 10(a) or (c) to any of those mentioned in section 8(e), (f), (g) or (h), 9(c) or (d) or 10(b) during the term of the municipal council concerned, the period between that election and the next election of an executive mayor or deputy executive mayor is not regarded as a term.

[(2)] (3) An executive mayor whose two consecutive terms have expired as provided for in subsection (2)(a), may not immediately after the expiry be elected as deputy executive mayor.”.

Short title

6. This Act is called the Local Government: Municipal Structures Amendment Act, 2003.