

Please note that most Acts are published in English and another South African official language. Currently we only have capacity to publish the English versions. This means that this document will only contain even numbered pages as the other language is printed on uneven numbered pages.



Government Gazette

REPUBLIC OF SOUTH AFRICA

Vol. 313

Cape Town

5 July 1991

No. 13355

THE PRESIDENCY

No. 1504

5 July 1991

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

No. 109 of 1991: Promotion of Local Government Affairs Amendment Act, 1991.



AIDS HELPLINE: 0800-123-22 Prevention is the cure

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 Promotion of Local Government Affairs Act, 1983, so as to emend certain definitions; to authorize a local authority to form a company and acquire shares in a company; and to provide that a local authority may transfer or second its officers or employees to or place their services at the disposal of a company; and to provide for matters connected therewith.

(English text signed by the State President.)
(Assented to 27 June 1991.)

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

Amendment of section 1 of Act 91 of 1983, as amended by section 1 of Act 45 of 1985, section 1 of Act 110 of 1985, section 6 of Act 43 of 1988, section 1 of Act 82 of 1988 and section 23 of Act 103 of 1988

5

1. Section 1 of the Promotion of Local Government Affairs Act, 1983 (hereinafter referred to as the principal Act), is hereby amended—

(a) by the substitution for the definition of "Department" of the following definition:

" 'Department' means the Department of **[Constitutional Development and] Planning, Provincial Affairs and National Housing;**" 10

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

" 'Director-General' means the Director-General: **[Constitutional Development and] Planning, Provincial Affairs and National Housing;**" 15

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

" 'Minister' means the Minister of **[Constitutional Development and] Planning, Provincial Affairs and National Housing;**" 20

Insertion of sections 17D and 17E in Act 91 of 1983

2. The following sections are hereby inserted in the principal Act after section 17C:

"Local authority may form company and acquire shares therein

17D. (1) Notwithstanding anything to the contrary in any law 25
contained, a local authority, or two or more local authorities acting jointly, may—

(a) form, register and promote a company as contemplated in the Companies Act, 1973 (Act No. 61 of 1973); and

(b) acquire and hold shares in a company as contemplated in the Companies Act, 1973:

Provided that the main object or one of the objects of such company shall be the performance of a function or the rendering of a service which is substantially the same as a function or service which a local authority may legally perform or render.

(2) The memorandum of a company in which shares are held by a local authority in terms of subsection (1) shall provide that such local authority shall systematically reduce its shareholding in the company in accordance with a programme contained in the memorandum.

(3) (a) A local authority or two or more local authorities contemplated in subsection (1), shall be represented on the board of directors of a company contemplated in the said subsection by a member, officer or employee of that local authority, and in the case of two or more such local authorities they shall be represented jointly by a member, officer or employee of one of those local authorities or by any other person on whom such local authorities may agree.

(b) Where there is a management body within the area of jurisdiction of a local authority, or where there is more than one management body within the areas of jurisdiction of two or more such local authorities acting jointly, such management body or management bodies, as the case may be, shall be represented on the board of directors of the company contemplated in subsection (1) by a member of such management body or in the case where there is more than one management body, by a member of one of those management bodies on whom they may agree.

(4) A local authority shall act in terms of paragraph (a) or (b) of subsection (1) only with the concurrence of any management body within its area of jurisdiction.

(5) Where a local authority is required by law to perform a function or render a service and it is a shareholder in a company contemplated in subsection (1) which undertakes to perform or render such function or service on behalf of that local authority, the memorandum of such company shall irrevocably grant to that local authority a determining vote which may be exercised to prevent the discontinuation of such function or service by the company, unless that local authority elects to guarantee or resume the performance or the rendering of such function or service.

(6) For the purposes of this section "management body" means a committee referred to in section 17(1).

Local authority may transfer or second officer or employee to or place his services at the disposal of company

17E. A local authority may, with effect from a date determined by such local authority, with the consent of the officer or employee concerned, transfer or second any of its officers or employees to or place his services at the disposal of any company referred to in section 17D: Provided that in the event of a transfer such officer or employee shall be employed by the company concerned on such terms and enjoy such rights and privileges as are not less favourable than those applicable to him at the time of such transfer."

Substitution of long title of Act 91 of 1983, as substituted by section 25 of Act 32 of 1987

3. The following long title is hereby substituted for the long title of the principal Act:

Act No. 109, 1991

PROMOTION OF LOCAL GOVERNMENT
AFFAIRS AMENDMENT ACT, 1991

"ACT

To make provision for the co-ordination of functions of general interest to local authorities and of those functions of local authorities which should in the national interest be co-ordinated; the establishment of a co-ordinating council for that purpose; the establishment of committees in order to assist the co-ordinating council in the performance of its functions; the establishment of an action committee of the co-ordinating council; the establishment of a demarcation board in respect of certain areas; the establishment of an executive committee of the demarcation board; the establishment of committees to hold enquiries for the demarcation board; the rendering of development aid to local authorities; the establishment of municipal development boards for that purpose; the designation of persons or institutions for purposes of membership of the co-ordinating council; the improvement of communication between certain committees and local authorities relating to certain matters; the exercise of certain powers by the Administrator in accordance with directives determined by the Minister; the extension of the functions of the said committees; and the assignment of functions by local authorities; to empower a local authority to form a company and to acquire shares therein; and to provide that a local authority may transfer or second any of its officers or employees to or place his services at the disposal of a company; and to provide for incidental matters."

Short title

4. This Act shall be called the Promotion of Local Government Affairs Amendment Act, 1991.