

REPUBLIC OF SOUTH AFRICA

CROSS-BOUNDARY MUNICIPALITIES LAWS REPEAL BILL

*(As introduced in the National Assembly as a section 75 Bill; explanatory summary of Bill
published in Government Gazette No 28063 of 23 September 2005)
(The English text is the official text of the Bill)*

(MINISTER FOR PROVINCIAL AND LOCAL GOVERNMENT)

[B 36—2005]

REPUBLIEK VAN SUID-AFRIKA

WETSONTWERP OP DIE HERROEPING VAN WETTE BETREFFENDE OORGRENSMUNISIPALITEITE

*(Soos by die Nasionale Vergadering ingedien as 'n artikel 75-wetsontwerp;
verduidelikende opsomming van Wetsontwerp in Staatskoerant No 28063
van 23 September 2005 gepubliseer)
(Die Afrikaanse teks is die amptelike vertaling van die Wetsontwerp)*

(MINISTER VIR PROVINSIALE EN PLAASLIKE REGERING)

[W 36—2005]

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BILL

To—

amend the Local Government: Municipal Structures Act, 1998 (Act No. 117 of 1998), so as to delete a provision in respect of cross-boundary municipalities; repeal the Local Government: Cross-boundary Municipalities Act, 2000 (Act No. 29 of 2000); repeal the Re-determination of the Boundaries of Cross-boundary Municipalities Act, 2000 (Act No. 69 of 2000); repeal the Re-determination of the Boundaries of Cross-boundary Municipalities Act, 2005 (Act No. 6 of 2005); provide for consequential matters as a result of the re-alignment of former cross-boundary municipalities and the re-determination of the geographical areas of provinces; and provide for matters connected therewith.

PREAMBLE

SINCE the Constitution Twelfth Amendment Act of 2005 provides for the re-determination of the geographical areas of the provinces;

SINCE in terms of the Constitution Twelfth Amendment Act of 2005 cross-boundary municipalities are no longer possible;

SINCE an Act amending the Constitution may not include provisions other than constitution amendments and matters connected with the amendments;

SINCE it is necessary to provide for the repeal of all provisions dealing with cross-boundary municipalities; and

SINCE it is necessary to provide for consequential arrangements as a result of the re-alignment of former cross-boundary municipalities and the re-determination of the geographical areas of provinces,

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

Definitions

1. In this Act, unless the context indicates otherwise—
 - “**cross-boundary municipality**” means a municipality envisaged in section 155(6A) of the Constitution of the Republic of South Africa, 1996, as it existed immediately before the commencement of the Constitution Twelfth Amendment Act of 2005; 5
 - “**Municipal Demarcation Board**” means the board established by section 2 of the Local Government: Municipal Demarcation Act, 1998 (Act No. 27 of 1998); 10
 - “**MEC for local government**” means the member of the Executive Council of a province responsible for local government in the province;

“section 12 notice” means a notice provided for in section 12 of the Local Government: Municipal Structures Act, 1998 (Act No. 117 of 1998).

Consequential arrangements

2. (1) Despite any applicable provisions of the Local Government: Municipal Demarcation Act, 1998 (Act No. 27 of 1998), and the Local Government: Municipal Structures Act, 1998 (Act No. 117 of 1998), the demarcation by the Municipal Demarcation Board as indicated in the second column of Schedule 2 of a municipality indicated in the first column of Schedule 2 is regarded as a demarcation in terms of the Local Government: Municipal Demarcation Act, 1998, of a municipality—
- (a) with the designation indicated in the third column of Schedule 2; and
 - (b) within the province indicated in the fourth column of Schedule 2.
- (2) (a) Despite any applicable provisions of the Local Government: Municipal Structures Act, 1998, a section 12 notice referred to in the first column of Schedule 3 in respect of a municipality referred to in the second column of Schedule 3 is regarded as the section 12 notice—
- (i) of a newly established municipality with the designation indicated in the third column of Schedule 3; and
 - (ii) issued by the MEC for local government of the province indicated in the fourth column of Schedule 3.
- (b) Despite any applicable provisions of the Local Government: Municipal Structures Act, 1998, any municipality referred to in paragraph (a)(i) is regarded to be the successor in law of the municipality as designated in the second column of Schedule 3.
- (3) Despite the applicable provisions of the Local Government: Municipal Structures Act, 1998, the Local Government: Municipal Electoral Act, 2000 (Act No. 27 of 2000), and the Electoral Commission Act, 1996 (Act No. 51 of 1996), an MEC for local government and the Electoral Commission may take any steps in respect of a municipality referred to in the second column of Schedule 3 to prepare for a general election of all municipal councils in respect of any newly established municipality envisaged by subsection (2).
- (4) (a) Despite any applicable provisions of the Local Government: Municipal Demarcation Act, 1998 (Act No. 27 of 1998), and the Local Government: Municipal Structures Act, 1998 (Act No. 117 of 1998), the proposed demarcation by the Municipal Demarcation Board of a municipality as indicated in the first column of Schedule 4 is regarded as a demarcation in terms of the Local Government: Municipal Demarcation Act, 1998, of a municipality—
- (i) with the designation indicated in the second column of Schedule 4; and
 - (ii) in the province indicated in the third column of Schedule 4.
- (b) Despite any applicable provisions of the Local Government: Municipal Structures Act, 1998, the proposed section 12 notice referred to in the first column of Schedule 5 in respect of a proposed municipality referred to in the second column of Schedule 5 is regarded as the section 12 notice—
- (i) of a newly established municipality with the designation indicated in the second column of Schedule 5; and
 - (ii) issued by the MEC for local government of the province indicated in the third column of Schedule 5.
- (c) Despite any applicable provisions of the Local Government: Municipal Structures Act, 1998, any municipality referred to in paragraph (b)(i) is regarded to be the successor in law of the municipality referred to in the fourth column of Schedule 5.
- (d) Despite the applicable provisions of the Local Government: Municipal Structures Act, 1998, the Local Government: Municipal Electoral Act, 2000 (Act No. 27 of 2000), and the Electoral Commission Act, 1996 (Act No. 51 of 1996), an MEC for local government and the Electoral Commission may take any steps in respect of a municipality referred to in the second column of Schedule 5 to prepare for a general election of all municipal councils in respect of any newly established municipality envisaged by this subsection.

Repeal of laws

3. The laws specified in Schedule 1 are repealed to the extent set out in the third column of Schedule 1.

Savings

4. (1) Where a particular area will in future as a result of this Act be relocated in a province (the receiving province) other than the province (releasing province) in which it was located before the commencement of this Act— 5

(a) any licence, permit or authorisation issued;

(b) any appointment made to any office; or

(c) any right, privilege, obligation or liability acquired, accrued or incurred, 10
in terms of a law applicable in the releasing province will continue to have the force of law until revoked, withdrawn or replaced in terms of a law applicable in the receiving province.

(2) An MEC for local government may, by way of an amendment to an applicable section 12 notice, regulate any legal, practical or other consequences of the relocation of an area referred to in subsection (1) in so far as such regulation is necessary to ensure the proper functioning of a municipality in whose area of jurisdiction such relocated area falls. 15

Short title and commencement

5. (1) This Act is called the Cross-boundary Municipalities Laws Repeal Act, 2005. 20

(2) Section 2(3) and (4)(d) of this Act takes effect on the date of publication of the Act and all other provisions of this Act take effect on a date determined by the President by proclamation in the *Gazette*.

SCHEDULE 1**Laws repealed (Section 3)**

No. and year of law	Short title	Extent of repeal
Act No. 117 of 1998	Local Government: Municipal Structures Act, 1998	Section 90
Act No. 29 of 2000	Local Government: Cross-boundary Municipalities Act, 2000	The whole
Act No. 69 of 2000	Re-determination of the Boundaries of Cross-boundary Municipalities Act, 2000	The whole.
Act No. 6 of 2005	Re-determination of the Boundaries of Cross-boundary Municipalities Act, 2005	The whole

SCHEDULE 2**Demarcation of newly established municipalities in a province**

Designation of municipality	Demarcation notice and date	New designation of municipality (where applicable)	Province in respect of which demarcation is deemed
Metropolitan Municipality Ekurhuleni	Identified by Map No. 1 of the Schedule to Notice 1179 of 2005	EKU (Map No. 33 of the Schedule to Notice 1594 of 2005)	Gauteng
Metropolitan Municipality Tshwane	Identified by Map No. 2 of the Schedule to Notice 1179 of 2005	TSH (Map No. 32 of the Schedule to Notice 1594 of 2005)	Gauteng
CBDC2 known as Metsweding District Municipality	Identified by Map No. 7 of the Schedule to Notice 1179 of 2005	DC46 (Map No. 13 of the Schedule to Notice 1594 of 2005)	Gauteng
CBLC2 known as Kungwini Local Municipality	Identified by Map No. 8 of the Schedule to Notice 1179 of 2005	GT02b2 (Map No. 14 of the Schedule to Notice 1594 of 2005)	Gauteng
CBDC3 known as Sekhukhune District Municipality	Identified by Map No. 10 of the Schedule to Notice 1179 of 2005	DC47 (Map No. 15 of the Schedule to Notice 1594 of 2005)	Limpopo
CBLC3 known as Greater Marble Hall Local Municipality	Identified by Map No. 11 of the Schedule to Notice 1179 of 2005	NP03a4 (Map No. 16 of the Schedule to Notice 1594 of 2005)	Limpopo
CBLC4 known as Greater Groblersdal Local Municipality	Identified by Map No. 12 of the Schedule to Notice 1179 of 2005	NP03a5 (Map No. 17 of the Schedule to Notice 1594 of 2005)	Limpopo
CBLC5 known as Greater Tubatse Local Municipality	Identified by Map No. 13 of the Schedule to Notice 1179 of 2005	NP03a6 (Map No. 18 of the Schedule to Notice 1594 of 2005)	Limpopo
DC9 known as Frances Baard District Municipality	Identified by Map No. 24 of the Schedule to Notice 1179 of 2005	DC9 (Map No. 11 of the Schedule to Notice 1594 of 2005)	Northern Cape
CBLC7 known as Phokwane Local Municipality	Identified by Map No. 25 of the Schedule to Notice 1179 of 2005	NC094 (Map No. 12 of the Schedule to Notice 1594 of 2005)	Northern Cape
CBDC1 known as Kgalagadi District Municipality	Identified by Map No. 3 of the Schedule to Notice 1179 of 2005	DC45 (Map No. 6 of the Schedule to Notice 1594 of 2005)	Northern Cape
CBLC1 known as Ga-Segonyana Cross-boundary Local Municipality	Identified by Map No. 4 of the Schedule to Notice 1179 of 2005	NC452 (Map No. 8 of the Schedule to Notice 1594 of 2005)	Northern Cape
NW1a1 known as Moshaweng Local Municipality	Identified by Map No. 5 of the Schedule to Notice 1179 of 2005	NC451 (Map No. 7 of the Schedule to Notice 1594 of 2005)	Northern Cape

SCHEDULE 3**Deemed establishment of new municipalities in a province**

Section 12 notice	Designation of municipality	New designation of municipality (where applicable)	Province in which new municipality is deemed to be established
Notice 3585 of 2005 (Gauteng)	Metropolitan Municipality Ekurhuleni	EKU (Map No. 33 of the Schedule to Notice 1594 of 2005)	Gauteng
Notice 3584 of 2005 (Gauteng)	Metropolitan Municipality Tshwane	TSH (Map No. 32 of the Schedule to Notice 1594 of 2005)	Gauteng
Notice 3587 of 2005 (Gauteng)	CBDC2 known as Metsweding District Municipality	DC46 (Map No. 13 of the Schedule to Notice 1594 of 2005)	Gauteng
Notice 3587 of 2005 (Gauteng)	CBLC2 known as Kungwini Local Municipality	GT02b2 (Map No. 14 of the Schedule to Notice 1594 of 2005)	Gauteng
Notice 3587 of 2005 (Gauteng)	GT02b1 known as Nokeng tsa Taemane	GT02b1	Gauteng
Notice 3586 of 2005 (Gauteng)	GT411 known as Mogale City Local Municipality	GT481 (Map No. 30 of the Schedule to Notice 1594 of 2005)	Gauteng
Notice 3586 of 2005 (Gauteng)	GT412 known as Randfontein Local Municipality	GT482 (Map No. 31 of the Schedule to Notice 1594 of 2005)	Gauteng
Notice 302 of 2000 (Northern Province)	CBDC3 known as Sekhukhune District Municipality	DC47 (Map No. 15 of the Schedule to Notice 1594 of 2005)	Limpopo
Notice 302 of 2000 (Northern Province)	CBLC3 known as Greater Marble Hall Local Municipality	NP03a4 (Map No. 16 of the Schedule to Notice 1594 of 2005)	Limpopo
Notice 302 of 2000 (Northern Province)	CBLC4 known as Greater Groblersdal Local Municipality	NP03a5 (Map No. 17 of the Schedule to Notice 1594 of 2005)	Limpopo
Notice 302 of 2000 (Northern Province)	CBLC5 known as Tubatse Local Municipality	NP03a6 (Map No. 18 of the Schedule to Notice 1594 of 2005)	Limpopo
Notice 130 of 2000 (Northern Cape), read with Notice 31 of 2000 (Northern Cape)	DC9 known as Frances Baard District Municipality	DC9 (Map No. 11 of the Schedule to Notice 1594 of 2005)	Northern Cape
Notice 130 of 2000 (Northern Cape), read with Notice 31 of 2000 (Northern Cape)	CBLC7 known as Phokwane Local Municipality	NC094 (Map No. 12 of the Schedule to Notice 1594 of 2005)	Northern Cape
Notice 131 of 2000 (Northern Cape), read with Notice 32 of 2000 (Northern Cape)	CBDC1 known as Kgalagadi District Municipality	DC45 (Map No. 6 of the Schedule to Notice 1594 of 2005)	Northern Cape
Notice 131 of 2000 (Northern Cape), read with Notice 32 of 2000 (Northern Cape)	CBLC1 known as Ga-Segonyana Cross-boundary Local Municipality	NC452 (Map No. 8 of the Schedule to Notice 1594 of 2005)	Northern Cape

SCHEDULE 4**Demarcation of newly established municipalities in a province**

Proposed demarcation of a municipality (Municipal Demarcation Board notice and date)	Proposed designation of municipality	Province in respect of which demarcation is deemed
Identified by Map No. 2 of the Schedule to Notice 1594 of 2005	KZ5a6 known as Umzimkulu Local Municipality	KwaZulu-Natal
Identified by Map No. 1 of the Schedule to Notice 1594 of 2005	DC43 known as Sisonke District Municipality	KwaZulu-Natal
Identified by Map No. 4 of the Schedule to Notice 1594 of 2005	DC44 known as Alfred Nzo District Municipality	Eastern Cape
Identified by Map No. 5 of the Schedule to Notice 1594 of 2005	EC05b2 known as Umzimvubu Local Municipality	Eastern Cape
Identified by Map No. 3 of the Schedule to Notice 1594 of 2005	EC05b3 known as Matatiele Local Municipality	Eastern Cape
Identified by Map No. 24 of the Schedule to Notice 1594 of 2005	MP325 known as Bushbuckridge Local Municipality	Mpumalanga
Identified by Map No. 23 of the Schedule to Notice 1594 of 2005	DC32 known as Ehlanzeni District Municipality	Mpumalanga
Identified by Map No. 20 of the Schedule to Notice 1594 of 2005	NP335 known as Maruleng Local Municipality	Limpopo
Identified by Map No. 19 of the Schedule to Notice 1594 of 2005	DC33 known as Mopani District Municipality	Limpopo
Identified by Map No. 29 of the Schedule to Notice 1594 of 2005	NW406 known as Merafong Local Municipality	North West
Identified by Map No. 28 of the Schedule to Notice 1594 of 2005	NW405 known as Westonaria Local Municipality	North West
Identified by Map No. 27 of the Schedule to Notice 1594 of 2005	DC40 known as Southern District Municipality	North West
Identified by Map No. 25 of the Schedule to Notice 1594 of 2005	DC48 known as West Rand District Municipality	Gauteng

SCHEDULE 5

Deemed establishment of new municipalities in a province

Proposed section 12 notice	Proposed designation of municipality	Province in which new municipality is deemed to be established	Designation of former municipality
Notice 1756 of 2005 (KwaZulu-Natal)	KZ5a6 known as Umzimkulu Local Municipality (Map No. 2 of the Schedule to Notice 1594 of 2005)	KwaZulu-Natal	EC05b1
Notice 1756 of 2005 (KwaZulu-Natal), read with Notice 344 of 2000 (KwaZulu-Natal)	DC43 known as Sisonke District Municipality (Map No. 1 of the Schedule to Notice 1594 of 2005)	KwaZulu-Natal	DC43
Notice 37 of 2005 (Eastern Cape)	DC44 known as Alfred Nzo District Municipality (Map No. 4 of the Schedule to Notice 1594 of 2005)	Eastern Cape	DC44
Notice 37 of 2005 (Eastern Cape)	EC05b2 known as Umzimvubu Local Municipality (Map No. 5 of the Schedule to Notice 1594 of 2005)	Eastern Cape	EC05b2
Notice 37 of 2005 (Eastern Cape)	EC05b3 known as Matatiele Local Municipality (Map No. 3 of the Schedule to Notice 1594 of 2005)	Eastern Cape	KZ5a3
Notice 516 of 2005 (Mpumalanga)	MP325 known as Bushbuckridge Local Municipality (Map No. 24 of the Schedule to Notice 1594 of 2005)	Mpumalanga	CBLC6
Notice 516 of 2005 (Mpumalanga)	DC32 known as Ehlanzeni District Municipality (Map No. 23 of the Schedule to Notice 1594 of 2005)	Mpumalanga	DC32
Notice 348 of 2005 (Limpopo)	NP335 known as Maruleng Local Municipality (Map No. 20 of the Schedule to Notice 1594 of 2005)	Limpopo	NP04a1
Notice 348 of 2005 (Limpopo)	DC33 known as Mopani District Municipality (Map No. 19 of the Schedule to Notice 1594 of 2005)	Limpopo	DC33
Notice 509 of 2005 (North West)	NW406 known as Merafong Local Municipality (Map No. 29 of the Schedule to Notice 1594 of 2005)	North West	CBLC8
Notice 510 of 2005 (North West)	NW405 known as Westonia Local Municipality (Map No. 28 of the Schedule to Notice 1594 of 2005)	North West	GT414
Notice 511 of 2005 (North West)	DC40 known as Southern District Municipality (Map No. 27 of the Schedule to Notice 1594 of 2005)	North West	DC40
Notice 3586 of 2005 (Gauteng)	DC48 known as West Rand District Municipality (Map No. 25 of the Schedule to Notice 1594 of 2005)	Gauteng	CBDC8
Notice 89 of 2005 (Northern Cape), read with Notice 32 of 2000 (Northern Cape)	NC451 known as Moshaweng Local Municipality (Map No. 7 of the Schedule to Notice 1594 of 2005)	Northern Cape	NW1a1

MEMORANDUM ON THE OBJECTS OF THE CROSS-BOUNDARY MUNICIPALITIES LAWS REPEAL BILL

1. BACKGROUND

- 1.1 The Constitution Twelfth Amendment Bill of 2005 seeks to amend the Constitution of the Republic of South Africa, 1996, so as to provide for the re-determination of the geographical areas of the provinces. The Constitution Twelfth Amendment Bill of 2005 also seeks to do away with cross-boundary municipalities.
- 1.2 In order to ensure a smooth transition from the cross-boundary municipality dispensation to a new dispensation where a municipality would only be located in one particular province, the Cross-boundary Municipalities Laws Repeal Bill ("the Bill") provides for consequential arrangements. The Bill also seeks to repeal all the cross-boundary municipalities laws.

2. OBJECTS OF BILL

- 2.1 The Bill seeks to dispense with the provisions of the Local Government: Municipal Demarcation Act, 1998 (Act No. 27 of 1998), and the Local Government: Municipal Structures Act, 1998 (Act No. 117 of 1998), by allowing the demarcation of a particular cross-boundary municipality as reflected in Schedule 2 to the Bill to be the demarcation of the newly established municipality (a municipality whose boundaries fall within one province).
- 2.2 The Bill seeks to allow for a section 12 notice as reflected in Schedule 3 to the Bill to be a section 12 notice of the newly established municipality (a municipality whose boundaries fall within one province) issued by the MEC for local government of the corresponding province as indicated in Schedule 3.
- 2.3 The Bill seeks to provide that the newly established municipality is the successor in law of the municipality reflected in Schedule 3.
- 2.4 The Bill further seeks to allow the MEC for local government and the Electoral Commission to take any steps to prepare for the general elections of all municipal councils of the newly established municipalities (municipalities whose boundaries fall within one province).
- 2.5 The Bill seeks to dispense with the provisions of the Local Government: Municipal Demarcation Act, 1998 (Act No. 27 of 1998), and the Local Government: Municipal Structures Act, 1998 (Act No. 117 of 1998), by allowing proposed demarcations of particular municipalities, as reflected in Schedule 4 to the Bill, to be regarded as demarcations of municipalities that reflect a new composition or location in a particular province.
- 2.6 The Bill seeks to allow for proposed section 12 notices, as reflected in Schedule 5 to the Bill, to be regarded as section 12 notices of municipalities that reflect a new composition or location in a particular province.

- 2.7 The Bill seeks to provide for municipalities that have a new composition or location in a particular province to be regarded as the successors in law of the former municipalities reflected in the last column of Schedule 5.
- 2.8 The Bill further seeks to allow the MEC for local government and the Electoral Commission to take any steps to prepare for the general elections of all municipal councils of municipalities that reflect a new composition or location in a particular province.
- 2.9 The Bill seeks to repeal all local government laws providing for cross-boundary municipalities.
- 2.10 The Bill contains a savings clause to ensure that licences, permits or authorisations issues and appointments made in terms of laws applicable in a releasing province continue to have the force of law where a particular area is relocated in another province (the receiving province) as a result of the provisions of the Bill.

3. BODIES/ ORGANISATIONS CONSULTED

- The Municipal Demarcation Board
- MECs for local government
- The Department of Justice and Constitutional Development
- The Bill was published for public comment in terms of section 154(2) of the Constitution.

4. FINANCIAL IMPLICATIONS FOR STATE

An adjustment to provincial equitable share allocations based on the provincial shifts in population will need to be effected.

5. IMPLICATIONS FOR PROVINCES

Provincial functions performed in affected municipalities, either by provincial governments or on an agency basis by the affected municipalities, would need to be addressed. This might also require adjustments to provincial budgets in order to address the shift in functions performed from one province to another.

6. IMPLICATIONS FOR MUNICIPALITIES

Former cross-boundary municipalities will, as from the local government elections, be located in one particular province. One district municipality will have to be disestablished.

7. PARLIAMENTARY PROCEDURE

- 7.1 The State Law Advisers and the Department of Provincial and Local Government are of the opinion that the Bill must be dealt with in accordance with the procedure prescribed by section 75 of the Constitution since it contains no provision to which the procedure set out in section 74 or 76 of the Constitution applies.
- 7.2 The State Law Advisers are of the opinion that it is not necessary to refer this Bill to the National House of Traditional Leaders in terms of section 18(1)(a) of the Traditional Leadership and Governance Framework Act, 2003 (Act No. 41 of 2003), since it does not contain provisions pertaining to customary law or customs of traditional communities.