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# STAATSKOERANT

VAN DIE REPUBLIEK VAN SUID-AFRIKA

REPUBLIC OF SOUTH AFRICA

# GOVERNMENT GAZETTE

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KANTOOR VAN DIE STAATSPRESIDENT

STATE PRESIDENT'S OFFICE

No. 1291.

25 Junie 1986

No. 1291.

25 June 1986

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

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

No. 58 van 1986: Wysigingswet op Swart Plaaslike Owerhede, 1986.

No. 58 of 1986: Black Local Authorities Amendment Act, 1986.

## BLACK LOCAL AUTHORITIES AMENDMENT ACT, 1986

Act No. 58, 1986

## GENERAL EXPLANATORY NOTE:

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

## ACT

To amend the Black Local Authorities Act, 1982, so as to delete, define or further define certain expressions; to provide for the establishment of town committees; to provide that community councils be deemed to be town committees; to confer on the Minister the power to determine that a local authority be excluded from the area of a local government body; to provide that members of a town council, town committee or local authority committee which may be dissolved, may, for the unexpired period of their term of office, remain members of any city council or a town council which may be established in the place thereof; to extend the qualifications for members and voters; to provide that a local authority may under certain circumstances increase tariffs for services rendered by it; to further regulate the appointment of law enforcement officers and their powers; to abolish the requirement that financial statements be tabled; to further regulate the delegation of powers; to extend the power of the Minister to make regulations; and to provide for the interpretation of certain references in other laws and certain expressions in the said Act; and to provide for incidental matters.

*(English text signed by the State President.)*  
*(Assented to 18 June 1986.)*

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

1. Section 1 of the Black Local Authorities Act, 1982 (hereinafter referred to as the principal Act), is hereby amended—
- 5     (a) by the substitution in subsection (1) for the definition of “chief executive officer” of the following definition:  
       “‘chief executive officer’, in relation to a city council, a town council **[or a village council]**, a town committee or a local authority committee, means a person  
 10     appointed under section 30 (1) as the town clerk of a **[town]** city council, or the **[village]** town secretary of a **[village council]** town council or the secretary of a town committee or of a local authority committee;”;
- 15     (b) by the insertion in subsection (1) after the definition of “chief executive officer” of the following definition:  
       “‘city council’ means a city council established under section 2 (1) (a) or (b);”;
- 20     (c) by the substitution in subsection (1) for the definition of “Department” of the following definition:  
       “‘Department’ means the Department of **[Co-operation and Development]** Constitutional Development and Planning;”;
- Amendment of section 1 of Act 102 of 1982, as amended by section 10 of Act 102 of 1983 and section 69 of Act 4 of 1984.

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- (d) by the substitution in subsection (1) for the definition of "Director-General" of the following definition:  
 "‘Director-General’ means the Director-General: **[Co-operation and Development] Constitutional Development and Planning;**";
- (e) by the substitution in subsection (1) for the definition of "local authority" of the following definition:  
 "‘local authority’ means a city council, a town council, **[or a village council] a town committee or a local authority committee;**";
- (f) by the insertion in subsection (1) after the definition of "local authority" of the following definition:  
 "‘local authority committee’ means a local authority committee established under section 2 (1) (a);";
- (g) by the deletion in subsection (1) of the definition of "local committee";
- (h) by the substitution in subsection (1) for the definition of "local government body" of the following definition:  
 "‘local government body’ means an institution or body contemplated in section 84 (1) (f) of the **[Republic of South Africa Constitution] Provincial Government Act, 1961 (Act No. 32 of 1961);**";
- (i) by the substitution in subsection (1) for the definition of "Minister" of the following definition:  
 "‘Minister’ means the Minister of **[Co-operation and Development] Constitutional Development and Planning;**";
- (j) by the insertion in subsection (1) after the definition of "this Act" of the following definition:  
 "‘town committee’ means a town committee established under section 2 (1) (a);";
- (k) by the substitution in subsection (1) for the definition of "town council" of the following definition:  
 "‘town council’ means a town council established under section 2 (1) (a) **[or (b), and includes a town council to which the status of a city council was awarded under subsection (1) (c) of that section];**"; and
- (l) by the deletion in subsection (1) of the definition of "village council".

2. (1) The following section is hereby substituted for section 2 of the principal Act:

2. (1) The Minister may by notice in the *Gazette*—

- (a) after consultation with the administrator of the province in which and with the development board in the administration area of which the area in question is situated, establish under a name mentioned in the notice a city council, a town council, a town committee or a local authority committee for an area defined in terms of subsection (2) (a);
- (b) at the request of or after consultation with any town council or two or more town councils, dissolve that town council or those town councils, and establish under a name mentioned in the notice a town council or a city council for the area for which that town council was or those town councils were established;
- (c) at the request of or after consultation with any town committee or local authority committee or two or more town committees or local authority committees, as the case may be, dissolve any town committee or local authority committee or two or more town committees or local authority committees and establish under a name mentioned in the notice a town council for the area for which that town committee or local authority committee was or those town committees or

Substitution of section 2 of Act 102 of 1982, as amended by section 69 of Act 4 of 1984 and section 7 of Act 110 of 1985.

"Establishment of city councils, town councils, town committees and local authority committees.

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local authority committees, as the case may be, were established;

- (d) alter the name of a local authority;
- (e) dissolve a local authority at the request of or after consultation with that local authority if in the opinion of the Minister the need for it no longer exists.

(2) An administrator may by notice in the *Gazette* and after consultation with the Minister and with the development board in the administration area of which the area in question is situated—

- (a) define an area consisting of one or more townships or a portion or portions of a township or townships;
- (b) alter the area of jurisdiction of a local authority after consultation with the local authority concerned, by excluding any portion therefrom or by adding thereto a township or an area or portion of a township or area.

(3) For the purposes of this Act—

(a) a community council established under section 2 (1) of the Community Councils Act, 1977 (Act No. 125 of 1977), and which still exists immediately prior to the commencement of this paragraph as substituted by the Black Local Authorities Amendment Act, 1986, shall from such commencement be deemed to be a town committee and the area of such community council shall be deemed to be the area of such town committee, and any reference in any law or document to a community council shall be construed as a reference to a town committee;

(b) a local committee as defined in this Act immediately prior to the commencement of the Black Local Authorities Amendment Act, 1986, shall be deemed to be a local authority committee and the area of such local committee shall be deemed to be the area of such local authority committee and any reference in any law or document to a local committee shall be construed as a reference to a local authority committee;

(c) a village council as defined in this Act immediately prior to the commencement of the Black Local Authorities Amendment Act, 1986, shall be deemed to be a town council and the area of such village council shall be deemed to be the area of such town council and any reference in any law or document to a village council shall be construed as a reference to a town council.

(4) A local authority established under this section or which is deemed thereunder to be a local authority, shall be a juristic person.

(5) A notice referred to in subsection (1) may in addition—

(a) in the case of a town council which has been dissolved under paragraph (b) of that subsection, provide that—

(i) the town council shall be dissolved as from the date of the first ordinary meeting of the town council or city council established for an area for which the town council was established or which includes the area of the town council;

(ii) anything done by or in respect of that town council under this Act or any other law shall, after its dissolution and subject to the limitations, qualifications and conditions specified in the notice, be deemed to have

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- been done by or in respect of that town council or city council, as the case may be;
- 5 (iii) the assets, liabilities, rights and obligations of that town council shall as from the date on which the town council is dissolved devolve upon that town council or city council, as the case may be;
- 10 (iv) any person who immediately before the dissolution of that town council held an appointment as an employee of that town council shall, as from the date on which the town council is dissolved and subject to such conditions and in accordance with such directives as may be contained in the notice, be appointed by the town council or city council to a post under its establishment;
- 15 (b) in the case of a local authority which is dissolved under paragraph (e) of the said subsection, provide—
- 20 (i) for the winding-up of the assets, liabilities, rights and obligations of that local authority by a person designated for that purpose by the Minister;
- 25 (ii) for the disposal of any remaining assets of that local authority after all its debts have been paid;
- (c) provide that when a town council, town committee or local authority committee is dissolved under subsection (1) (b) or (c) and a city council or town council is established under the said subsection, the members of such town council, town committee or local authority committee, as the case may be, shall, for the unexpired period of their term of office, be deemed to be members of the city council or town council so established, as the case may be.
- 30 (6) (a) The provisions of subsection (5) (a) shall *mutatis mutandis* apply in respect of a town committee or a local authority committee, as the case may be, dissolved under subsection (1) (c).
- 35 (b) The provisions of subsection (5) (a) (ii), (iii), (iv) and (c) shall *mutatis mutandis* apply in respect of a community council deemed to be a town committee under subsection (3) (a).
- 40 (7) A registrar as defined in section 102 of the Deeds Registries Act, 1937 (Act No. 47 of 1937), shall, on submission to him of a certificate by the Minister that a right in respect of immovable property described in such certificate devolved upon a city council or town council, as the case may be, by virtue of subsection (5) (a) (iii) or (6), make such entries or endorsements as he may deem necessary in or on any relevant register, certificate or other document in his office or laid before him, in order to register such right in the name of that city council or town council, as the case may be.
- 45 (8) No stamp duty or office or other fees shall be payable in respect of a registration contemplated in subsection (7).
- 50 (9) If an administrator intends to alter the area of jurisdiction of a local authority under subsection (2) (b), he may direct the local authority concerned to cause a survey by a land surveyor of any land determined by the administrator to be carried out at its own expense, and if that local authority fails to comply with that direction within a reasonable period the administrator may cause that survey to be carried out
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and may recover the costs thereof from the local authority.

5 (10) The Minister may, if he deems it expedient, by notice in the *Gazette* declare that the area of a local authority, or of a local authority to be established under subsection (1) (a), which is situated in the area of jurisdiction of a local government body, shall be excluded from the area of jurisdiction of such local government body as from a date mentioned in the said notice, and the Minister may direct the local authority to cause a survey by a land surveyor of any land determined by him to be carried out at its own expense, and if that local authority fails to comply with that direction within a reasonable period, the Minister may cause that survey to be carried out and recover the costs thereof from the local authority.”

10 (2) Paragraph (a) of subsection (3) of section 2 of the principal Act as substituted by subsection (1) of this section shall come into operation on a date fixed by the State President by proclamation in the *Gazette*.

3. Section 4 of the principal Act is hereby repealed.

Repeal of section 4 of Act 102 of 1982, as substituted by section 11 of Act 102 of 1983.

4. Section 5 of the principal Act is hereby repealed.

Repeal of section 5 of Act 102 of 1982.

5. Section 7 of the principal Act is hereby amended by the substitution for subsection (1) of the following subsection:

Amendment of section 7 of Act 102 of 1982.

25 “(1) An election to elect the members of a local authority shall be held as soon as may be practicable after the establishment of that local authority, or after the expiration of the term of office of members referred to in section 2 (5) (c), and from time to time thereafter at intervals not exceeding the prescribed period which shall not be less than 3 years or more than 5 years.”

6. Section 8 of the principal Act is hereby amended—

Amendment of section 8 of Act 102 of 1982.

35 (a) by the substitution in subsection (2) for the words preceding paragraph (a) of the following words:

“Subject to the provisions of subsection (3) no person shall be competent to be elected as a member of a local authority or to be such a member, if—”;

40 (b) by the insertion of the following paragraph after paragraph (b) of subsection (2):

“(bA) he has been convicted of an offence involving dishonesty or corruption;” and

(c) by the substitution for subsection (3) of the following subsection:

45 “(3) A member of a local authority who is incompetent under subsection (2) (bA) or (c) to be elected as a member of a local authority or to be such a member or who has been declared incompetent under section 49 (2) to hold office as a member of a local authority shall for a period of five years after he became incompetent or after such declaration not be competent to be elected or appointed as such a member.”



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## 7. Section 23 of the principal Act is hereby amended—

Amendment of  
section 23 of  
Act 102 of 1982.

- (a) by the substitution for subparagraph (i) of paragraph (c) of subsection (1) of the following subparagraph:

5 “(i) subject to the provisions of any other law, acquire immovable property, or any right in respect of immovable property **[situated in its area]**”;

- (b) by the substitution for subparagraph (i) of paragraph (l) of subsection (1) of the following subparagraph:

10 “(i) in the case of a **[village] town council, a town committee or a local authority committee, such matters set forth in the Schedule as the Minister may from time to time by notice in the *Gazette* determine with reference to **[village] town councils, town committees or local authority committees generally** or with reference to the **[village] town council, town committee or local authority committee concerned; and**”;**

- (c) by the addition to subsection (1) of the following paragraph:

20 “(q) may from time to time by by-law determine the tariffs for services rendered with regard to matters set forth in the Schedule or for the supply or use of any of the facilities referred to in the Schedule: Provided that in a case where any supplier of services to any local authority from time to time increases the tariffs to be paid for such services supplied by it, the local authority may by resolution increase all or any of the tariffs payable by its consumers in respect of the supply or provision by it of services which are affected by such increase, to an extent which the local authority deems sufficient to cover the tariffs payable by the local authority from a date on which the local authority is or becomes liable for that increased tariff: Provided further that such resolution shall lapse after six months from the date on which it was passed unless the increase is made known by by-law before the expiry of the said six months;” and

- (d) by the substitution for subsection (2) of the following subsection:

40 “(2) Unless, in the case of a **[village] town council, a town committee or a local authority committee, a notice referred to in subsection (1) (l) (i) or, in the case of a **[town] city council, the Minister by notice in the *Gazette*, generally or in a particular case, otherwise provides, the right, power, function, duty or obligation with which a local authority is invested and charged in terms of subsection (1) (l) shall in respect of the area of that local authority devolve upon that local authority to the exclusion of the development board or local government body or any other authority which immediately prior to the publication of the notice under subsection (1) (l) (i) or the establishment of the local authority, as the case may be, was invested and charged in respect of that area with that right, power, function, duty or obligation.**”**

8. Section 24 of the principal Act is hereby amended by the substitution for paragraph (b) of subsection (2) of the following paragraph:

Amendment of  
section 24 of  
Act 102 of 1982,  
as amended by  
section 69 of  
Act 4 of 1984.

60 “(b) which, with regard to any such matter, has been or may

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be assigned to any development board or any local government body by or under any law.”.

9. Section 25 of the principal Act is hereby amended by the substitution for paragraph (a) of subsection (1) of the following paragraph: Amendment of section 25 of Act 102 of 1982.

5 “(a) if such local authority is a [village] town council, a town committee or a local authority committee, contain directions with respect to the manner in which, the conditions on which or the circumstances in which any such  
10 right, power, function, duty or obligation may be exercised or shall be performed or fulfilled by the [village] town council, town committee or local authority committee;”.

15 10. Section 30 of the principal Act is hereby amended— Amendment of section 30 of Act 102 of 1982, as amended by section 15 of Act 102 of 1983.

(a) by the substitution for subsection (1) of the following subsection:

20 “(1) A local authority shall appoint a person, in the case of a local authority which is a [town] city council, as the town clerk of that [town] city council, or in the case of a local authority which is a [village] town council, as the [village] town secretary of that [village] town council, or in the case of a local authority which is a town committee or a local authority committee, as the secretary of that town committee or local authority  
25 committee;” and

(b) by the substitution for subsection (2) of the following subsection:

30 “(2) The town clerk of a [town] city council shall be the chief executive officer of the [town] city council, [and] the [village] town secretary of a [village] town council shall be the chief executive officer of the [village] town council, and the secretary of a town committee or a local authority committee shall be the chief executive officer of the town committee or local authority  
35 committee.”.

11. Section 34 of the principal Act is hereby amended— Amendment of section 34 of Act 102 of 1982.

(a) by the insertion after paragraph (c) of subsection (1) of the following paragraph:

40 “(cA) the investigation of any offence or alleged offence therein;”;

(b) by the substitution for paragraph (d) of subsection (1) of the following paragraph:

45 “(d) the enforcement of by-laws made by it and by-laws and regulations made by the Minister under [section 27] this Act;” and

(c) by the insertion after subsection (2) of the following subsection:

50 “(2A) For the purposes of section 5 of the Animals Protection Act, 1962 (Act No. 71 of 1962), and section 14 of the Mental Health Act, 1973 (Act No. 18 of 1973), any person appointed by the local authority under subsection (1) shall within the area of jurisdiction of that local authority be deemed to be a police officer or police official, as the case may be.

55 (2B) Notwithstanding anything to the contrary contained in this Act or any other law, any person appointed under subsection (1) may exercise his powers and perform his functions in the area of jurisdiction of any other local authority with the consent of the local authority who appointed him, the other local authority and the District Commandant of Police in whose area the  
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other local authority is situated, in which case it shall be deemed that he has been appointed by that other local authority under subsection (1).”.

12. Section 41 of the principal Act is hereby amended by the substitution for subsection (4) of the following subsection: Amendment of section 41 of Act 102 of 1982.

5 “(4) Within three months after the date of the meeting contemplated in subsection (1) (b), the local authority shall, in the prescribed manner, comment on the financial statements and the report referred to in subsection (1) (b), and the accounting officer shall forthwith submit such comments to the Director-General, who may take such further steps as he may deem necessary.”.

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13. Section 50 of the principal Act is hereby amended by the substitution for subsection (1) of the following subsection: Amendment of section 50 of Act 102 of 1982.

15 “(1) Whenever in any judicial proceedings instituted by a local authority for the recovery of an amount due to it in respect of rent or the provision of accommodation or any [municipal] service, the question arises whether a person bearing a particular name did or did not on any particular day or during any particular period pay any amount to that local authority, a writing purporting to be an affidavit made by a person who in that affidavit alleges that he is an employee of that local authority and that no person bearing that name paid any amount to the local authority on that day or during that period, shall on its mere production at those proceedings by any person be *prima facie* proof of the facts stated therein.”.

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14. The following section is hereby substituted for section 52 of the principal Act: Substitution of section 52 of Act 102 of 1982.

30 “Application of Act 94 of 1970. 52. For the purposes of the Limitation of Legal Proceedings (Provincial and Local Authorities) Act, 1970 (Act No. 94 of 1970), a [town] city council, [or] a [village] town council, a town committee or a local authority committee shall be deemed to be a local authority as defined in section 1 of that Act.”.

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15. The following section is hereby substituted for section 55 of the principal Act: Substitution of section 55 of Act 102 of 1982.

40 “Delegation by Minister, administrator and director. 55. (1) The Minister may delegate any power conferred upon him by or under this Act—  
(a) to an administrator; or  
(b) excluding a power referred to in section 2, 27, 29 or 56 or to be exercised by notice in the *Gazette*, to an officer in the Department.  
(2) The administrator may with the approval of the Minister delegate any power conferred upon him by or under this Act, excluding a power referred to in sections 2, 27, 29 and 56 or to be exercised by notice in the *Gazette*, to any officer in the provincial administration in question or any officer in the employment of a local government body in his area or authorize any such officer to perform any duty assigned to him by or under this Act.

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55 [(2)] (3) The director may with the approval of the Director-General delegate any power conferred upon him by this Act or any other law to an officer in the Department or authorize any

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such officer to perform any duty assigned to him by this Act or any other law.

5 **[(3)] (4)** No delegation of a power under subsection (1), **[or]** (2) or (3) shall prevent the exercise of the relevant power by the Minister, the administrator or the director himself, as the case may be.”.

16. Section 56 of the principal Act is hereby amended—

10 (a) by the deletion of paragraph (e) of subsection (1);  
(b) by the substitution for paragraph (f) of subsection (1) of the following paragraph:

Amendment of section 56 of Act 102 of 1982, as amended by section 69 of Act 4 of 1984.

15 “(f) the recusal of members of a local authority, an executive committee or a special committee referred to in section 21 **[or a local committee]** from participation in the proceedings of a meeting of such local authority, executive committee or special committee **[or local committee]** on the ground of personal, pecuniary or other interests in a matter under consideration by such a meeting;”;

20 (c) by the substitution for paragraph (g) of subsection (1) of the following paragraph:

25 “(g) the requirements with which members of a local authority or an executive committee **[or a local committee]** shall comply to obtain leave of absence from a meeting of such a local authority or executive committee **[or local committee]**.”.

17. The following section is hereby inserted in the principal Act after section 56A:

Insertion of section 56B in Act 102 of 1982.

30 “Interpretation of certain references in other laws. **56B.** Save as is otherwise provided in any law or where the context thereof otherwise indicates any reference in such other law to institutions or bodies referred to in section 84 (1) (f) of the Provincial Government Act, 1961 (Act No. 32 of 1961), shall be construed as a reference also to a local authority referred to in this Act.”.

18. (1) The principal Act is hereby amended by the substitution for the expressions “local committee”, “town council” and “village council”, and “plaaslike bestuur” and “plaaslike bestuursliggaam” in the Afrikaans text, wherever they occur, of the words “local authority committee”, “city council”, “town council”, “plaaslike owerheid” and “plaaslike owerheidsliggaam”, respectively.

Substitution and interpretation of certain expressions.

45 (2) From the commencement of this Act any reference in any regulation or by-law made under the principal Act or in any document to “local committee”, “town council”, “village council”, and “plaaslike bestuur” and “plaaslike bestuursliggaam” in the Afrikaans text, shall be construed as a reference to “local authority committee”, “city council”, “town council”, “plaaslike owerheid” and “plaaslike owerheidsliggaam”, respectively.

50 19. The following section is hereby substituted for section 57 in the Afrikaans text of the principal Act:

Substitution of section 57 of Act 102 of 1982.

55 “Kort titel en inwerkingtreding. **57.** Hierdie Wet heet die Wet op Swart Plaaslike **[Besture]** Owerhede, 1982, en tree in werking op ’n datum wat die Staatspresident by proklamasie in die *Staatskoerant* bepaal.”.

20. Item 29 of the Schedule to the principal Act is hereby repealed.

Repeal of item 29 of the Schedule to Act 102 of 1982.

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

Substitution of  
long title of  
Act 102 of 1982.

## "ACT

5 To provide for the establishment of local authority committees, [village] town councils, [and town] city councils and town committees for Black persons in certain areas; for the appointment of a Director of Local Government; and for incidental matters."

22. This Act shall be called the Black Local Authorities Short title.  
10 Amendment Act, 1986.