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STAATSKOERANT

VAN DIE REPUBLIEK VAN SUID-AFRIKA

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GOVERNMENT GAZETTE

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KANTOOR VAN DIE STAATSPRESIDENT

STATE PRESIDENT'S OFFICE

No. 1407.

1 Julie 1986

No. 1407.

1 July 1986

Hierby word bekend gemaak dat die Staatspresident sy
⇒dkeuring geheg het aan die onderstaande Wet wat
⇒rby 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. 75 van 1986: Wet op die Afskaffing van Ontwikke-
lingsliggame, 1986.

No. 75 of 1986: Abolition of Development Bodies Act,
1986.

ABOLITION OF DEVELOPMENT BODIES ACT, 1986

Act No. 75, 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 provide for the abolition of certain bodies; for the transfer of the powers, assets, liabilities, rights, duties, obligations and staff of such a body to a public authority; and to provide for matters incidental thereto.

(Afrikaans text signed by the State President.)
(Assented to 27 June 1986.)

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

1. In this Act, unless the context indicates otherwise—

Definitions.

“development body” means—

- 5 (a) a development board referred to in section 3 of the Black Communities Development Act, 1984 (Act No. 4 of 1984);
- 10 (b) the Transvaal Board for the Development of Peri-Urban Areas established by section 2 of the Transvaal Board for the Development of Peri-Urban Areas Ordinance, 1943 (Ordinance No. 20 of 1943), of the Transvaal;
- 15 (c) a divisional council established under section 8 of the Divisional Councils Ordinance, 1976 (Ordinance No. 18 of 1976), of the Cape of Good Hope;
- (d) the Development and Services Board mentioned in section 1 of the Development and Services Board Ordinance, 1941 (Ordinance No. 20 of 1941), of Natal; or
- 20 (e) a regional water services corporation established under section 7 of the Water Services Ordinance, 1963 (Ordinance No. 27 of 1963), of Natal;

“Minister” means the Minister of Constitutional Development and Planning;

25 “public authority” means—

- (a) a Minister of the Republic appointed under the Republic of South Africa Constitution Act, 1983 (Act No. 110 of 1983), administering a department of State;
- 30 (b) an Administrator appointed in terms of section 7 of the Provincial Government Act, 1986;
- (c) a regional services council established under section 3 of the Regional Services Councils Act, 1985 (Act No. 109 of 1985);
- 35 (d) a local authority referred to in section 1 of the Regional Services Councils Act, 1985; or
- (e) any other body established by or under any law and approved by the Minister.

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2. (1) The development bodies referred to in paragraphs (a) and (b) of the definition of "development body" are hereby abolished with effect from 1 July 1986. Abolition of development bodies.
- (2) Notwithstanding the provisions of any other law, the Minister may by notice in the *Gazette* abolish any development body referred to in paragraph (c), (d) or (e) of the definition of "development body" with effect from a date mentioned in such notice, which date shall not be later than 30 June 1987.
- (3) The Minister shall exercise the powers conferred upon him by subsection (2) after consultation with—
- (a) the Administrator of the province in which the development body concerned is situated;
 - (b) the development body concerned; and
 - (c) any other body or person that he deems necessary.
- (4) A member or alternate member of any development body abolished in terms of the provisions of subsection (1) or (2) shall vacate his office with effect from the date of such abolition.
3. (1) (a) Notwithstanding anything to the contrary in any law contained, all the assets, liabilities, rights, duties and obligations of the development bodies referred to in column 1 of Schedule 1 shall, with effect from 1 July 1986, vest in the Administrators of the various provincial administrations mentioned in column 2 of that Schedule, who shall administer the assets, liabilities, rights, duties and obligations of each of the development bodies so vesting in them as a separate entity until they are dealt with in terms of the provisions of subsection (2). Transfer of assets, liabilities, rights, duties and obligations.
- (b) Notwithstanding the provisions of section 20 of the Black Communities Development Act, 1984 (Act No. 4 of 1984), and section 33 of the Transvaal Board for the Development of Peri-Urban Areas Ordinance, 1943, of Transvaal, the provincial secretary concerned shall be the accounting officer in respect of money and property vesting in the Administrator in terms of paragraph (a).
- (2) (a) The Minister may, subject to such conditions as he may determine, by notice in the *Gazette* transfer the assets, liabilities, rights, duties and obligations referred to in subsection (1) (a) from the Administrator in which they so vest to such public authority as he may deem fit, with effect from a date mentioned in the notice.
- (b) The assets, liabilities, rights, duties and obligations of any development body abolished in terms of section 2 (2) shall as from the date of such abolition, pass to such public authority and subject to such conditions as the Minister may determine by notice in the *Gazette*.
- (3) The Minister shall exercise the powers conferred upon him by subsection (2) with the concurrence of the Minister of Finance.
- (4) (a) Immovable property forming part of the assets referred to in subsection (1) (a) shall not, while it so vests in the Administrator, be registered in his name.
- (b) Immovable property which would have been registered in the name of a development body but for the adoption of this Act, shall, notwithstanding the provisions of this Act, be registered in the name of the development body concerned.
- (c) Notwithstanding the provisions of the Deeds Registries Act, 1937 (Act No. 47 of 1937), any immovable property forming part of the assets referred to in subsection (2) (a) shall be registered in the name of the public authority in question as if it was transferred to it from the relevant development body referred to in subsection (1) (a).

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- (d) A registrar defined in section 102 of the Deeds Registries Act, 1937, shall, on submission to him of a certificate by the Minister that immovable property described in such certificate has been transferred to a public authority in terms of subsection (2), make such entries or endorsements as he may deem necessary in or on any relevant title deed, register, certificate or other document in his office or laid before him, in order to register such property in the name of that public authority.
- (e) No stamp duty or office or other fees shall be payable in respect of a registration contemplated in paragraph (d).

4. (1) Every person in the service of a development body referred to in column 1 of Schedule 1 on 30 June 1986 and who on 1 July 1986 would have been in the service of that development body but for the adoption of this Act, shall with effect from the latter date be placed in the service of the Administrator in control of the relevant provincial administration mentioned in column 2 of Schedule 1 opposite the name of that development board until such person is transferred to a public authority in terms of subsection (5) and is employed by that public authority.

(2) Before or after 1 July 1986 the services of any person referred to in subsection (1) shall not be terminated with or without a pension nor shall his post be declared to be redundant nor shall he obtain any right to retire with a view to or as a result of the abolition of the development body by which he was employed immediately prior to the date in question.

Transfer of staff.

(3) (a) Notwithstanding anything to the contrary in any law contained, but subject to the provisions of this Act, the provisions of the Labour Relations Act, 1956 (Act No. 28 of 1956), shall continue to apply to a person referred to in subsection (1) save in so far as the negotiation and determination of his remuneration in respect of his employment are concerned: Provided that in the case of any person who, in terms of subsection (5), is employed by a public authority referred to in paragraph (a) or (b) of the definition of "public authority", the said Act shall, as from the date of such transfer and taking into employment, only apply to the extent to which it applies to persons in the service of the State in respect of their services as such.

(b) Notwithstanding the provisions of subsection (5), the Administrator may in terms of the Regional Services Councils Act, 1985 (Act No. 109 of 1985), transfer or second any person referred to in subsection (1) or make the services of such person available to a public authority referred to in paragraph (c) of the definition of "public authority" as if this Act had not been adopted.

(4) (a) The provisions of any contract of service and the conditions of service applying to any person referred to in subsection (1) on 30 June 1986 and which would have applied to him on 1 July 1986 but for the adoption of this Act, shall without change, subject to the provisions of paragraph (b) and of subsection (3) (a), continue to apply to him until he is transferred to a public authority in terms of subsection (5) and is employed by that authority.

(b) The conditions of service referred to in paragraph (a) may, during the period referred to in subsection (1), be amended only on the recommendation of the Commission for Administration (hereinafter referred to as the "Commission"), provided that any such amendment shall result in more favourable conditions of service to the person concerned than those applying to him on 30 June 1986.

(5) (a) A person referred to in subsection (1) shall, subject to

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the provisions of paragraph (b), with effect from a date determined by the Minister, be transferred to and employed by such public authority as the Minister may, on the recommendation of the Commission, determine in terms of the laws governing the employment of staff by that public authority.

5 (b) A person referred to in paragraph (a) may be transferred to and employed by a public authority referred to in paragraph (d) of the definition of "public authority" only with his consent.

10 (6) If any person is in terms of subsection (5) transferred to and appointed in the service of a public authority referred to in paragraph (a) or (b) of the definition of "public authority", he shall be appointed and employed on the conditions applying to the appointment and service of officers and employees in the Public Service, unless the Commission, with the concurrence of the Minister of Finance, recommends other conditions: Provided that—

20 (a) the salary or salary scale of any person shall not be reduced on his transfer and appointment;

(b) vacation leave standing to the credit of any person with the development body concerned shall stand to his credit in the Public Service;

25 (c) pensionable service performed by any person in the service of any development body shall be deemed to be pensionable service performed by him in the service of the State;

30 (d) a person shall not as a consequence of such transfer and appointment acquire a retirement age which is less favourable than that which applied to him in the service of the development body;

35 (e) any person shall, within six months, or such longer period as the Minister of National Health and Population Development may determine, after his transfer to and appointment by the public authority concerned, be given a non-recurrent choice either to remain a member of the pension fund of which he was a member while in the service of the development body concerned or, subject to the conditions determined by the Minister of National Health and Population Development, to become a member of the pension fund applicable to officers or employees in the Public Service;

40 (f) any disciplinary steps instituted or being considered against such person in terms of the provisions of any law in respect of alleged misconduct committed before the date of his transfer and appointment shall be dealt with in terms of the provisions of the Public Service Act, 1957 (Act No. 54 of 1957), as if the person concerned was an officer or employee in the Public Service at the time when the misconduct was committed.

50 (7) If any person is in terms of subsection (5) transferred to an appointed in the service of a public authority referred to in paragraph (c) or (d) of the definition of "public authority", he shall be appointed and employed 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: Provided that the provisions of paragraph (f) of subsection (8) shall *mutatis mutandis* apply to such person.

60 (8) If any person is in terms of subsection (5) transferred to and appointed in the service of a public authority referred to in paragraph (e) of the definition of "public authority", he shall be appointed and employed on the conditions applying to the appointment and service of employees by such authority: Provided that—

65 (a) the salary or salary scale of any person shall not be reduced on his transfer and appointment;

(b) vacation leave standing to the credit of any person with

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- the development body concerned shall stand to his credit with such authority;
- (c) pensionable service performed by any person in the service of any development body shall be deemed to be pensionable service performed by him in the service of the public authority concerned;
- (d) a person shall not as a consequence of such transfer and appointment acquire a retirement age which is less favourable than that which applied to him in the service of the development body;
- (e) any person shall, within six months after his transfer to and appointment by the public authority concerned, be given a non-recurrent choice either to remain a member of the pension fund of which he was a member while in the service of the development body concerned or to become a member of the pension fund applicable to employees of the public authority concerned, subject to the laws and rules applicable to that pension fund;
- (f) any disciplinary steps instituted or being considered against such person in terms of the provisions of any law in respect of alleged misconduct or improper conduct committed before the date of his transfer and appointment shall be dealt with in terms of the provisions of the laws that apply to employees of the public authority concerned as if such person was an employee of that public authority at the time when the misconduct or improper conduct was committed.
- (9) If the Administrator appoints a person under the powers conferred upon him by this Act, the provisions of subsections (1), (3), (4), (5) and (6) or (7) or (8) shall *mutatis mutandis* apply to such person.
- (10) The Minister may, with effect from a date determined by him, place any person who is in the service of any development body referred to in paragraph (c), (d) or (e) of the definition of "development body"—
- (a) in the service of the Administrator of the province in which such development body is situated, and thereafter—
- (i) the provisions of subsections (2), (3), (4), (5) and (6) or (7) or (8) shall *mutatis mutandis* apply to such person; and
- (ii) any such person may at any time be seconded to, or his services may be placed at the disposal of, the development body by which he was employed prior to such transfer; or
- (b) after consultation with any public authority, in the service of that public authority, and thereafter such person shall be subject to the laws applying to an employee of that public authority: Provided that the provisions of subsection (6), (7) or (8), as the case may be, shall *mutatis mutandis* apply to him.
- (11) No person shall, in consequence of any recommendation or decision made or action taken in terms of subsection (5), (6), (8) or (10), be entitled to rely on any provision of the Labour Relations Act, 1956.

5. (1) The administration of any law or any provision thereof conferring a power or right or imposing a duty on a development body, shall—
- (a) in respect of a development body referred to in section 3 (1) (a), subject to the provisions of section 3 (1) (b), pass to the Administrator on the said date and thereafter to the public authority referred to in section 3 (2) (a) on the date mentioned in the notice in question;
- (b) in respect of a development body referred to in section 3 (2) (b), on the date in question pass to the public authority to which such transfer is made:
- Administration
of laws.

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Provided that a regional services council shall not in consequence of such transfer acquire any power to levy any tax on immovable property.

(2) Notwithstanding the provisions of the Provincial Government Act, 1986, the Administrator of the Orange Free State shall be competent and obliged to exercise, perform or fulfil the powers, rights, duties and obligations granted or assigned to or imposed upon him in terms of this Act in respect of the area contemplated in item 11 of column 1 of Schedule 1.

(3) Any person, except a person contemplated in section 2 (4), who, immediately prior to the abolition of a development body, exercised a power in any post or office, shall continue, unless clearly inappropriate, to perform the functions attached to that post or office as if this Act had not been adopted, unless the Administrator in whose service he has been placed or the public authority to the service of which he has been transferred, determines otherwise.

(4) If in the application of this Act or any law the administration of which has been transferred to a public authority under subsection (1), it appears that any provision thereof is in conflict with any other law or that administrative problems are being experienced, the State President may by proclamation in the *Gazette* make regulations in order to remove such conflict or administrative problems.

(5) A copy of any proclamation under subsection (4) shall be tabled in Parliament within 14 days after its promulgation if Parliament is then in ordinary session, or, if Parliament is not then in ordinary session, within 14 days after the commencement of the next ordinary session.

6. Unless it is clearly inappropriate in any particular case, any reference in any law or document to—

Interpretation of certain expressions.

(a) a development board shall with effect from 1 July 1986, be construed as a reference to the relevant Administrator of the province referred to in column 2 of Schedule 1;

(b) the Transvaal Board for the Development of Peri-Urban Areas established by section 2 of the Transvaal Board for the Development of Peri-Urban Areas Ordinance, 1943 (Ordinance No. 20 of 1943), of the Transvaal, shall with effect from 1 July 1986 be construed as a reference to the Administrator of the province of Transvaal;

(c) a person in the service of such board shall with effect from 1 July 1986 be construed as a reference to a person in the service of the Administrator referred to in section 4 (1).

(1) Any Administrator may, subject to such conditions as he may determine, appoint persons to advise him with regard to the execution of the functions entrusted to him in terms of the provisions of this Act.

Advice in respect of functions.

(2) The remuneration and allowances of such persons shall be determined by the Administrator with the concurrence of the Minister of Finance.

(1) Subject to the provisions of subsection (2), the laws mentioned in Schedule 2 are hereby repealed or amended to the extent indicated in the third column of that Schedule.

Repeal and amendment of laws.

(2) Anything done under any law repealed by subsection (1), or any act performed by a development body before the repeal of that law or the abolition of the development body by or under section 2, shall remain in force as if the law has not been repealed or the development body has not been abolished, and any reference in any such law to a development body or any functionary or an act of a functionary shall, subject to section 6, be construed as a reference to the relevant public authority to which the powers, assets, liabilities, rights, duties and obligations of the development body have been transferred or to a functionary designated by the public authority concerned.

9. This Act shall be called the Abolition of Development Bodies Act, 1986, and shall come into operation on 1 July 1986.

Short title and commencement.

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Schedule 1

Column 1	Column 2
1. The Transvaal Board for the Development of Peri-Urban Areas	Transvaal Provincial Administration
2. Development Board for the Central Transvaal area	Transvaal Provincial Administration
3. Development Board for the Highveld area	Transvaal Provincial Administration
4. Development Board for the Western Transvaal area	Transvaal Provincial Administration
5. Development Board for the Eastern Transvaal area	Transvaal Provincial Administration
6. Development Board for the Northern Transvaal area	Transvaal Provincial Administration
7. Development Board for the West Rand area	Transvaal Provincial Administration
8. Development Board for the East Rand area	Transvaal Provincial Administration
9. Development Board for the Natalia area	Natal Provincial Administration
10. Development Board for the Southern Orange Free State area	Orange Free State Provincial Administration
11. Development Board for the Orange Vaal area ..	Orange Free State Provincial Administration
12. Development Board for the Western Cape area ..	Cape of Good Hope Provincial Administration
13. Development Board for the Eastern Cape area ..	Cape of Good Hope Provincial Administration
14. Development Board for the Northern Cape area	Cape of Good Hope Provincial Administration

Schedule 2

No. and year of law	Title	Extent of repeal or amendment
Ordinance No. 20 of 1943, of Transvaal.	Transvaal Board for the Development of Peri-Urban Areas Ordinance, 1943.	<p>1. The repeal of sections 3, 4, 5, 6, 7, 8, 9, 10, 11 and 12.</p> <p>2. The amendment of section 13 by the substitution for subsection (1) of the following subsection:</p> <p>“(1) Minutes of the proceedings of every meeting of [the board or a committee of the board or] a local area committee or an advisory committee shall be regularly kept and shall contain properly arranged details of the business conducted at the meeting.”</p> <p>3. The repeal of section 17.</p> <p>4. The substitution for section 19 of the following section:</p> <p>“Conduct of member, officer or servant of the board. 19. The provisions of section 39 and subsections (2), (3) and (4) of section 40 and sections 42 to 47A, inclusive, of the Local Government Ordinance, 1939, shall apply <i>mutatis mutandis</i> to [a member] an officer or servant of the board: <u>Provided</u> that the words ‘council’, [‘councillor’] and ‘municipality’ in those sections shall, for the purpose of this section, be construed as meaning ‘board’ [‘member of the board’] and ‘area under the jurisdiction of the board’, respectively.”</p> <p>5. The repeal of section 20.</p> <p>6. The amendment of section 21A by the substitution for subsection (1) of the following subsection:</p> <p>“(1) Subject to the provisions of subsection (2), the board may delegate any function, duty or power, other than the power to make by-laws, to levy or remit rates, to make charges or to charge fees and to reduce such charges or fees or to obtain borrowing powers and to raise loans, [to a committee appointed in terms of section 20] to a local area committee, to the secretary or to any other officer of the board, subject to such conditions and restrictions as that board may deem expedient.”</p>

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No. and year of law	Title	Extent of repeal or amendment
Act No. 4 of 1984.	Black Communities Development Act, 1984.	<p>7. The repeal of section 23.</p> <p>8. The substitution for section 24 of the following section:</p> <p>“Meetings deemed to be duly held.</p> <p>24. Whenever the minutes of the proceedings of a meeting have been confirmed as set out in subsection (2) of section thirteen such meeting shall, unless the contrary is proved, be deemed to have been duly convened and held and all members at the meetings shall be deemed to have been duly qualified. Whenever the minutes of the proceedings of [a committee of the board or] a local area committee or an advisory committee have been so confirmed the committee concerned shall, unless the contrary is proved, be deemed to have been duly constituted and to have had power to deal with the matter referred to in the minutes.”.</p> <p>9. The repeal of section 40.</p> <p>1. The repeal of sections 4, 5, 6, 7, 8 and 9.</p> <p>2. The substitution for section 10 of the following section:</p> <p>“Prohibited practices.</p> <p>10. (1) Except with the consent of the board no [member or] person in the service of a board shall directly or indirectly—</p> <p>(a) accept any commission, remuneration or reward from any person other than the board for or in connection with his functions as [a member or] a person in the service of the board or in connection with any transaction to which the board is a party;</p> <p>(b) enter into any transaction with the board in a capacity other than that of [a member or] a person in the service of the board, unless such transaction is connected with the provision of accommodation to him in the development board area concerned or the rendering of a service to him as a resident of such development board area;</p> <p>(c) perform work for or on behalf of the board in a capacity other than that of [a member or] a person in the service of the board;</p> <p>(d) appear on behalf of any other person before the board or any committee or other institution of the board in a capacity other than that of [a member or] a person in the service of the board.</p> <p>(2) Any [member or any] person in the service of a board who has accepted any commission, remuneration or reward in contravention of the provisions of subsection (1) (a) shall pay to the board 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 board.”.</p> <p>3. The repeal of sections 11 and 12.</p> <p>4. The amendment of section 13 by the substitution for the words preceding paragraph (a) of the following words:</p>

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No. and year of law	Title	Extent of repeal or amendment
		<p>“A [member or a] person in the service of a board shall not disclose any information obtained by him in the exercise of his powers, the performance of his functions or the carrying out of his duties, except—”.</p> <p>5. The repeal of sections 14, 27, 28 (2), (3) and (4), 42 (2), 51 (1) (b) (ii) and (iii), 51 (4) and 61.</p> <p>6. The amendment of section 67 by the substitution for subsection (1) of the following subsection: “(1) A [member or a] person in the service of a board who contravenes a provision of section 10 (1) or 13, [or a member of a board who fails to comply with a provision of section 11] shall be guilty of an offence and be liable on conviction to a fine not exceeding R1 000 or to imprisonment for a period not exceeding 12 months or to both such fine and such imprisonment.”.</p>