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GOVERNMENT GAZETTE

OF THE REPUBLIC OF SOUTH AFRICA

REPUBLIEK VAN SUID-AFRIKA

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STATE PRESIDENT'S OFFICE

KANTOOR VAN DIE STAATSPRESIDENT

No. 1636.

31 July 1985

No. 1636.

31 Julie 1985

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

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

No. 109 of 1985: Regional Services Councils Act, 1985.

No. 109 van 1985: Wet op Streeksdiensterade, 1985.

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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 joint exercise and carrying out of powers and duties in relation to certain functions in certain areas by local bodies within such areas; and to that end to provide for the delimitation of regions; the establishment of regional services councils; and the constitution, functioning, functions, powers, duties, assets, rights, employees and financing of such councils; and to provide for matters connected therewith.

(Afrikaans text signed by the State President.)
(Assented to 10 July 1985.)

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

Definitions.

1. In this Act, unless the context otherwise indicates—
- (i) "Administrator" means—
- (a) in relation to a region which is situated in its entirety within any province, the Administrator-in-Executive-Committee of that province; or
- (b) in relation to a region the greater part of which is situated in one province but a part of which is also situated in another province—
- (i) the Administrator-in-Executive-Committee of the first-mentioned province acting with the concurrence of the Administrator-in-Executive-Committee of that other province; or
- (ii) where the Administrator-in-Executive-Committee of that other province is not prepared to give the desired consent, the Minister; and
- (c) for the purposes of sections 3 (1) and 7 (1), an Administrator as defined in paragraph (a) or (b) acting with the concurrence of the Minister,
- as the case may be; (i)
- (ii) "council" means a regional services council established under section 3; (x)
- (iii) "employer"—
- (a) means an employer as defined in paragraph 1 of 25 Schedule 7 to the Income Tax Act, 1962 (Act No. 58 of 1962); and
- (b) includes any partnership or sole trader; (xvii)
- (iv) "general affairs" means matters referred to in section 15 of the Republic of South Africa Constitution Act, 1983 (Act No. 110 of 1983); (ii)

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- (v) "local authority" means any institution or body contemplated in section 84 (1) (f) (i) of the Provincial Government Act, 1961 (Act No. 32 of 1961), or section 2 of the Black Local Authorities Act, 1982 (Act No. 102 of 1982), but does not include a management body or representative body; (ix) 5
- (vi) "local body" means a local authority, management body or representative body; (viii)
- (vii) "management body" means—
- (a) any committee referred to in section 17 of the Promotion of Local Government Affairs Act, 1983 (Act No. 91 of 1983); 10
- (b) any body established in terms of the Rural Coloured Areas Law, 1979 (Law No. 1 of 1979), of the Coloured Persons Representative Council of the Republic of South Africa; 15
- (c) any body referred to in section 2 of the Community Councils Act, 1977 (Act No. 125 of 1977), one or more members of which are elected; (iii)
- (viii) "Minister" means the Minister of Constitutional Development and Planning; (v) 20
- (ix) "person" includes the State and the estate of a deceased person; (vii)
- (x) "region" means a region delimited, or the delimitation of which is contemplated, as the case may be, under section 2; (xi) 25
- (xi) "regional establishment levy" means a levy calculated—
- (a) in relation to a vendor, on the taxable value on which such vendor is liable in the region in question for sales tax in terms of the Sales Tax Act, 1978 (Act No. 103 of 1978), or on such value as adjusted by the Minister of Finance by notice in the *Gazette* or on such other amount as determined by the said Minister in like manner; and 30
- (b) in relation to a person other than a vendor, on an amount with regard to the business, trade or occupation of such person in the region in question, determined by the Minister of Finance from time to time by notice in the *Gazette* in such manner that the basis of liability of such person in terms of this paragraph will in the opinion of the said Minister be equal to the basis of liability of a vendor in terms of paragraph (a), 35
- at a rate from time to time determined by a council with the concurrence of the Minister of Finance and which the said Minister shall publish by notice in the *Gazette*; (xv) 45
- (xii) "regional function" means, in relation to a particular region or a part of a region, any function mentioned in Schedule 2 in relation to any matter which is a general affair; (xiv) 50
- (xiii) "regional service" means any service provided by a council in the exercise of any power or the carrying out of any duty in relation to a regional function; (xii) 55
- (xiv) "regional services levy" means a levy calculated—
- (a) on remuneration as defined in paragraph 1 of Part 1 of Schedule 4 to the Income Tax Act, 1962 (Act No. 58 of 1962), but including the amounts referred to in subparagraphs (iv) and (vii) of that definition, paid or payable by an employer to the employees in his service within the region in question; and 60
- (b) on taxable benefit as defined in paragraph 1 of Schedule 7 to the said Act, less any deductions referred to in paragraphs 14 and 15 of the said Schedule granted by an employer to the employees in his service within the region in question; or 65

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- (c) in the case of a partnership or sole trader, on the profits distributed to the partners or sole trader by way of drawings or loans,
at a rate from time to time determined by a council with the concurrence of the Minister of Finance and which the said Minister shall publish by notice in the *Gazette*; (xiii) 5
- (xv) "representative body" means any body of which one or more members of its executive are elected by the members of that body and the members of which body consist of persons residing or communities established outside the area of jurisdiction of any local authority or management body in a region, and— 10
- (a) which body, in relation to certain affairs, manages the interests of the persons or communities that elected the executive in question; 15
- (b) to members of which body any regional service is provided, or may be provided, against payment; and
- (c) which body is recognized by the Administrator as a representative body for the purposes of this Act; 20
- (xvi) "this Act" includes any regulation made under this Act; (iv) (xvi)
- (xvii) "vendor" means a vendor as defined in section 1 of the Sales Tax Act, 1978 (Act No. 103 of 1978). (vi) 25

Delimitation of regions.

2. (1) The Administrator may, subject to the provisions of subsection (2) and after consideration of a report of the Demarcation Board for Local Government Areas referred to in section 7A of the Promotion of Local Government Affairs Act, 1983 (Act No. 91 of 1983), by notice in the *Official Gazette*— 30

- (a) delimit a region by determining and describing and from time to time altering the boundaries of the area or areas (whether such areas are contiguous or not) comprised by it; 35
- (b) combine two or more regions (whether their areas are contiguous or not), and exercise any power referred to in paragraph (a) in respect of the combined region;
- (c) include any part of the area of any region in the area of another region, whether such part is contiguous to the area in which it is included or not; and 40
- (d) revoke the delimitation of a region. 40

(2) The Administrator shall exercise the powers conferred upon him in terms of subsection (1)—

- (a) with the concurrence of— 45
- (i) the Minister;
- (ii) the Minister appointed to administer local government matters in respect of Black communities;
- (iii) the Minister of Finance;
- (iv) the Minister appointed in the Ministers' Council of the House of Assembly, the House of Representatives or the House of Delegates to administer local government matters, according to the population group concerned; 50
- (b) after consultation with— 55
- (i) the local bodies in the region or regions in question;
- (ii) the council of every region situated wholly or partially within the province concerned;
- (iii) any other body or person that he deems necessary; 60
- and

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(c) with due regard to the matters referred to in Schedule 1.

(3) The Administrator may, subject to the provisions of subsection (2) (b), assign a name to a region and determine the seat within the region of the council which is established for the region. 5

(4) Subject to the provisions of subsection (2), the Administrator may amend, substitute or repeal any notice referred to in subsection (1).

Establishment
of regional
services
councils.

3. (1) (a) The Administrator may, subject to the provisions of section 2 (2) (a) (ii), (iv), (b) and (c) by notice in the *Official Gazette* and with effect from a date specified in such notice, establish a regional services council for any region and from time to time announce which local bodies are represented thereon. 15

(b) A council shall be a juristic person and shall in respect of its region be charged with such functions or any part of a function mentioned in Schedule 2 as may from time to time, subject to the provisions of section 2 (2) (a) (ii), (iv), (b) and (c) of this Act and section 3 (2) (a) 20 of the Public Service Act, 1984 (Act No. 111 of 1984), by notice in the *Official Gazette* be identified by the Administrator as a regional function and be entrusted to that council.

(c) The Administrator may, subject to the provisions of 25 paragraph (b), also identify and so entrust as a regional function the retail supply of electricity and water which at the commencement of this Act is undertaken by a local authority or other institution or body in the region in question or in any part thereof. 30

(2) (a) If—

- (i) a local body referred to in subsection (1);
- (ii) the Transvaal Board for the Development of Peri-Urban Areas established by section 2 of the Transvaal Board for the Development of Peri-Urban 35 Areas Ordinance, 1943 (Ordinance No. 20 of 1943), of the Transvaal;
- (iii) the Development and Services Board mentioned in section 1 of the Development and Services Board Ordinance, 1941 (Ordinance No. 20 of 1941), of 40 Natal;
- (iv) a development board established by section 3 of the Black Communities Development Act, 1984 (Act No. 4 of 1984); or
- (v) a regional water services corporation established 45 by section 7 of the Water Services Ordinance, 1963 (Ordinance No. 27 of 1963), of Natal,

is at a date on which a function is in terms of subsection (1) identified as a regional function and entrusted to a council, charged with that function, that body, board or 50 corporation shall be relieved of its duties in relation to that function in the region concerned, with effect from that date or such other date as is mentioned in the notice, and different dates may be determined in respect of different regional functions which have been so iden- 55 tified.

(b) The Administrator may, subject to the provisions of section 4 (2) of this Act and section 14 of the Public Service Act, 1984, as the case may be, transfer or second to, or place his services at the disposal of, a council, any officer or employee in the employment of any body, board or corporation referred to in paragraph (a), a province or the State. 60

(3) The Administrator may, subject to the provisions of section 2 (2) (a) (ii), (iv), (b) and (c) of this Act and section 3 (2) (a) 65 of the Public Service Act, 1984, amend, substitute or repeal any notice in terms of this section.

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Powers and duties
of council.

4. (1) Subject to the provisions of—
- (a) this Act and any other law, a council shall in relation to any of its regional functions have all the powers and duties of a local authority or an officer in the employment of any local authority in terms of the laws which apply in the province where the seat of the council is situated and which the Administrator entrusts to it by notice referred to in section 3 (1), but a council shall not have the power to levy any rates on immovable property; 5 10
- (b) paragraph (a), all other laws applicable to or in respect of a local authority in the province where the seat of a council is situated, shall *mutatis mutandis* apply to or in respect of the council in its region with regard to any of the regional functions of that council. 15
- (2) Subject to the provisions of this Act, the provisions of laws relating to the transfer of employees and the transfer or devolution of assets, powers, duties, rights and obligations in the case of the combining of local authorities in the province where the seat of a council is situated, shall *mutatis mutandis* apply in any case where officers or employees are transferred or seconded to or their services are placed at the disposal of a council under section 3 (2) (b) and in the case where a body, board or corporation is relieved from a duty in terms of section 3 (2) (a): Provided that the Administrator may, subject to the provisions of section 2 (2) (a) and (b), make any other arrangement in regard to such transfer or devolution— 20 25
- (a) in order to provide for matters for which no provision has been made by the provisions of such laws;
- (b) in order to obtain a result which in the opinion of the Administrator is fair to all concerned; and 30
- (c) in order to solve administrative difficulties caused by such transfer or devolution:
- Provided further that in the event of the transfer of an employee to the employment of a council, such employee shall be 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.
- (3) (a) A council may, subject to the provisions of paragraph (b), enter into an agreement with a local body or any other person or institution which is a juristic person, irrespective of whether the area of jurisdiction of that body, person or institution is situated within or outside the region of that council, or within or outside the Republic, in terms of which— 45
- (i) that council undertakes on behalf of that local body, person or institution to exercise a power or perform a duty which that local body, person or institution may exercise or is obliged to perform;
- (ii) that local body, person or institution undertakes to exercise or perform any regional function or part thereof on behalf of the council; and 50
- (iii) the area of jurisdiction of that local body, person or institution, if situated outside the Republic or within the area of a legislative assembly or a self-governing territory referred to in section 38 of the National States Constitution Act, 1971 (Act No. 21 of 1971), may, on such conditions as may be specified in the agreement, in the performance of the functions of the council in terms of this Act be administered as a part of the region of the council, and the local bodies, persons or institutions in question may be represented on the council. 55 60

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(b) Any agreement referred to in paragraph (a) which is entered into with a local body, person or institution whose area of jurisdiction is situated outside the Republic, shall only be concluded with the approval of the Administrator and the Minister of Foreign Affairs. 5

(4) No compensation shall be payable in respect of any asset or right which in terms of this section is transferred to or devolves upon a council: Provided that the Administrator may, in order to obtain a result which in his opinion is fair to all parties concerned, subject to the provisions of section 2 (2) (a) and (b) 10 direct otherwise.

(5) For the purposes of the Labour Relations Act, 1956 (Act No. 28 of 1956), a council shall be deemed to be a local authority.

Obligatory use of services.

5. Every local body the area of jurisdiction of which is situated in a region and which is represented on the council of that region and the residents represented on or the members of such body may only make use of regional services provided by the council in that region, and may not in any other manner acquire, perform or allow to be performed any services similar to regional services unless the council on the application of a local body exempts that body or the residents or members in question from the obligation to make use of any particular regional service. 15 20

Constitution of council.

6. (1) A council shall consist of a chairman appointed in terms of section 7 (1), such number of members as the Administrator may from time to time determine by notice in the *Official Gazette* and who are nominated in terms of subsection (2) of this section, and such number of members as may be admitted by agreement in terms of section 4 (3) (a) (iii). 25 30

(2) Every local body represented on a council shall from its members nominate one member of the council for every 10 per cent or part of 10 per cent of the total number of votes to which it is entitled in terms of section 9 (1) (a) or (4) (b), but no local body shall nominate more than five members. 35

(3) Simultaneously with the nomination of a member in terms of subsection (2), an alternate member shall be nominated in respect of that member, in the same manner as such member, to act in the place of such member when such member is for any reason absent or unable to exercise or perform any of his powers and duties as a member of the council. 40

Chairman and deputy chairman.

7. (1) Subject to the provisions of section 2 (2) (a) (ii) and (iv), the Administrator shall in respect of every council appoint a chairman, and may at any time in his discretion rescind such appointment. 45

(2) A council shall at its first meeting elect one of its members as deputy chairman, who shall act as chairman whenever the chairman is for any reason absent or unable to act as chairman.

(3) Whenever the chairman and the deputy chairman of a council are for any reason simultaneously absent or unable to act as chairman, the council shall from among its number elect a person to act as chairman. 50

Tenure of office and remuneration of chairman and members.

8. (1) Subject to the conditions determined by the Administrator, the chairman of a council shall be appointed for a period not exceeding five years at a time, but shall at the expiration of his term of office be eligible for reappointment. 55

(2) (a) Subject to the provisions of paragraph (b) and of subsection (3), a member of a council shall hold office for a period of five years, but shall at the expiration of his term of office be eligible for renomination. 60

(b) Every member of a council shall vacate his office on the day fixed in terms of section 7 (1) of the Constitutional Affairs Amendment Act, 1985, in respect of the local body which nominated him.

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- (3) A member of a council shall vacate his office—
- (a) if he resigns;
 - (b) when he ceases to be a member of the local body which nominated him;
 - (c) when the local body which nominated him withdraws his nomination,

in which case a person shall be nominated in terms of section 6 (2) for the unexpired portion of his term of office.

(4) The remuneration and allowances of the chairman, deputy chairman and the members of the council shall be determined by the Administrator with the concurrence of the Minister of Finance.

Apportionment of votes in council.

9. (1) (a) Subject to the provisions of subsection (2), every local body represented on a council shall in respect of the decisions of the council be entitled to cast such number of votes as is equal to the proportion, expressed as a percentage, between the amount paid by any local authority, or management body and the persons in their areas of jurisdiction or the members of a representative body, as the case may be, for the provision by the council of regional services (excluding regional services provided in any industrial area or central business area which the Administrator shall, subject to the provisions of section 2 (2) (a) and (b), delimit by notice in the *Official Gazette* after consideration of a report by the Demarcation Board for Local Government Areas referred to in section 7A of the Promotion of Local Government Affairs Act, 1983 (Act No. 91 of 1983), which report shall be based on criteria prescribed by the Administrator, by notice in the *Official Gazette*), and the total amount obtained by the council as a result of the provision of such regional services in that region on behalf of all such local bodies.
- (b) Any member admitted by agreement in terms of section 4 (3) (a) (iii) as a member of the council shall in respect of the decisions of the council be entitled to cast such number of votes as is specified in the agreement in question.
- (2) (a) If there are more than two local bodies in any region, no such local body shall in respect of the decisions of the council be entitled to a number of votes which is in excess of 50 per cent of the total number of votes which may be cast in respect of such decisions.
- (b) If a local body would, but for the provisions of paragraph (a), have been entitled to cast a number of votes which is in excess of 50 per cent of the total number of such votes, the number of votes which is in excess of 50 per cent shall be apportioned among the other local bodies in the region concerned in the proportion, expressed as a percentage, which the amount paid by any such local body or the residents represented by it to the council for regional services, bears to the total amount obtained by the council for the provision of regional services to such local bodies.
- (3) (a) The number of votes which may be cast by members of a local body in respect of decisions of the council shall be so apportioned among the members of that local body that the votes that may be cast by members nominated by a local body, are as far as possible equal.
- (b) If a member or his alternate for some reason cannot cast his vote or votes in respect of a decision of the council, the local body concerned may in writing authorize another member to cast the vote concerned on its behalf.

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- (4) (a) Subject to the provisions of paragraph (b), the number of votes to which local bodies are entitled shall annually within a period of three months after the end of the financial year of the council be calculated by the council in accordance with subsections (1) and (2) on the basis of a certificate issued by the treasurer of the council, and the apportionment of votes shall apply from such calculation until the following calculation is made. 5
- (b) In respect of the first constitution or any reconstitution of a council, the number of votes to which local bodies shall be entitled shall be determined by the Administrator, subject to the provisions of section 2 (2) (a), on the basis of sworn information obtained by him from the local bodies in the region concerned. 10

Meetings.

10. (1) The first meeting of a council shall take place at a time and place determined by the Administrator, and thereafter, subject to the provisions of subsection (2), at least 10, or the lesser number of meetings which the Administrator may approve, shall be held per year at a time and place determined by the council or the chairman if authorized thereto by the council. 15 20

(2) The chairman may at any time and shall within 14 days after receiving a written request signed by not fewer than six members, call a special meeting of the council.

(3) Not less than 10 days' written notice of a meeting of a council shall be given to the members of the Council: Provided that an urgent matter may be treated on shorter notice if the reasons for the urgency are stated at the meeting and are accepted by the council. 25

(4) (a) Members who together are entitled to two-thirds of the total number of votes contemplated in section 9 (1), shall constitute a quorum for a meeting of the council. 30

(b) If the number of members present at the time and place determined for a meeting for the consideration of any matter referred to in section 11 (4), is on two consecutive occasions less than the required number contemplated in paragraph (a), a meeting of the council shall be held within seven days after the second such occasion after not less than three days' written notice has been given to members, and at that meeting members who are entitled to one half of the total number of votes contemplated in section 9 (1) shall form a quorum. 35 40

(c) If a quorum as contemplated in paragraph (b) cannot be formed, the matter for the consideration of which the meeting was called, shall be referred by the chairman to the Administrator for his decision, which decision shall be carried out by the council. 45

(5) (a) A person designated by a development board established by section 3 of the Black Communities Development Act, 1984 (Act No. 4 of 1984), in a region, may attend the proceedings of the council and take part in the discussions thereof but that person may not vote in respect of any decision. 50

(b) A council may allow any person or institution which in its opinion has an interest in the functions of the council to nominate a person to attend the proceedings of the council and to take part in such discussions of the council as in the opinion of the chairman relate to the interests of the person or institution in question, but such a nominee may not vote in respect of any decision. 55 60

(6) Subject to the provisions of this Act, a council may approve standing orders for the regulation of its proceedings and for all other matters relating to the management, powers and duties of the council. 65

Decisions, reconsideration and appeal.

11. (1) A decision of a council shall be taken by a majority of at least two-thirds of the votes of the members (other than the

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chairman referred to in section 7 (1), who shall not have a vote) of the council present at a meeting of the council.

(2) A decision of a council or a proposal in respect of which the majority referred to in subsection (1) was not obtained, shall at the request of a member present at the meeting at which such decision was taken or the proposal served, be reconsidered at the following meeting of the council and not again within six months thereafter.

(3) Any local body represented on a council and whose interests are affected by a decision of that council taken after reconsideration in terms of subsection (2), may within such time and in such manner as the Administrator may prescribe by regulation, appeal against that decision to an appeal board—

(a) which shall in respect of any matter referred to in subsection (4) consist of—

- (i) the Administrator, who shall be the chairman;
- (ii) the Minister appointed to administer local government matters in respect of Black communities or his nominee;
- (iii) the Minister from the Ministers' Council of the House of Assembly, the House of Representatives or the House of Delegates appointed to administer local government matters, according to the population group concerned or his nominee;

(b) which shall in respect of any matter referred to in section 12, other than a matter referred to in the proviso to section 12 (6), consist of—

- (i) the Minister of Finance who shall be the chairman;
- (ii) the Ministers referred to in paragraph (a) (ii) and (iii).

(4) An appeal in terms of subsection (3) (a) shall be noted only in respect of—

- (a) the failure of the council to perform a regional function;
- (b) the insufficient performance by the council of a regional function;
- (c) any decision or proposal of the council relating to a tariff or levy for services rendered by the council;
- (d) any determination by the council of a priority in connection with the appropriation of funds; and
- (e) the refusal by the council of any application for exemption referred to in section 5.

(5) The execution of a decision shall not be affected by a request for reconsideration in terms of subsection (2) or by an appeal in terms of subsection (3), but a determination referred to in subsection (4) (d) shall be suspended pending the result of the request or appeal.

(6) For the purposes of the application of this section "Administrator" means the official appointed by the State President under section 66 (1) of the Provincial Government Act, 1961 (Act No. 32 of 1961).

(7) A decision by four of its members shall be a decision of the appeal board, and the council shall carry out that decision.

(8) If a decision as contemplated in subsection (7) cannot be reached, the appeal shall be deemed to have been dismissed.

Financing of council.

12. (1) (a) Subject to the provisions of section 4 (1), a council shall levy and claim from each employer in its region a regional services levy and from each vendor or person in its region a regional establishment levy in the manner and according to the instructions which the Minister of Finance, after consultation with the Administrator, the council and subject to the provisions of section 2 (2) (a) (ii), (iv) and (b) (iii), may from time to time determine by notice in the *Gazette*.
- (b) The Minister of Finance may, after consultation with the Administrator and the council and subject to the provisions of section 2 (2) (a) (ii), (iv) and (b) (iii), by

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notice in the *Gazette* exempt any category of employer, vendor or person from any levy referred to in paragraph (a).

(2) Every council shall open and maintain an account in its name and shall pay into it— 5

- (a) all income, donations, loans, appropriations and money received by the council from any source;
- (b) fines paid in respect of any contravention of the provisions of this Act in the area of jurisdiction of the council; 10
- (c) interest received on the investment of money referred to in paragraphs (a) and (b).

(3) No money shall be withdrawn from the account referred to in subsection (2) save in accordance with the provisions of this Act. 15

(4) A council shall before the end of its financial year submit a copy of its budget for the next ensuing financial year to the Minister of Finance, and obtain his approval thereof.

(5) A council shall pay one twentieth per cent of the total proceeds in a specific financial year of the levies referred to in subsection (1) to the training fund established by section 7 of the Local Government Training Act, 1985 (Act No. 41 of 1985). 20

(6) Subject to the provisions of subsection (5), the council shall, by resolution, appropriate the funds referred to in subsection (2) within or outside its region or in accordance with an agreement in terms of section 4 (3), for— 25

- (a) the payment or part payment of the costs incurred in the execution or performance of any power or function entrusted to a council in terms of section 3 (1) (b) and (c); 30
- (b) the payment or part payment of the costs incurred in the region by a local body in the execution or performance of any of its powers or functions: Provided that a council shall not make any payments in respect of a regional service in respect of which exemption has been granted in terms of section 5; 35
- (c) the payment or part payment of the costs resulting from the collection of the levies referred to in subsection (1) and the administration of this Act;
- (d) the payment or part payment of the costs of the establishment, improvement and maintenance of an infrastructure for and the running of transport services for commuters between their places of residence within or outside the region or outside the Republic and their places of employment in the region; 45
- (e) any other purpose approved by the Minister of Finance after consultation with the Administrator:

Provided that in determining the priorities in connection with the appropriation of funds, the council shall give preference to the establishment, improvement and maintenance of infrastructural services and infrastructural facilities in areas where the greatest needs therefor exist. 50

(7) A levy referred to in subsection (1) shall not be recovered by any employer, vendor or person by adding it as a separate item to his prices or tariffs or the cost of his services or by deducting it from the wages or salaries paid by him. 55

(8) Any levy referred to in subsection (1) may be deducted as an operating expense for the purposes of income tax by any employer, vendor or person.

(9) Any person who fails to pay any levy referred to in subsection (1) (a) or who contravenes a provision of subsection (7) shall be guilty of an offence and on conviction be liable to a fine not exceeding R5 000 or imprisonment for a period not exceeding 12 months or to both such fine and such imprisonment. 60

(10) If any person who is liable for the payment of a levy under subsection (1) fails to pay such levy in full within the time prescribed in terms of this Act, interest shall become payable by 65

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that person on the balance of the levy outstanding at the rate and from a date prescribed by the Minister of Finance by notice in the *Gazette*.

(11) A levy, or interest payable in terms of subsection (10), shall be deemed to be a debt due to the council and may be recovered by the council by way of judicial process in a competent court. 5

Regulations.

13. (1) (a) The Administrator may, subject to the provisions of subsection (3), by notice in the *Official Gazette* make regulations in respect of any matter referred to in this Act (except a matter contemplated in section 12, but including a matter contemplated in the proviso to subsection (6) thereof) which in the opinion of the Administrator is necessary or expedient for the effective execution or furtherance of the provisions and objects of this Act. 15

(b) Different regulations may be made in respect of different regions.

(2) (a) The Minister of Finance may, subject to the provisions of subsection (3), make regulations in regard to any matter referred to in section 12 (excluding a matter contemplated in the proviso to subsection (6) thereof) which in the opinion of the said Minister is necessary or expedient for the effective execution or furtherance of the provisions and objects of this Act. 25

(b) Different regulations may be made in respect of different regions and different rates of or exemptions from levies may be determined for different regions.

(3) Regulations made under this Act shall be made only—

(a) after consultation with the Council for the Co-ordination of Local Government Affairs established by section 2 of the Promotion of Local Government Affairs Act, 1983 (Act No. 91 of 1983); and

(b) subject to the provisions of section 2 (2) (a) (ii) and (iv). 35

(4) In the case of a conflict between a regulation in terms of this Act and an ordinance or a regulation made under an ordinance, the first-mentioned regulation shall prevail.

(5) Any regulation issued under this section may provide for penalties for any contravention of or any failure to comply with the provisions of such regulations, of a fine not exceeding R5 000 or imprisonment for a period not exceeding 12 months or to both such fine and such imprisonment.

Secrecy.

14. (1) A person employed in the carrying out of the provisions of section 12 of this Act shall not— 45

(a) disclose to any person or his representative any matter in respect of any other person that may in the exercise of his powers or the performance of his duties under the said provisions come to his knowledge; or

(b) permit any person to have access to any records in the possession or custody of the council, 50

except in the exercise of his powers or the performance of his duties under this Act or by order of a competent court: Provided that the Auditor-General in the performance of his duties in terms of section 42 of the Exchequer and Audit Act, 1975 (Act 55 No. 66 of 1975), and the Commissioner for Inland Revenue in the exercise of his functions under this or any other Act, shall have access to all records and documents in the possession or custody of the council for the purposes of this Act.

(2) Any person who is so employed shall, before acting under this Act, take and subscribe before a commissioner of oaths such oath of secrecy as the Minister of Finance may prescribe by regulation. 60

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(3) Any person who contravenes the provisions of subsection (1) shall be guilty of an offence and on conviction be liable to a fine not exceeding R5 000 or to imprisonment for a period not exceeding 12 months or to both such fine and such imprisonment. 5

Furnishing of information.

15. Notwithstanding the provisions of section 4 of the Income Tax Act, 1962 (Act No. 58 of 1962), and section 4 of the Sales Tax Act, 1978 (Act No. 103 of 1978), the Commissioner for Inland Revenue or any person designated by him, may furnish to a council such information as is necessary for the determination 10 and collection of any regional services levy and any regional establishment levy.

State bound.

16. This Act shall bind the State.

Repeal and amendment of laws.

17. The laws mentioned in Schedule 3 are hereby repealed or amended to the extent indicated in the third column of Schedule 15 3.

Short title.

18. This Act shall be called the Regional Services Councils Act, 1985.

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Schedule 1*Matters referred to in section 2 (2) (b)*

1. Community of interests between the residents.
2. Nature of services rendered.
3. Cost-effectiveness and efficiency in the rendering of services.
4. Natural and geographical characteristics.
5. Existing administrative boundaries.
6. Economic interdependency between residents in respect of residency, work, commuting, recreation and predominant consumer spending.
7. Financial self-sufficiency with regard to the rendering of services.
8. Development potential.

Schedule 2*Functions referred to in section 3 (1) (b)*

1. Bulk supply of water.
2. Bulk supply of electricity.
3. Sewerage purification works and main sewerage disposal pipelines.
4. Land usage and transport planning in the region.
5. Roads and stormwater drainage.
6. Passenger transport services.
7. Traffic matters.
8. Abattoirs.
9. Fresh produce markets.
10. Refuse dumps.
11. Cemeteries and crematoriums.
12. Ambulance and fire brigade services.
13. Health services.
14. Airports.
15. Civil defence.
16. Libraries.
17. Museums.
18. Recreation facilities.
19. Environment conservation.
20. Promotion of tourism.
21. The establishment, improvement and maintenance of other infrastructural services and facilities.
22. Other regional functions.

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Schedule 3

| No. and year of law | Title | Extent of repeal or amendment |
|--|---|--|
| Act No. 25 of 1945 | Blacks (Urban Areas) Consolidation Act, 1945 | The repeal of section 9 (4) in relation to a region as from the date on which the levies referred to in section 12 of this Act are introduced in that region. |
| Act No. 53 of 1957 | Black Transport Services Act, 1957 | The repeal of the whole in relation to a region as from the date on which the levies referred to in section 12 of this Act are introduced in that region. |
| Act No. 27 of 1972 | Transport Services for Coloured Persons and Indians Act, 1972 | The repeal of the whole in relation to a region as from the date on which the levies referred to in section 12 of this Act are introduced in that region. |
| Act No. 29 of 1972 | Contributions in respect of Black Labour Act, 1972 | The repeal of the whole in relation to a region as from the date on which the levies referred to in section 12 of this Act are introduced in that region. |
| Ordinance No. 8 of 1972, of the Orange Free State | Licences Ordinance, 1972 | The liability to pay licence fees referred to in section 9 (3) in relation to a region as from the date on which the levies referred to in section 12 of this Act are introduced in that region. |
| Ordinance No. 11 of 1973, of Natal | Licences and Business Hours Ordinance, 1973 | The liability to pay licence fees referred to in section 9 (3) in relation to a region as from the date on which the levies referred to in section 12 of this Act are introduced in that region. |
| Ordinance No. 19 of 1974, of the Transvaal | Licences Ordinance, 1974 | The liability to pay licence fees referred to in section 10 (1) in relation to a region as from the date on which the levies referred to in section 12 of this Act are introduced in that region. |
| Ordinance No. 17 of 1981, of the Cape of Good Hope | Licences Ordinance, 1981 | The liability to pay licence fees referred to in section 3 (2) (b) in relation to a region as from the date on which the levies referred to in section 12 of this Act are introduced in that region. |
| Act No. 88 of 1967 | Physical Planning Act, 1967 | <p>(a) The amendment of section 1 by the insertion after the definition of "quarry" of the following definition:</p> <p><u>"'regional services council' means a regional services council established in terms of the Regional Services Councils Act, 1985;"</u></p> <p>(b) The amendment of section 6A—</p> <p>(i) by the substitution for paragraph (b) of subsection (4) of the following paragraph:</p> <p><u>"(b) Any such proposals by a local authority shall be so submitted through the provincial administration concerned and if that local authority is represented on a regional services council, a copy of such proposals shall be submitted to the regional services council concerned.";</u></p> <p>(ii) by the substitution for subsection (9) of the following subsection:</p> <p><u>"(9) After receipt of the advice of the investigation committee, the Director-General shall submit to the Administrator such advice, all comments and representations received in connection with the draft guide plan, as well as his own comments thereon, and the Administrator shall submit his comments as well as the comments (if any) of every regional services council to the area of which the plan in question applies to the Minister within 60 days or such longer period as the Minister may determine.";</u></p> <p>(iii) by the addition to subsection (12) of the following proviso:</p> <p><u>"Provided that where the scheme or land referred to in this subsection is situated within the area of jurisdiction of a regional services council, any reference in this subsection to 'Administrator' shall be construed as a reference to the regional services council concerned.";</u></p> <p>(iv) by the addition to paragraph (a) of subsection (13) of the following proviso:</p> <p><u>"Provided that where a guide plan referred to in this paragraph, applies to land situated within the area of jurisdiction of a regional services council, any reference in this paragraph to 'Minister' and 'Administrator'.</u></p> |

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| No. and year of law | Title | Extent of repeal or amendment |
|---------------------------|---|---|
| Act No. 78 of 1977 | Urban Transport Act, 1977 | <p>wherever they occur, shall be construed as a reference to 'Administrator' and 'regional services council concerned', respectively.";</p> <p>(v) by the addition to paragraph (b) of subsection (13) of the following proviso: "Provided that where a plan or plans referred to in this paragraph, apply to land situated within the area of jurisdiction of a regional services council, any reference in this paragraph to 'Minister', 'Administrator' and 'officer in charge of the local government section of the provincial administration concerned', shall be construed as a reference to 'Administrator', 'regional services council concerned' and 'chief executive officer of the regional services council concerned', respectively.";</p> <p>(vi) by the addition to paragraph (c) of subsection (13) of the following proviso: "Provided that where a plan or plans referred to in this paragraph, apply to land situated within the area of jurisdiction of a regional services council, any reference in this paragraph to 'Minister' and 'Administrator', wherever they occur, shall be construed as a reference to 'Administrator' and 'regional services council concerned', respectively."; and</p> <p>(vii) by the substitution for paragraph (b) of subsection (19) of the following paragraph: "(b) the comments of the Administrator concerned and the regional services council concerned and, if land which in terms of the guide plan may be used for agricultural purposes can in the opinion of the Minister be affected by the proposed amendment or withdrawal, the comments of the Minister of Agriculture shall be obtained."</p> <p>(a) The amendment of section 1— (i) by the substitution for the definition of "Administrator" of the following definition: "Administrator" means— (a) an Administrator acting on the advice and with the consent of the executive committee of which he is a member; (b) for the purposes of sections 11, 12, 13, 14, 15 and 16 in the case where a regional services council is designated as a core city, the regional services council concerned."; and (ii) by the insertion after the definition of "officer" of the following definition: "regional services council" means a regional services council established in terms of the Regional Services Councils Act, 1985;"</p> |
| Act No. 115 of 1984 | Remuneration of Town Clerks Act, 1984 | <p>The amendment of section 1 by the substitution in subsection (1) for the definition of "local authority" of the following definition: "local authority" means any institution or body contemplated in section 84 (1) (f) of the [Republic of South Africa Constitution Act] Provincial Government Act, 1961 (Act No. 32 of 1961), in connection with which a provincial council may make ordinances, and also a regional services council established under the Regional Services Councils Act, [1984] 1985;"</p> |
| Act No. 117 of 1984 | Local Government Bodies Franchise Act, 1984 | <p>The amendment of section 1 by the substitution in subsection (1) for paragraph (d) of the definition of "juristic person" of the following paragraph: "(d) a regional services council contemplated in the Regional Services Councils Act, [1984] 1985; and"</p> |