

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



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KANTOOR VAN DIE STAATSPRESIDENT

STATE PRESIDENT'S OFFICE

No. 1424.

4 Julie 1986

No. 1424.

4 July 1986

Hierby word bekend gemaak dat die Staatspresident sy goedkeuring geheg 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:—

o. 78 van 1986: Wysigingswet op Streeksdiensterade, 1986.

No. 78 of 1986: Regional Services Councils Amendment Act, 1986.

REGIONAL SERVICES COUNCILS AMENDMENT ACT, 1986

Act No. 78, 1986

- (c) by the insertion after the definition of "employer" of the following definition:
"enterprise" means any trade, business, profession or other activity of a continuing nature, whether or not carried on for the purpose of deriving a profit, but excluding any religious, charitable or educational activity carried on by any religious, charitable or educational institution of a public character;";
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- (d) by the insertion after paragraph (c) of the definition of "management body" of the following paragraph:
"(d) any local government body established by virtue of the provisions of section 30 (2) (a) of the Black Administration Act, 1927 (Act No. 38 of 1927),";
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- (e) by the substitution for the definition of "regional establishment levy" of the following definition:
"regional establishment levy" means, in relation to any person carrying on or deemed to be carrying on an enterprise within a region, a levy calculated and payable in relation to such enterprise in the manner determined by the Minister of Finance under section 12 (1) (b), at a rate from time to time determined by the council established for that region with the concurrence of the said Minister and which the said Minister shall publish by notice in the Gazette: Provided that different rates may be so determined in respect of different categories of enterprise;";
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- (f) by the substitution for the definition of "regional services levy" of the following definition:
"regional services levy" means a levy calculated—
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- (a) on remuneration as defined in paragraph 1 of the Fourth Schedule to the Income Tax Act, 1962 (Act No. 58 of 1962), but including the amounts referred to in paragraphs (i), (iv) and (vii) of that definition and excluding, in the case of any farm labourer whose cash remuneration is payable at a rate not exceeding the rate contemplated in the said paragraph (i), any amount contemplated in paragraph (i) of the definition of "gross income" in section 1 of that Act, paid or payable by an employer to the employees employed or deemed to be employed by him within the region in question; and
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- (b) in the case of a person (other than a company) carrying on or deemed to be carrying on an enterprise in the region for his sole account or in partnership with one or more other persons, on his drawings in relation to such enterprise,
 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: Provided that different rates may be so determined in respect of different categories of employees;"
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- and
- (g) by the deletion of the definition of "vendor".

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

- 60 "(ii) the council of every region [situated wholly or partially within the province concerned] affected by the proposed exercise of powers;"

Amendment of section 2 of Act 109 of 1985.

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3. The following section is hereby inserted in the principal Act after section 2:

Insertion of section 2A in Act 109 of 1985.

- “Preparatory steps for establishment of regional services council.”
- 5 2A. (1) Subject to the provisions of subsection (2), the Administrator may, with effect from a date determined by him, empower and direct any local body to do anything which may, in the opinion of the Administrator, be necessary or expedient for or facilitate the establishment or the proper functioning of a council.
- 10 (2) The Administrator shall not empower and direct any local body in terms of subsection (1) in respect of any matter referred to in section 12, except with the concurrence of the Minister of Finance.
- 15 (3) The council in respect of which anything has been done by virtue of subsection (1), shall be liable to reimburse the local body concerned for all expenses incurred by the body in connection with anything done by it as contemplated in that subsection.
- 20 (4) This section shall be deemed to have come into operation on 31 July 1985.”

4. Section 4 of the principal Act is hereby amended—

Amendment of section 4 of Act 109 of 1985.

- (a) by the substitution in subsection (3) for subparagraph (ii) of paragraph (a) of the following subparagraph:
- 25 “(ii) that local body, person or institution undertakes to exercise or perform any regional function or part thereof on behalf of the council, and may claim a levy contemplated in section 12 (1) (a) on behalf of the council; and”.
- (b) by the addition of the following subsection:
- 30 “(6) The Administrator may by notice in the Official Gazette declare that a reference to a local authority in a law specified in the notice shall be construed as a reference also to a council.”.

5. The following section is hereby inserted in the principal Act after section 10:

Insertion of section 10A in Act 109 of 1985.

- “Committees.”
- 10A. (1) A council—
- 40 (a) may appoint one or more committees to perform such functions as the council may assign to it or them;
- (b) shall designate a chairman for any such committee, and determine the quorum for meetings of such committee.
- 45 (2) The chairman or deputy chairman of the council shall be a member *ex officio* of every committee appointed under subsection (1), but the chairman or any member of such committee who is not a member of the council shall not have a vote at any meeting of any such committee.
- 50 (3) Members of any such committee who are not members of the council may be remunerated for their services as such committee members in accordance with tariffs fixed by the council.”.

6. Section 11 of the principal Act is hereby amended—

Amendment of section 11 of Act 109 of 1985.

- (a) by the substitution for subsection (2) of the following subsection:
- 55 “(2) (a) 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]** local body represented at the discussion of the matter concerned 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.
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- (b) Any local body not so represented may in writing furnish to the chairman of the council reasons why it was not so represented, whereupon the chairman shall at the request of that local body decide whether or not the decision or proposal concerned shall be so reconsidered.”; and
- (b) by the substitution for subsection (6) of the following subsection:
- “(6) For the purposes of the application of this section “Administrator” means the [official] administrator appointed by the State President [under section 66 (1) of the Provincial Government Act, 1961 (Act No. 32 of 1961)] in terms of section 7 (1) of the Provincial Government Act, 1986.”.

7. The following section is hereby inserted in the principal Act after section 11:

Insertion of section 11A in Act 109 of 1985.

- “Delegation of powers. **11A. A council may in writing authorize—**
- (a) any member or members of a committee appointed under section 10A;
- (b) any officer of the council, to exercise or perform in general or in a particular case or in cases of a particular nature, any power, duty or function conferred or imposed on the council by or in terms of this Act, except—
- (i) the imposition and claiming of a levy or the appropriation of funds in terms of section 12;
- (ii) the expropriation of immovable property or the taking of the right to use it temporarily;
- (iii) the approval of tariffs in connection with any function referred to in section 3 (1) (b) and (c); and
- (iv) the making of by-laws or standing orders under section 4 (1) (a) or 10 (6).”.

8. Section 12 of the principal Act is hereby amended—

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

Amendment of section 12 of Act 109 of 1985.

- “(1) (a) Subject to the provisions of section 4 (1), a council shall levy and claim from—
- (i) every employer who employs or is deemed to employ employees within its region, and each person carrying on or deemed to be carrying on an enterprise within its region as referred to in paragraph (b) of the definition of ‘regional services levy’, a regional services levy;
- (ii) every person carrying on or deemed to be carrying on an enterprise within its region, a regional establishment levy.
- (b) The Minister of Finance may from time to time, 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 by notice in the *Gazette*, determine the manner in which the regional services levy and the regional establishment levy shall be calculated and paid.”;
- (b) by the insertion after subsection (1) of the following subsection:
- “(1A) The Minister of Finance may in any notice contemplated in subsection (1) (b)—
- (a) determine circumstances in which an employee shall be deemed to be employed within a region;

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- (b) determine circumstances in which a person shall be deemed to be carrying on an enterprise within a region;
 - (c) determine how an amount upon which the regional establishment levy is payable shall be calculated;
 - (d) exempt any employer or person from the regional services levy or the regional establishment levy in relation to any enterprise; and
 - (e) make such other provision as he deems necessary to enable a council to impose and claim any such levy.”;
- (c) by the deletion in subsections (7) and (8) of the word “vendor”; and
- (d) by the substitution for subsection (10) of the following subsection:
- “(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]** period for payment prescribed in terms of this Act, interest shall, unless the Commissioner for Inland Revenue having regard to the circumstances of the case otherwise directs, become payable by 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*, reckoned from the end of the said period.”.

9. The following section is hereby substituted for section 15 of the principal Act:

Substitution of section 15 of Act 109 of 1985.

“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 in the opinion of the said Commissioner or person is necessary for the determination and collection of any regional services levy or regional establishment levy.”.

10. The following section is hereby substituted for section 16 of the Regional Services Councils Act, 1985:

Substitution of section 16 of Act 109 of 1985.

“Act binding on State and statutory bodies, and effect of certain exemptions from taxes or levies.”

16. This Act shall bind the State and all bodies established by or under any law, and no provision contained in any other law published on or before 31 July 1985 providing for an exemption from any taxes or levies shall be applicable to the regional services levy or the regional establishment levy.”.

11. This Act shall be called the Regional Services Councils Amendment Act, 1986.

Short title.