

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.



STAATSKOERANT

VAN DIE REPUBLIEK VAN SUID-AFRIKA

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KANTOOR VAN DIE STAATSPRESIDENT

STATE PRESIDENT'S OFFICE

No. 745.

15 April 1988

No. 745.

15 April 1988

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. 43 van 1988: Wysigingswet op Staatkundige Wetgewing, 1988.

No. 43 of 1988: Constitutional Laws Amendment Act, 1988.

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 Prevention of Illegal Squatting Act, 1951, so as to replace certain obsolete designations in the Afrikaans text; to amend the Black Local Authorities Act, 1982, so as to provide that certain councils shall be deemed to be city councils; to further define the qualifications of voters; to replace certain obsolete references; and to further regulate the delegation of powers; to amend the Promotion of Local Government Affairs Act, 1983, so as to further regulate the constitution of the Council for the Co-ordination of Local Government Affairs and the action committee of that council; and to make other provision concerning the handling of requests for advice received by the Demarcation Board for Local Government Areas; to amend the Constitutional Affairs Amendment Act, 1985, so as to extend the provisions which provide for general elections for local government bodies; to amend the Provincial Government Act, 1986, so as to make other provision regarding the submission of certain proposed proclamations and regulations to committees of Parliament; and to further regulate the assignment of functions and delegation of powers; and to make provision for matters connected therewith.

(Afrikaans text signed by the State President.)
(Assented to 31 March 1988.)

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

Substitution of certain designations in Act 52 of 1951

1. The Prevention of Illegal Squatting Act, 1951, is hereby amended by the
5 substitution in the Afrikaans text for the words "magistraat" and "magistraatshof"
wherever they occur of the words "landdros" and "landdroshof", respectively.

Amendment of section 2 of Act 102 of 1982, as substituted by section 2 of Act 58 of 1986

2. Section 2 of the Black Local Authorities Act, 1982, is hereby amended by the
10 addition to subsection (3) of the following paragraph:

“(d) a town council as defined in this Act immediately prior to the commence-
ment of the Black Local Authorities Amendment Act, 1986, shall be
deemed to be a city council and the area of such town council shall be
deemed to be the area of such city council and any reference in any law or
15 document to such town council shall be construed as a reference to a city
council.”.

Amendment of section 8 of Act 102 of 1982, as amended by section 6 of Act 58 of 1986

3. Section 8 of the Black Local Authorities Act, 1982, is hereby amended by the
substitution for paragraph (c) of subsection (1) of the following paragraph:

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“(c) he is resident in the area of the local authority concerned for a period of not less than three months or is the owner of immovable property in the area of that local authority;”.

Amendment of section 23 of Act 102 of 1982, as amended by section 7 of Act 58 of 1986

5 4. Section 23 of the Black Local Authorities Act, 1982, is hereby amended by the substitution for paragraph (o) of subsection (1) of the following paragraph:

“(o) may assist and advise any representative [recognized in respect of any national unit] appointed by the government of any self-governing territory in terms of section 4 of the [Promotion of Black Self-Government] Representation between the Republic of South Africa and Self-governing Territories Act, 1959 (Act No. 46 of 1959), regarding matters affecting the
10 [national unit] self-governing territory concerned;”.

Amendment of section 55 of Act 102 of 1982, as substituted by section 15 of Act 58 of 1986

15 5. Section 55 of the Black Local Authorities Act, 1982, is hereby amended—

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

“(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
20 Gazette, to—

(i) any member or members of the executive committee of the province in question;
(ii) any member or members of the said committee and the provincial secretary of that province jointly;
25 (iii) the said provincial secretary; or
(iv) 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 member or members, or any such member or
members and the said provincial secretary jointly, or the said provincial
30 secretary, or any such officer, to perform any duty assigned to [him] the administrator by or under this Act.”; and

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

“(2A) A provincial secretary may with the approval of the administrator delegate any power conferred upon him by or under this Act, to any officer in the provincial administration in question, or authorize any such officer to perform any duty assigned to him by or under this Act.”.
35

Amendment of section 1 of Act 91 of 1983, as amended by section 1 of Act 116 of 1984, section 1 of Act 45 of 1985 and section 1 of Act 110 of 1985

40 6. Section 1 of the Promotion of Local Government Affairs Act, 1983, is hereby amended—

(a) by the substitution in the Afrikaans text for paragraph (b) of the definition of “plaaslike owerheid” of the following paragraph:

“(b) ’n [streekdiensteraad] streeksdiensteraad;”;

(b) by the addition of the following definition:

45 “‘regional services council’ means a regional services council established under section 3 of the Regional Services Councils Act, 1985 (Act No. 109 of 1985).”.

Amendment of section 3 of Act 91 of 1983, as amended by section 2 of Act 45 of 1985 and section 1 of Act 79 of 1986

50 7. Section 3 of the Promotion of Local Government Affairs Act, 1983, is hereby amended—

(a) by the substitution for paragraph (a) of subsection (3) of the following paragraph:

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- “(a) **[12]** 13 persons nominated by the United Municipal Executive of South Africa: Provided that of the persons so appointed—
- (i) at least five shall be attached to large cities and at least two shall be attached to rural regional authorities as members or employees thereof; and
- (ii) at least one shall be a chairman or member of a regional services council;”;
- (b) by the deletion of paragraph (dA) of subsection (3);
- (c) by the substitution for paragraph (e) of subsection (3) of the following paragraph:
- “(e) **[10]** 11 members of the committee referred to in subsection (2) (h), nominated by that committee: Provided that of the persons so appointed at least one shall be a chairman or member of a regional services council;”;
- (d) by the substitution for paragraph (g) of subsection (3) of the following paragraph:
- “(g) **[ten]** 11 persons nominated by the Urban Councils Association of South Africa: Provided that of the persons so appointed—
- (i) at least five shall be attached to different city councils and at least four shall be attached to different local authorities, one in each province, as members or employees thereof; and
- (ii) at least one shall be a chairman or member of a regional services council;” and
- (e) by the deletion of paragraph (gA) of subsection (3).

25 **Amendment of section 5 of Act 91 of 1983, as amended by section 3 of Act 45 of 1985 and section 2 of Act 79 of 1986**

8. Section 5 of the Promotion of Local Government Affairs Act, 1983, is hereby amended—
- (a) by the substitution for subparagraph (iii) of paragraph (a) of subsection (1) of the following subparagraph:
- “(iii) **[one]** two of the persons referred to in section 3 (3) (a), nominated for this purpose by the Executive referred to therein, one of whom shall be a person referred to in paragraph (ii) of the proviso to that section;”;
- (b) by the substitution for subparagraph (ix) of paragraph (a) of subsection (1) of the following subparagraph:
- “(ix) **[one]** two of the members appointed in terms of section 3 (3) (e), nominated for this purpose by the committee referred to therein, one of whom shall be a person referred to in the proviso to that section;”;
- (c) by the deletion of subparagraph (x) of paragraph (a) of subsection (1);
- (d) by the substitution for subparagraph (xi) of paragraph (a) of subsection (1) of the following subparagraph:
- “(xi) **[one]** two of the members appointed in terms of section 3 (3) (g), nominated for this purpose by the association referred to therein, one of whom shall be a person referred to in paragraph (ii) of the proviso to that section;” and
- (e) by the deletion of subparagraph (xii) of paragraph (a) of subsection (1).

Amendment of section 7G of Act 91 of 1983, as inserted by section 2 of Act 110 of 1985

9. Section 7G of the Promotion of Local Government Affairs Act, 1983, is hereby amended—
- (a) by the substitution for subsection (1) of the following subsection:
- “(1) On receipt of a request for advice called for by an Administrator or a Minister as contemplated in section 7F (1) (a) or (b), but subject to the provisions of subsection (3), the secretary of the demarcation board shall cause to be published in both official languages, once [in the Government-Gazette and] in the Official Gazette of the province concerned and once in

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a newspaper circulating in the area concerned in the proposed demarcation, alteration or withdrawal of a demarcation, a notice stating that such a request for advice had been received, that it is open to inspection at the office of the secretary and at any other place or places, if any, mentioned in the notice and that objections against or representations in connection with the proposed demarcation, alteration or withdrawal of a demarcation may be lodged with the secretary of the demarcation board on or before a specific date, which shall not be less than 21 days after the date of the publication of the notice, and the secretary shall cause a copy of the notice to be served on every local authority directly affected by the proposed demarcation, alteration or withdrawal of a demarcation and on every Director-General referred to in section 3 (2) [(e) or] (eA), according to the population group concerned, and such service shall be effected by registered post or by hand.”; and

(b) by the addition of the following subsection:

“(3) (a) If an Administrator calls for advice from the demarcation board in respect of the proposed alteration of the area of jurisdiction of a local authority in a case where—

(i) particulars of the proposed alteration have been published in terms of any law in the *Gazette*, or in the *Official Gazette* of the province concerned, and in a newspaper circulating in the area concerned; and

(ii) objections against or representations in connection with the proposed alteration have been received by the Administrator, the Administrator shall refer the objections and representations to the demarcation board, which must then hold a hearing before giving the advice.

(b) Not less than 14 days before the date of the hearing, the secretary of the demarcation board shall cause to be published in both official languages, once in the *Official Gazette* of the province concerned and once in a newspaper circulating in the area concerned, a notice in which the place and date of the hearing are made known and interested parties are invited to attend the hearing, and the secretary shall cause a copy of the notice to be served on every local authority directly affected by the proposed alteration and on every Director-General referred to in section 3 (2) (eA), according to the population group concerned, and such service shall be effected by registered post or by hand.”.

Amendment of section 7 of Act 104 of 1985

10. Section 7 of the Constitutional Affairs Amendment Act, 1985, is hereby amended by the substitution for subsection (3) of the following subsection:

“(3) For the purposes of this section—

‘Administrator’ means the Administrator-in-Executive Committee of the province in question, acting after consultation with the Minister of Constitutional Development and Planning or the Minister who administers the Department of Local Government, Housing and Works of the Administration: House of Assembly, the Department of Local Government, Housing and Agriculture of the Administration: House of Representatives or the Department of Local Government, Housing and Agriculture of the Administration: House of Delegates, according to the population group in question;

‘appropriate electoral law’ means an appropriate electoral law as defined in section 1 (1) of the Local Government Bodies Franchise Act, 1984 (Act No. 117 of 1984), or the Black Local Authorities Act, 1982 (Act No. 102 of 1982), as the case may be;

‘local government body’ means a local government body as defined in section 1 (1) of the Local Government Bodies Franchise Act, 1984, or a local authority as defined in section 1 of the Black Local Authorities Act, 1982, but excluding any local council established under section 2 of the Local Councils Act (House of Assembly), 1987 (Act No. 94 of 1987).”.

60 Amendment of section 5 of Act 69 of 1986

11. Section 5 of the Provincial Government Act, 1986, is hereby amended by the substitution for subsections (3) and (4) of the following subsections:

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“(3) Before the State President issues a proclamation under subsection (1) he shall cause to be published in the *Gazette* a draft of the proposed proclamation together with a notice calling upon all interested persons to lodge any objections and representations in writing within a period of 21 days from the date of publication of the notice with the Secretary to Parliament for submission to a [standing] joint committee of Parliament contemplated in section 64 of the Constitution Act.

(4) A proclamation contemplated in subsection (1) shall be issued only on the advice of the [standing] joint committee contemplated in subsection (3).”

10 Amendment of section 14 of Act 69 of 1986

12. Section 14 of the Provincial Government Act, 1986, is hereby amended by the substitution for paragraph (a) of subsection (2) of the following paragraph:

“(a) subject to the provisions of section 16, by proclamation in the *Official Gazette* concerned—

(i) amend, repeal or substitute any provision of an ordinance of the province;

(ii) regulate any matters mentioned in subsection (1):

Provided that such a proclamation shall only be issued after it has been approved by a [joint] standing committee of Parliament contemplated in section 64 of the Constitution Act;”

Amendment of section 15 of Act 69 of 1986, as amended by section 31 of Act 32 of 1987

13. Section 15 of the Provincial Government Act, 1986, is hereby amended—

(a) by the substitution in subsection (1) for the words preceding paragraph (a) of the following words:

“The State President may by proclamation in the *Gazette* assign the administration of any provision in any law which entrusts to a Minister referred to in section 20 (b) or (c) of the Constitution Act any power, duty or function, to the administrator of any province—”;

(b) by the insertion after subsection (1) of the following subsections:

“(1A) The State President may by proclamation in the *Gazette* assign the administration of any provision in any law which he has assigned to an administrator under subsection (1), to a Minister referred to in section 20 (b) or (c) of the Constitution Act, either generally or in so far as such provision relates to any matter or any category of persons mentioned in such assignment.

(1B) A Minister referred to in section 21 (1) of the Constitution Act may, notwithstanding the provisions of any other law but subject to directives of the State President, in writing authorize the administrator of a province to exercise or perform in general or in a particular case or in cases of a particular nature, on behalf of the Minister, any power, duty or function conferred or imposed on the Minister by or in terms of any law.”;

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

“(2) The Administrator of a province may in writing authorize—

(a) any member or members of the executive committee of that province;

(b) any member or members of such executive committee and the provincial secretary of that province jointly;

(c) the said provincial secretary;

(d) any person in the service of the provincial administration concerned, to exercise or perform in general or in a particular case or in cases of a particular nature, any power, duty or function—

(i) which the administrator is authorized in terms of subsection (1B) to exercise or perform; or

(ii) conferred or imposed on the administrator by or in terms of this Act or any other Act of Parliament,

except the power to issue proclamations or make regulations.”;

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

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- 5 “(3) The said administrator may similarly authorize any institution or body contemplated in section 84 (1) (f) of the Provincial Government Act, 1961 (Act No. 32 of 1961), or approved by him, and any such institution or body so authorized may, with the approval of the administrator concerned, further so authorize a committee of its members or any person in its employ.”; and
- (e) by the substitution for subsection (4) of the following subsection:
- 10 “(4) Whenever the administration of a law or a provision of a law referred to—
- (a) in subsection (1), has been assigned to the administrator of a province under **the said** that subsection;
- (b) in subsection (1A), has been assigned to a Minister under that subsection,
- 15 the provisions of section 10 (5) and (5A) of the Interpretation Act, 1957 (Act No. 33 of 1957), shall apply *mutatis mutandis* as if that administrator, the provincial administration concerned, and an officer of that administration, were a Minister of State, the department of State controlled by him, and an officer in the public service, respectively.”.

Short title and commencement

- 20 14. (1) This Act shall be called the Constitutional Laws Amendment Act, 1988.
(2) Sections 2 and 3 shall be deemed to have come into operation on 25 June 1986.