

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 uneven numbered pages as the other language is printed on even numbered pages.



# STAATSKOERANT

VAN DIE REPUBLIEK VAN SUID-AFRIKA

REPUBLIC OF SOUTH AFRICA

# GOVERNMENT GAZETTE

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KANTOOR VAN DIE STAATSPRESIDENT

STATE PRESIDENT'S OFFICE

No. 874. 29 April 1988

No. 874. 29 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. 47 van 1988: Wysigingswet op die Afskaffing van Ontwikkelingsliggame, 1988.

No. 47 of 1988: Abolition of Development Bodies Amendment Act, 1988.

## ABOLITION OF DEVELOPMENT BODIES AMENDMENT ACT, 1988

Act No. 47, 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.

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## ACT

To amend the Abolition of Development Bodies Act, 1986, so as to delete the requirement that certain development bodies be abolished before a specific date; to provide that the local area of a divisional council which is abolished, shall remain in existence; to provide that the assets, liabilities, rights, duties and obligations which on the abolition of a development body vest in an Administrator, may thereafter be transferred to more than one public authority; to make further provision for the transfer of staff; to provide for the delegation of powers and agency functions; to make further provision for elections for development bodies; and to make further provision in connection with the administration of laws and the interpretation of certain expressions; and to provide for matters connected therewith.

*(Afrikaans text signed by the State President.)*  
*(Assented to 25 April 1988.)*

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

**Amendment of section 2 of Act 75 of 1986**

1. Section 2 of the Abolition of Development Bodies Act, 1986, is hereby amended—

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

“(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]** :Provided that a development body referred to in paragraph (c) of the definition of ‘development body’ shall be abolished not later than 30 June 1990.”; and

(b) by the addition of the following subsection:

“(5) Notwithstanding the abolition of a development body referred to in paragraph (c) of the definition of ‘development body’ in section 1 any local area referred to in section 8 (1) (g) of the Divisional Councils Ordinance, 1976 (Ordinance No. 18 of 1976), of the Cape of Good Hope, or a management committee established under section 2 of the Local Authorities (Development According to Community) Ordinance, 1963 (Ordinance No. 6 of 1963), of the Cape of Good Hope, which immediately prior to such abolition is situated or existed in the area of the development body concerned, shall remain in existence as if such development body has not been abolished.”.

## ABOLITION OF DEVELOPMENT BODIES AMENDMENT ACT, 1988 Act No. 47, 1988

## Amendment of section 3 of Act 75 of 1986

2. Section 3 of the principal Act is hereby amended by the substitution for subsections (2) and (3) of the following subsections, respectively:

- 5 “(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) or any part thereof from the Administrator in which they so vest to such public authority or public authorities as he may deem fit, with effect from a date mentioned in the notice.
- 10 (b) The assets, liabilities, rights, duties and obligations of any development body abolished in terms of section 2 (2) or any part thereof shall as from the date of such abolition, pass to such public authority or public authorities and subject to such conditions as the Minister may determine by notice in the *Gazette*.
- 15 (3) The Minister shall exercise the powers conferred upon him by subsection (2) with the concurrence of the Minister of Finance, and, where a transfer of assets, liabilities, rights, duties and obligations to a Minister entrusted with own affairs takes place, with the concurrence of the relevant Minister entrusted with own affairs.”

## Amendment of section 4 of Act 75 of 1986

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

(a) by the insertion after subsection (10) of the following subsection:

25 “(10A) (a) The Administrator may, subject to the provisions of subsection (10) (b), with effect from a date determined by him, place any person in the service of a public authority referred to in paragraph (c) of the definition of ‘public authority’, in the service of any other public authority.

(b) For the purposes of this subsection ‘Administrator’ means an Administrator as defined in section 1 of the Regional Services Councils Act, 1985 (Act No. 109 of 1985), acting—

- 30 (i) after consultation with—  
 (aa) the person concerned;  
 (bb) the public authority in the service of which the person concerned is;  
 (cc) any other body which or person whom he deems necessary;
- 35 (ii) on the recommendation of the Commission for Administration if the public authority in the service of which it is intended to place such person is a Minister or an Administrator.”; and

(b) by the substitution for subsection (11) of the following subsection:

40 “(11) No person shall, in consequence of any recommendation or decision made or action taken in terms of subsection (5), (6), (8), [or] (10) or 10A, be entitled to rely on any provision of the Labour Relations Act, 1956.”

## Amendment of section 5 of Act 75 of 1986

4. Section 5 of the principal Act is hereby amended—

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

“(1) The administration or exercise of any power or right conferred or duty imposed which is assigned by any law to—

50 (a) a development body referred to in section 3 (1) (a), shall on the date mentioned in that section pass to the Administrator concerned, and shall thereafter, in so far as the administration of the law has not under section 98 (3) of the Republic of South Africa Constitution Act, 1983 (Act No. 110 of 1983), in relation to a population group been assigned to a Minister—

- 55 (i) pass to the public authority referred to in section 3 (2) (a), on the date mentioned in that section; or  
 (ii) if the assets, liabilities, rights, duties and obligations are transferred to more than one public authority under section 3 (2) (a)

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- and in so far as the power or right conferred or duty imposed relates to any asset, liability, right, duty and obligation which thus passes to a public authority, pass to such authority: Provided that where in the last-mentioned case such power or right conferred or duty imposed does not directly relate to such an asset, liability, right, duty and obligation, the Minister may determine to which public authority concerned in the said transfer, the administration or exercise of such power or right conferred or duty imposed, shall pass;
- 5
- 10 (b) a development body referred to in section 3 (2) (b), shall on the date referred to in that section, subject to the provisions of regulations made under section 5 (4) (b), and in so far as the administration of the law is not assigned to any Minister by such regulation—
- 15 (i) pass to the public authority referred to in section 3 (2) (b); or
- (ii) if the assets, liabilities, rights, duties and obligations are transferred to more than one public authority under section 3 (2) (b), and in so far as the power or right conferred or duty imposed relates to any asset, liability, right, duty and obligation which thus passes to a public authority, pass to such authority: Provided that where in the last-mentioned case such power or right conferred or duty imposed does not directly relate to such an asset, liability, right, duty and obligation, the Minister may determine to which public authority concerned in such a transfer, the administration or exercise of such power or right conferred or duty imposed, shall pass.
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- 25 (1A) A regional services council shall not in consequence of a transfer referred to in subsection (1) acquire the power to levy any tax on immovable property.”; and
- 30 (b) by the addition to subsection (4) of the following paragraphs, the existing subsection becoming paragraph (a):
- “(b) The State President may under paragraph (a), if he deems it expedient, make regulations assigning to a Minister of a Ministers’ Council the administration of any law which conferred functions upon an abolished development body, in so far as it relates to any matter referred to in section 14 of the Republic of South Africa Constitution Act, 1983.
- 35 (c) The State President may make any such regulation only on the ground of a decision taken by him in terms of the directions of section 16 (1) of the Republic of South Africa Constitution Act, 1983, as if that section applies, and the provisions of section 18 (2) of the said Act shall *mutatis mutandis* apply to such decision of the State President.
- 40 (d) When any regulation contemplated in paragraph (b) is made, it shall for the purposes of section 84 (1) of the Provincial Government Act, 1961 (Act No. 32 of 1961), be deemed that Part IV of the Republic of South Africa Constitution Act, 1983, has under section 98 (3) of the said Constitution Act been declared to apply to the provisions in question.”.
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**Amendment of section 6 of Act 75 of 1986**

5. Section 6 of the principal Act is hereby amended by the addition of the following subsection, the existing section becoming subsection (1):

- 50 “(2) Unless it is clearly inappropriate in any particular case, with effect from a date determined by the Minister in terms of section 2 (2), any reference in any law or document to—
- (a) any development body abolished in terms of section 2 (2) shall be construed as a reference to the public authority concerned as contemplated in section
- 55 5 (1) (b); and
- (b) any person in the service of such development body shall be construed as a reference to a person in the service of the public authority to which the Minister has transferred him in terms of section 4.”.

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**Insertion of sections 7A and 7B in Act 75 of 1986**

6. The following sections are hereby inserted in the principal Act after section 7:

**“Delegation of powers, and agency functions**

5 7A. (1) A public authority may in writing authorize—  
 (a) any person in his service; or  
 (b) a committee of persons designated by that public authority,  
 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  
 that public authority by or under this Act.

10 (2) A public authority may, notwithstanding the provisions of any  
 other law but subject to directives of the State President, in writing  
 authorize another public authority to exercise or perform in general or in  
 a particular case or in cases of a particular nature, on behalf of the  
 first-mentioned public authority, any power, duty or function conferred  
 15 or imposed on such first-mentioned public authority by or under this Act.

**Elections for development bodies**

20 7B. (1) Notwithstanding the provisions of section 7 of the Constitu-  
 tional Affairs Amendment Act, 1985 (Act No. 104 of 1985), no election  
 as contemplated therein shall be held for a development body referred to  
 in paragraph (c) of the definition of ‘development body’.

25 (2) Unless a development body referred to in subsection (1) dissolves  
 for a reason other than the expiration of the period for which it was  
 elected, the development body shall continue up to the day immediately  
 preceding the date determined in terms of section 2 (2) in respect of the  
 development body concerned, and, unless his membership is terminated  
 for a reason other than the expiration of the period for which he was  
 elected as such a member, it shall be deemed that every member of the  
 development body was properly elected as such for the period ending on  
such day.”.

**30 Construction of certain proclamation**

7. Regulation 2.A of Proclamation No. R.110 of 1987 shall with effect from 29  
 June 1987 for all purposes be deemed to have brought about, and to bring about, the  
 legal consequences which it purports to have brought about and to bring about.

**Short title and commencement**

35 8. This Act shall be called the Abolition of Development Bodies Amendment Act,  
 1988, and shall be deemed to have come into operation on 1 July 1986.