Government Gazette 14983

STATE PRESIDENT'S OFFICE

No. 1284
20 July 1993

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

NO. 117 OF 1993: LOCAL GOVERNMENT AFFAIRS SECOND AMENDMENT ACT, 1993

GENERAL EXPLANATORY NOTE:

Words in bold type indicate omissions from existing enactments.

Words in italics indicate insertions in existing enactments.

ACT

To amend the Removal of Restrictions Act, 1967, so as to make further provision with reference to the alteration, suspension or removal of certain restrictions or obligations in respect of land; to amend the Black Local Authorities Act, 1982, so as to further regulate meetings of local authorities; and to make further provision for the case where a local authority is unable to perform its functions; to amend the Promotion of Local Government Affairs Act, 1983, so as to further regulate the constitution of the co-ordinating council; to amend the KwaZulu and Natal Joint Services Act, 1990, so as to authorize a joint services board to borrow or lend money for certain purposes; to amend the Local City Council Dissolution Act, 1991, so as to correct certain descriptions of land; to postpone the holding of elections for local government bodies; to repeal certain laws pertaining to local government so as to give further effect to the fact that certain own affairs functions are being assigned to Ministers for general affairs and Administrators; and to provide for matters in connection therewith.

(English text signed by the State President.)

(Assented to 9 July 1993.)

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

Amendment of section 2 of Act 84 of 1967, as amended by section 61 of Act

70 of 1968, section 7 of Act 96 of 1969 and section 2 of Act 18 of 1984

1. (1) Section 2 of the Removal of Restrictions Act, 1967, is hereby amended-

(a) by the insertion after subsection (1A) of the following subsection:

"*(1B) In the application of subsection (1), no restriction or obligation which is binding on the owner of land by virtue of a provision of a townplanning scheme shall be altered, suspended or removed on the application of a person referred to in section 3 unless the application is directly connected with an application by that person for the alteration, suspension or removal of a restriction or obligation which is binding on that owner by virtue of a restrictive condition or servitude registered against the title deed of the land in question*."; and

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

"(3) When a restriction or obligation which is binding on the owner of any land by virtue of a townplanning scheme, is altered in terms of subsection (1), the provisions of any law on townplanning *or the establishment of townships* which is in force in the province in which the land is situate and which relates to the payment of a development contribution, *or a contribution in respect of engineering services, open spaces or parks*, as contemplated in that law, shall apply as if such alteration were an alteration of the townplanning scheme in terms of that law.".

(2) An application lodged in terms of section 3(2) or (3) of the Removal of Restrictions Act, 1967 (Act No. 84 of 1967), before the commencement of this Act, and any steps taken in connection with such application, shall be proceeded with, disposed of and given effect to, as the case may be, as if this Act had not been passed.

(3) Subsections (1) and (2) shall be deemed to have come into operation in the province of the Transvaal on 1 April 1993 and shall come into operation in the provinces of the Cape of Good Hope, Natal and the Orange Free State on a date determined by the State President, after consultation with the Administrator of each such province, by proclamation in the Gazette.

Amendment of section 14 of Act 102 of 1982, as amended by section 11 of Act 95 of 1988

2. Section 14 of the Black Local Authorities Act, 1982, is hereby amended by the substitution for subsection (6) of the following subsection:

"(6) A majority of **all** the *number of* members of the local authority *determined from time to time under section 6(1)*, shall constitute a quorum for any meeting of the local authority.".

Amendment of section 29A of Act 102 of 1982, as inserted by section 2 of Act 90 of 1985 and amended by section 15 of Act 95 of 1988

3. Section 29A of the Black Local Authorities Act, 1982, is hereby amended-

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

"(1) If at any time and for any reason the number of vacancies in a local authority is such that the administrator is of the opinion that the local authority is unable to exercise, perform or fulfill any right, power, function, **or** duty *or obligation* assigned to it by or under this Act, the administrator may, notwithstanding the provisions of sections 6(3) and 9(2), by notice in the Official Gazette dissolve the local authority or authorize **any person** *one or more persons* or *any* body to exercise, perform or fulfill any or all of such rights, powers, functions, duties and obligations during a period mentioned in the notice."; and

(b) by the substitution for subsections (4), (5) and (6) of the following subsections, respectively:

"(4) A right, power, function, duty or obligation exercised, performed or fulfilled by a person *or persons* or *a* body as may be authorized under subsection (1), shall be deemed to have been exercised, performed or fulfilled by the local authority concerned.

(5) Expenditure incurred by a person *or persons* or *a* body by virtue of subsection (1) shall be payable by or recoverable from the local authority concerned.

(6) Notwithstanding anything to the contrary contained in this Act, any person *or persons* or *a* body authorized under subsection (1) may function jointly with members elected under section 7(2) or 9(2) or with members appointed under section 6(3)(a): Provided that-

(a) where any person so functions jointly with members, he;

or

(b) where more than one person so functions jointly with members, one of such persons designated by the administrator, shall act

as chairman at meetings of such local authority and exercise, perform or fulfill all rights, powers, functions, duties and obligations after consultation with such elected and appointed members in respect of the whole or any part of the area of jurisdiction as determined by the administrator in the notice contemplated in subsection (1).".

Amendment of section 3 of Act 91 of 1983, as amended by section 2 of Act 45 of 1985, section 1 of Act 79 of 1986, section 7 of Act 43 of 1988, section 2 of Act 82 of 1988 and section 2 of Act 56 of 1993

4. Section 3 of the Promotion of Local Government Affairs Act, 1983, is hereby amended-

(a) by the insertion in subsection (2) after paragraph (aA) of the following paragraph:

"*(aB) the Deputy Minister of Local Government*;"; and

(b) by the substitution for subsection (5) of the following subsection:

"(5) The Minister shall be the chairman of the co-ordinating council and if he is absent from any meeting of the council **one of** the *Deputy Minister of Local Government* **other Ministers who are members of the council in terms of subsection (2)** or *any person* **the Administrator** designated by the Minister shall preside at such meeting.".

Amendment of section 16 of Act 84 of 1990, as amended by section 23 of Act 134 of 1992 and section 11 of Act 136 of 1992

5. Section 16 of the KwaZulu and Natal Joint Services Act, 1990, is hereby amended by the insertion after subsection (13) of the following subsection:

"*(14) A board may, with the prior approval of the Minister of Finance of the Republic, borrow or end money for the purposes of or in connection with the exercise or performance of any power, duty or function conferred on or assigned to the board by or in terms of this Act*.".

Amendment of Schedule 2 to Act 61 of 1991

6. Schedule 2 to the Local City Council Dissolution Act, 1991, is hereby amended-

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

"2. The area of Bophelong consists of -

169,5600 hectares of land, situated in the district of Vanderbijlpark, being a Portion of the farm Vanderbijlpark No. 550 IQ, which is further defined in Government Notice No. 1759 of 9 September 1955

2.1 79,9218 hectares of land, situated in the district of Vanderbijlpark, being Portion 9 of the farm Vanderbijlpark No. 550 IQ, shown on diagram S.G. No. A507/47 (Province of the Transvaal);

2.2 11,6532 hectares of land, situated in the district of Vanderbijlpark, being Portion 27 of the farm Vanderbijlpark No. 550 IQ, shown on diagram S.G. No. A3284/50 (Province of the Transvaal);

2.3 79,2896 hectares of land, situated in the district of Vanderbijlpark, being Portion 45 of the farm Vanderbijlpark No. 550 IQ, shown on diagram S.G. No. A5415/54 (Province of the Transvaal)."

(b) by the substitution for item 3.22 of the following item:

"3.22 **99,6812** *233,0010* hectares of land, situated in the district of Vanderbijlpark, being Portion 5 (Portion of Portion 2) of the farm **Rietspruit No. 535** *Quaggasfontein, alias Lapdoorns No. 548* IQ, shown on diagram S.G. No. **A983/11** *A3511/51* (Province of the Transvaal)."; and

(c) by the substitution for item 3.32 of the following item:

"3.32 *(a)* {715,2587 hectares of land, situated in the district of Vanderbijlpark, being the Remainder of Portion 42 of the farm Wildebeestfontein No. 536 IQ, shown on diagram S.G. No. 8107/86 (Province of the Transvaal) *400,2210 hectares of land, situated in the district of Vanderbijlpark, being Portion 30 of the farm Wildebeestfontein No. 536 IQ, shown on diagram S. G. No. A2346/84 (Province of the Transvaal);*

(b) 312,7051 hectares of land, situated in the district of Vanderbijlpark, being Portion 35 of the farm Wildebeestfontein No.536 IQ, shown on diagram S. G. No. A6964/85 (Province of the Transvaal);

(c) 8113 square metres of land, situated in the district of Vanderbijlpark, being the Remainder of Portion 7 of the farm Wildebeestfontein No. 536 IQ, shown on diagram S.G. No. A5442/06

(Province of the Transvaal);

(d) 8119 square metres of land, situated in the district of Vanderbijlpark, being Portion 32 of the farm Wildebeestfontein No.536 IQ, shown on diagram S.G. No. A5685/50 (Province of the Transvaal);

(e) 8119 square metres of land, situated in the district of Vanderbijlpark, being Portion 24 of the farm Wildebeestfontein No. 536 IQ, shown on diagram S.G. No. A1739/52 (Province of the Transvaal);

(f) 4060 square metres of land, situated in the district of Vanderbijlpark, being Lot 125, The Evaton Estate Township, shown on diagram S.G. No. A1154/59 (Province of the Transvaal).".

Postponement of elections for local government bodies

7. (1) Notwithstanding anything to the contrary contained in any law, the first election, after the commencement of this Act, of the members of all local government bodies shall take place on a day determined by the Minister, after consultation with the Administrator concerned, by notice in the Gazette, and the Minister shall have the power to determine different dates in respect of different local government bodies or different categories of local government bodies.

(2) Unless the council or committee of a local government body dissolves for a reason other than the expiration of the period for which it has been elected or constituted, the council or committee of each local government body shall continue up to the day immediately preceding the day determined in terms of subsection (1), and, unless his membership is terminated for a reason other than the expiration of his term of office, it shall be deemed that every member of the council or committee of a local government body has been properly elected as such in terms of the appropriate electoral law for a period ending on such first-mentioned day.

(3) Notwithstanding anything to the contrary contained in any law, the Minister may, after consultation with the Administrator concerned, in respect of an election referred to in subsection (1), in the notice referred to in subsection (1) or in a subsequent notice-

(a) make regulations regarding-

(i) the determination of wards and polling districts;

(ii) voters and voters' lists, including the determination of qualifications of voters;

(iii) members of local government bodies, including the qualifications and term of office of members;

(iv) the conducting of and procedures at the election;

(v) election expenses;

(vi) corrupt and illegal practices and other related offences, and generally, with regard to any other matter which the Minister considers necessary or expedient to prescribe in order to achieve or promote the objects of this section, and the generality of this provision shall not be limited by the preceding subparagraphs of this paragraph;

(b) declare that any law or any provision of any law pertaining to the election of members of any local government body shall, subject to the adjustment or amendment thereof set out in that notice, for the purposes of an election referred to in subsection (1), apply to any local government body or any category of local government bodies determined by him and set out in such notice.

(4) Regulations made under subsection (3)(a) may prescribe penalties for a contravention thereof or a failure to comply therewith, not exceeding a fine of R20 000 or imprisonment for a period of two years.

(5) For the purposes of this section-

"Administrator" means an Administrator as defined in section 1 of the Provincial Government Act, 1986 (Act No. 69 of 1986);

"appropriate electoral law", in relation to a local government body, means a law regulating the registration of voters for and the election of members of the local government body concerned;

"local government body" means any institution or body contemplated in section 84(1)(f) of the Provincial Government Act, 1961 (Act No. 32 of 1961), and includes-

(a) any local authority as defined in section 1(1) of the Black Local Authorities Act, 1982 (Act No. 102 of 1982);

(b) any committee referred to in section 17 of the Promotion of Local Government Affairs Act, 1983 (Act No. 91 of 1983);

(c) any combined local authority referred to in section 8(f) of the Interim Measures for Local Government Act, 1991 (Act No. 128 of 1991); and

(d) any combined or other local government body designated by the Minister for the purposes of this section by notice in the Gazette;

"Minister" means the Minister of Local Government.

Repeal of laws

8. (1) The laws referred to in the Schedule are hereby repealed.

(2) Subsection (1) shall be deemed to have come into operation on 1 April 1993.

Application of certain proclamations of Administrators in certain former local government areas

9. (1) Any amendment, repeal or substitution by an Administrator by proclamation in the Official Gazette under section 14 of the Provincial Government Act, 1986 (Act No. 69 of 1986), to or of any ordinance mentioned in -

(a) Part A of column 1 of the Schedules to Proclamations Nos. R.36, R.37 and R.38 of 31 March 1989

(b) the Schedule to Proclamation No. R.97 of 30 June 1989, and

(c) Part A of column 1 of the Schedule to Proclamation No. 203 of 15 December 1989, respectively, effected during the period 1 April 1989 up to and including 31 March 1993 and which was in force on the last-mentioned date, shall, notwithstanding anything to the contrary in any law contained, be deemed to apply also in and in respect of any area in the province concerned which, up to and including the last-mentioned date, had been declared by or under-

(i) the Declaration of Local Government Areas Ordinance, 1986 (Ordinance No. 18 of 1986), of the Cape of Good Hope;

(ii) the Declaration of Local Government Areas Ordinance, 1986 (Ordinance No. 18 of 1986), of the Orange Free State;

(iii) the Declaration of Local Government Areas Ordinance, 1986 (Ordinance No. 22 of 1986), of Natal; or

(iv) the Local Government Areas Ordinance, 1986 (Ordinance No. 24 of 1986), of the Transvaal, and still was, a local government area for a population group.

(2) Subsection (1) shall be deemed to have come into operation on 1 April 1993.

Transitional provisions

10. (1) Anything done or commenced with in terms of or under a provision of any law amended by any law referred to in the Schedule, but not yet finalized on 31 March 1993, shall be deemed to have been done or commenced with in terms of the corresponding provision, if any, of any general law as defined in section 100 of the Republic of South Africa Constitution Act, 1983 (Act No. 110 of 1983).

(2) Notwithstanding the repeal of the laws referred to in the Schedule by section 8, any by-law or regulation made under any law amended by any law so repealed and which was in force immediately before 1 April 1993, shall remain in force until it is amended or repealed by the competent authority, and shall be deemed to have been made under the general law referred to in subsection (1), if any.

(3) In the event of a conflict between a provision of any by-law or regulation referred to in subsection (2) and a provision of any by-law or regulation made under a general law referred to in subsection (1), the provision of the first-mentioned by-law or regulation shall prevail.

Short title

11. This Act shall be called the Local Government Affairs Second Amendment Act, 1993.

SCHEDULE

LAWS REPEALED

(Section 8)

No. and year of law	Short title
Act No. 32 of 1990	Municipal Ordinance Amendment Act (Cape) (House of Assembly), 1990
Act No. 33 of 1990	Local Government Ordinance Amendment Act (O.F.S.) (House of Assembly), 1990
Act No. 49 of 1990	Divisional Councils Ordinance Amendment Act (Cape) (House of Assembly), 1990
Act No. 50 of 1990	Local Government (Administration and Elections) Ordinance Amendment Act (Transvaal) (House of

	Assembly), 1990
Act No. 52 of 1990	Local Government Ordinance Amendment Act (Transvaal) (House of Assembly), 1990
Act No. 53 of 1990	Local Authorities Rating Ordinance Amendment Act (Transvaal) (House of Assembly), 1990
Act No. 54 of 1990	Local Authorities Capital Development Fund Ordinance Amendment Act (Transvaal) (House of Assembly), 1990
Act No. 55 of 1990	Land Use Planning Ordinance Amendment Act (Cape) (House of Assembly), 1990
Act No. 56 of 1990	Dog Tax Ordinance Amendment Act (Cape) (House of Assembly), 1990
Act No. 104 of 1990	Local Government Ordinance Second Amendment Act (O.F.S) (House of Assembly), 1990
Act No. 37 of 1991	Local Authorities Capital Development Fund Ordinance Amendment Act (Transvaal) (House of Assembly), 1991
Act No. 38 of 1991	Local Government (Administration and Elections) Ordinance Amendment Act (Transvaal) (House of Assembly), 1991
Act No. 39 of 1991	Town-planning and Townships Ordinance Amendment Act (Transvaal) (House of Assembly), 1991
Act No. 42 of 1991	Local Authorities Rating Ordinance Amendment Act (Transvaal) (House of Assembly), 1991
Act No. 43 of 1991	Local Government Ordinance Amendment Act (O.F.S) (House of Assembly), 1991
Act No. 46 of 1991	Municipal Ordinance Amendment Act (Cape) (House of Assembly), 1991
Act No. 47 of 1991	Land Use Planning Ordinance Amendment Act (Cape) (House of Assembly), 1991
Act No. 48 of 1991	Local Government Ordinance Amendment Act (Transvaal) (House of Assembly), 1991
Act No. 49 of 1991	Townships Ordinance Amendment Act (O.F.S.) (House of Assembly), 1991

Act No. 82 of 1991	Municipal Consolidated Loans Fund Ordinance Amendment Act (Transvaal) (House of Assembly), 1991
Act No. 83 of 1991	Local Government Ordinance Second Amendment Act (O.F.S.) (House of Assembly), 1991
Act No. 84 of 1991	Removal of Restrictions Amendment Act (House of Assembly)1991
Act No. 130 of 1991	Divisional Councils Ordinance Amendment Act (Cape) (House of Assembly), 1991
Act No. 131 of 1991	Municipal Ordinance Second Amendment Act (Cape) (House of Assembly), 1991
Act No. 35 of 1992	Local Government Ordinance Amendment Act (Transvaal) (House of Assembly), 1992
Act No. 36 of 1992	Division of Land Ordinance Amendment Act (Transvaal) (House of Assembly), 1992
Act No. 38 of 1992	Delegation of Powers Ordinance Amendment Act (O.F.S.) (House of Assembly), 1992
Act No. 63 of 1992	Townships Ordinance Amendment Act (O.F.S.) (House of Assembly), 1992
Act No. 64 of 1992	Land Use Planning Ordinance Amendment Act (Cape) (House of Assembly), 1992
Act No. 65 of 1992	Local Government Ordinance Amendment Act (O.F.S.) (House of Assembly), 1992
Act No. 66 of 1992	Divisional Councils Ordinance Amendment Act (Cape) (House of Assembly), 1992
Act No. 109 of 1992	Local Government Ordinance Second Amendment Act (Transvaal) (House of Assembly), 1992
Act No. 110 of 1992	Local Government Ordinance Second Amendment Act (O.F.S.) (House of Assembly), 1992