STATE PRESIDENT'S OFFICE

No. 591.
1 April 1993

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

No. 56 of 1993: Local Government Affairs 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 and repeal certain laws pertaining to local government so as to give 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.

(Afrikaans text signed by the State President.)

(Assented to 31 March 1993.)

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

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, section 1 of Act 110 of 1985, section 6 of Act 43 of 1988, section 1 of Act 82 of 1988, section 23 of Act 103 of 1988 and section 1 of Act 109 of 1991

1. Section 1 of the Promotion of Local Government Affairs Act, 1983, is hereby amended by the deletion of the definition of "development board".

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 and section 2 of Act 82 of 1988

2. Section 3 of the Promotion of Local Government Affairs Act, 1983, is hereby amended by the deletion of paragraphs (aB) and (eA) of subsection (2).

Amendment of section 5 of Act 91 of 1983, as amended by section 3 of Act 45 of 1985, section 2 of Act 79 of 1986, section 8 of Act 43 of 1988, section 3 of Act 82 of 1988 and section 8 of Act 134 of 1992

3. Section 5 of the Promotion of Local Government Affairs Act, 1983, is hereby amended by the deletion of subparagraph (iB) of paragraph (a) of subsection (1).

Amendment of section 7F of Act 91 of 1983, as inserted by section 2 of Act 110 of 1985 and amended by section 4 of Act 79 of 1986

4. Section 7F of the Promotion of Local Government Affairs Act, 1983, is hereby amended-

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

"(b) the Minister **the Minister appointed to administer local government affairs in respect of Black communities, the Ministers referred to in section 3(2)(aB)** or an Administrator, hold an enquiry and advise the said Minister **Ministers** or Administrator by means of a written report on any other particular demarcation, redemarcation or withdrawal of the demarcation of any area pertaining to local government affairs."; and

(b) by the deletion of paragraph (b) of subsection (3).

Amendment of section 7G of Act 91 of 1983, as inserted by section 2 of Act 110 of 1985 and amended by section 9 of Act 43 of 1988

5. 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 Official Gazette of the province concerned and once in 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 has 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)(eA), according to the population group concerned**, and such service shall be effected by registered post or by hand."; and

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

"(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 1 of Act 109 of 1985, as amended by section 1 of Act 78 of 1986, section 1 of Act 49 of 1988 and section 1 of Act 127 of 1991

6. Section 1 of the Regional Services Councils Act, 1985, is hereby amended by the deletion of the definition of "general affairs".

Amendment of section 2 of Act 109 of 1985, as amended by section 2 of Act 78 of 1986

7. Section 2 of the Regional Services Councils Act, 1985, is hereby amended by the deletion of subparagraphs (ii) and (iv) of paragraph (a) of subsection (2).

Amendment of section 3 of Act 109 of 1985, as amended by section 3 of Act 49 of 1988

8. Section 3 of the Regional Services Councils Act, 1985, is hereby amended-

(a) by the substitution for paragraphs (a) and (b) of subsection (1) of the following paragraphs, respectively:

"(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.

(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) of the Public Service Act, 1984 (Act No. 111 of 1984), by notice in the Official Gazette be identified as a regional function and be entrusted to that council."; and

(b) by the substitution for subsection (3) of the following subsection: "(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) of the Public Service Act, 1984, amend, substitute or repeal any notice in terms of this section.".

Amendment of section 11 of Act 109 of 1985, as amended by section 6 of Act 78 of 1986, section 12 of Act 49 of 1988, section 4 of Act 75 of 1991 and section 15 of Act 134 of 1992

9. Section 11 of the Regional Services Councils Act,1985, is hereby amended-

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

"(i) the Administrator **who shall be the chairman**;";

(b) by the deletion of subparagraphs (ii), (iii) and (iv) of paragraph (a) of subsection (3);

(c) by the substitution for subparagraph (i) of paragraph (b) of subsection (3) of the following subparagraph:

"(i) the Minister of Finance **who shall be the chairman; and**.";

(d) by the deletion of subparagraph (ii) of paragraph (b) of subsection (3);

(e) by the substitution for subsection (7) of the following subsection: "(7) A decision by **four of its members shall be a decision of** the appeal board **and** *shall be carried out by* the council **shall carry out that decision**."; and

(f) by the deletion of subsection (8).

Amendment of section 12A of Act 109 of 1985, as inserted by section 15 of Act 49 of 1988 and amended by section 6 of Act 75 of 1991

10. Section 12A of the Regional Services Councils Act, 1985, is hereby amended-

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

"The **Minister referred to in section 2(2)(a)(ii) or (iv) according to the population group concerned** *Administrator* may by notice in the *Official* Gazette and from the date mentioned in such notice establish a rural council in a region or part of a region for-";

(b) by the deletion of subsections (2) and (3);

(c) by the substitution for subsection (4) of the following subsection:

"(4) The members of the rural council shall be elected by the persons referred to in subsection (1)(a) and (b) and by the juristic person referred to in subsection (1)(c): Provided that the **Minister concerned** *Administrator* may, until a first election of members is held, by notice in the *Official* Gazette appoint persons who are qualified for election, as members of the rural council to serve as such members for a period not exceeding 12 months: Provided further that a rural council whose members are so appointed shall, notwithstanding anything to the contrary in this Act, be a management body for the purposes of this Act.";

(d) by the substitution for subsection (6) of the following subsection: "(6) The objects of a rural council are to grant representation on a council to persons and juristic persons contemplated in **subsections** *subsection* (1) **and (3)** in regard to a region outside the areas of jurisdiction of local authorities or

management bodies other than rural councils and to promote the interests and welfare of those persons, and for such purpose a rural council shall be vested and entrusted with the powers and duties which the **Minster concerned** *Administrator* may from time to time identify in the *Official* Gazette as powers and duties of a rural council, but a rural council shall not have the power to impose any levy or service charge or to levy taxes on immovable property."; and

(e) by the substitution for subsection (8) of the following subsection: "(8) The **Minister concerned** *Administrator* may by notice in the *Official* Gazette make regulations in respect of any matter which in his opinion is necessary or expedient for the effective execution or furtherance of the provisions and objects of this section.".

Amendment of section 13 of Act 109 of 1985, as amended by section 7 of Act 75 of 1991

11. Section 13 of the Regional Services Councils Act, 1985,is hereby amended by the deletion of paragraph (b) of subsection (3).

Amendment of section 15A of Act 109 of 1985, as inserted by section 18 of Act 49 of 1988

12. Section 15A of the Regional Services Councils Act, 1985, is hereby amended by the deletion of subsection (2).

Amendment of section 2 of Act 75 van 1986, as amended by section 1 of Act 47 of 1988 and section 1 of Act 81 of 1990

13. Section 2 of the Abolition of Development Bodies Act, 1986, is hereby amended by the substitution for paragraph (b) of subsection (S) of the following paragraph;

"(b) The administration of each area which in terms of paragraph (a) **is** *has been* declared a local area is hereby assigned **as from the date of such declaration** to the **respective Ministers responsible for local government affairs in the Ministers' Councils of the House of Assembly, the House of Representatives and the House of Delegates, depending on the population group for which the local area concerned is deemed to have been declared in terms of the Declaration of Local Government Areas Ordinance, 1986 (Ordinance No. 18 of 1986), of the Cape of Good Hope** *Administrator of the Province of the Cape of Good Hope.*".

Amendment of section 3 of Act 75 of 1986, as amended by section 2 of Act 47 of 1988, section 2 of Act 81 of 1990 and section 17 of Act 134 of 1992

14. Section 3 of the Abolition of Development Bodies Act, 1986,is hereby amended by the substitution for subsection (3) of the following subsection:

"(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 5 of Act 75 of 1986, as amended by section 4 of Act 47 of 1988

15. Section 5 of the Abolition of Development Bodies Act, 1986, is hereby amended-

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

"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**-"; and

(b) by the deletion of paragraphs (b) and (d) of subsection (4).

Amendment of section 12 of Act 94 of 1988

16. Section 12 of the Prior Votes for Election of Members of Local Government Bodies Act, 1988, is hereby amended by the deletion of subsection (3).

Amendment of section 17 of Act 84 of 1990

17. Section 17 of the KwaZulu and Natal Joint Services Act, 1990, is hereby amended-

(a) by the substitution for subsection (1) of the following subsection:
"(1) In the case of-

(a) a region which is situate in its entirety within that part of the Province of Natal which does not form part of the self-governing territory of KwaZulu, or part of such region, the **Minister referred to in section 24(3), according to the population group concerned** *Administrator of the Province of Natal*;

(b) a region which is situate in its entirety within the self-governing territory of KwaZulu, or part of such region, the Chief Minister of KwaZulu; and

(c) a region which is situate partly in that part of the Province of Natal which does not form part of the self-governing territory of KwaZulu and partly in the said self-governing territory, or part of such region, the **Minister contemplated in paragraph (a)** *Administrator of the Province of Natal*, acting after consultation with the **Administrator of the Province of Natal and the** said Chief Minister **jointly**, may, on the recommendation of the Joint Executive Authority and with due regard to the matters mentioned in Schedule 1, by notice in the *Official* Gazette *of the Province of Natal* in the case contemplated in paragraph (a), the Official Gazette of KwaZulu in the case

contemplated in paragraph (b), and in both such Gazettes in the case contemplated in paragraph (c), establish, with effect from the date mentioned in such notice, **one or morel** *a* rural **councils** *council* **(but not exceeding three such councils in all) to represent the interests of members of any particular population group, or to represent the interests jointly of members of more than one population group, who are resident in such region or part but outside the area of jurisdiction of a local authority** *in such region or part of such region for-*

(i) persons resident in such region or part;

(ii) persons who are the registered owners of immovable property situate in such region or part; and

(iii) persons who hold an interest in a juristic person that is the registered owner of immovable property situate in such region or part, l but outside the area of jurisdiction of a local authority or a management body other than a rural council.";

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

"(2) The members of the rural council shall be elected by the persons and juristic persons referred to in subsection (1).";

(c) by the substitution for paragraph (a) of subsection (4) of the following paragraph:

"(a) in the case of a rural council in any region which is situate in its entirety within that part of the Province of Natal which does not form part of the self-governing territory of KwaZulu, or part of such region, the **Minister referred to in section 24(3) according to the population group concerned acting after consultation with the competent authority concerned** *Administrator of the Province of Natal;*";

(d) by the substitution for paragraph (c) of subsection (4) of the following paragraph:

"(c) in the case of a rural council in any region which is situate partly in that part of the Province of Natal which does not form part of the self-governing territory of KwaZulu and partly in the said self-governing territory, or part of such region, the **Minister contemplated in paragraph (a)** *Administrator of the Province of Natal*, acting after consultation with the **Administrator of the Province of Natal and the** said Chief Minister **jointly**,"; and

(e) by the substitution in subsection (4) for the words following upon paragraph (c) of the following words:

"may from time to time identify in the *Official* Gazette *of the Province of Natal* in the case contemplated in paragraph (a), or the Official Gazette of KwaZulu in the case contemplated in paragraph (b), and in both such Gazettes in the case contemplated in paragraph (c), as the powers and duties of such rural council, but such powers shall not include the power to impose any levy or service charge or to levy taxes on immovable property.".

Amendment of section 18 of Act 84 of 1990

18. Section 18 of the KwaZulu and Natal Joint Services Act, 1990, is hereby amended by the substitution for subsection (3) of the following subsection:

"(3) If any regulation under this section is to be applicable in any region which is situate outside the self-governing territory of KwaZulu, or any part of such region, such regulation shall be made only with the concurrence of the **Ministers** *Minister* referred to in **sections** *section* 2(2)(a)(iii) **and 24(3)**.".

Amendment of section 22 of Act 84 of 1990

19. Section 22 of the KwaZulu and Natal Joint Services Act, 1990, is hereby amended by the deletion of paragraph (a) of subsection (2).

Amendment of section 24 of Act 84 of 1990

20. Section 24 of the KwaZulu and Natal Joint Services Act, 1990, is hereby amended by the deletion of subsection (3).

Amendment of section 1 of Act 128 of 1991

21. Section 1 of the Interim Measures for Local Government Act, 1991, is hereby amended by the substitution for paragraph (a) of the definition of "Administrator" of the following paragraph:

" (a) in respect of any local government body which is situate within that part of a province which does not form part of a Self-governing Territory, means the administrator of that province **acting with the concurrence of the Ministers appointed in the Ministers' Council of the House of Assembly, the House of Representatives and the House of Delegates, respectively, to administer local government matters**;".

Substitution of section 141 of Ordinance 8 of 1962 (Orange Free State), as substituted by section 55 of Proclamation 18 of 1988

22. The following section is hereby substituted for section 141 of the Local Government Ordinance, 1962 (Orange Free State):

"Closing of streets and public places

141. *A council may close or divert any street, road or other public place, or any portion thereof, under its control temporarily or, subject to the provisions of section 18 of the*

Townships Ordinance, 1969 (Ordinance No. 9 of 1969), permanently.".

Amendment of section 18 of Ordinance 9 of 1969 (Orange Free State), as substituted by section 1 of Ordinance 15 of 1974

23. Section 18 of the Townships Ordinance, 1969 (Orange Free State), is hereby amended-

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

"*(bA) Any person lodging an objection against an application in terms of paragraph (a) which relates to the closing of a public place or part of a public place shown on the general plan of a township, shall, if he is likely to suffer loss or damage if the application should be granted, together with such objection furnish particulars of such loss or damage, and send a copy of his objection to the local authority concerned.*";

(b) by the substitution in the Afrikaans text for paragraph (a) of subsection (4) of the following paragraph:

"(a) Wanneer 'n openbare plek of 'n gedeelte van 'n openbare plek wet op die algemene plan van 'n dorp aangetoon word, permanent gesluit word, word die dorpseienaar, tensy die Administrateur anders bepaal en behoudens die bepalings van subartikel (3) (b) en van paragraaf (b), ontdoen van sy eiendomsreg in of op die grond wet die openbare plek of gedeelte van 'n openbare plek uitmaak, en daarna gaan sodanige eiendomsreg oor op die plaaslike bestuur van die dorp of, indien dear nie 'n plaaslike bestuur is nie, op die Administrateur in trust vir 'n toekomstige plaaslike bestuur tot tyd en wyl 'n plaaslike bestuur *vir die dorp saamgestel is of dit in die regsgebied van 'n plaaslike bestuur* ingelyf is wanneer dit op sodanige plaaslike bestuur oorgaan, en die Registrateur van Aktes maak 'n aantekening van sodanige oorgang op die wyse wet hy paslik ag."; and

(c) by the addition of the following subsection:

" *(5) If a person suffers loss or damage as a result of the permanent closing of a public place or part thereof referred to in subsection (4), the local authority concerned shall pay such compensation to such person as may be agreed upon between the local authority and such person or, failing agreement, as may be determined by arbitration in terms of the Arbitration Act, 1965 (Act No. 42 of 1965): Provided that-*

(i) in assessing the amount of compensation, any benefit to be derived by such person by reason of the closing shall be taken into account;

(ii) no compensation shall be paid to such person if he has failed to lodge an objection with the secretary of the board as contemplated in subsection

(2)(b)(i) or to send a copy thereof to the local authority concerned in terms of subsection (2)(bA).".

Amendment of section 20 of Ordinance 9 of 1969 (Orange Free State), as amended by section 1 of Ordinance 9 of 1973, section 1 of Ordinance 9 of 1978 and section 1 of Ordinance 7 of 1980

24. Section 20 of the Townships Ordinance, 1969 (Orange Free State), is hereby amended by the addition of the following subsections:

"*(6) When the Administrator approves an application-*

(a) by which a public place or part of a public place shown on the general plan of a township is affected; or

(b) whereby a new public place is created in that township, the approval of the Administrator shall, subject to the provisions of section 18, be subject to the amendment or change of that general plan by the Surveyor-General in terms of section 30(2) of the Land Survey Act, 1927 (Act No. 9 of 1927), necessitated by the approval.

(7) After an owner of land has applied for approval by the Administrator of the subdivision of an erf shown on the general plan of an approved township, in such a way that a new public place is created in that township by the subdivision, the provisions of section 8(5)(a) and (b)(i), (ii) and (iv) and (7) shall apply mutatis mutandis to that erf.".

Repeal of section 10A of Act 3 of 1987, as inserted by section 3 of Act 95 of 1989

25. Section 10A of the Development Act (House of Representatives), 1987, is hereby repealed.

Repeal of section 28A of Act 3 of 1987, as inserted by section 7 of Act 95 of 1989 and amended by section 10 of Act 91 of 1990

26. Section 28A of the Development Act (House of Representatives)? 1987, is hereby repealed.

Repeal of Ordinance 18 of 1986 (Cape of Good Hope)

27. The Declaration of Local Government Areas Ordinance, 1986 (Ordinance No. 18 of 1986), of the Cape of Good Hope, is hereby repealed.

Repeal of Ordinance 18 of 1986 (Orange Free State)

28. The Declaration of Local Government Areas Ordinance, 1986 (Ordinance No. 18 of 1986), of the Orange Free State, is hereby repealed.

Repeal of Ordinance 22 of 1986 (Natal)

29. The Declaration of Local Government Areas Ordinance, 1986 (Ordinance No. 22 of 1986), of Natal, is hereby repealed.

Repeal of Ordinance 24 of 1986 (Transvaal)

30. The Local Government Areas Ordinance, 1986 (Ordinance No.24 of 1986), of the Transvaal, is hereby repealed.

Repeal of Proclamation R.110 of 1987

31. Proclamation No. R.110 of 29 June 1987 is hereby repealed.

Repeal of Proclamation R.217 of 1988

32. Proclamation No. R.217 of 30 December 1988 is hereby repealed.

Repeal of Proclamation R.100 of 1989

33. Proclamation No. R.100 of 30 June 1989 is hereby repealed.

Repeal of Proclamation 172 of 1989

34. Proclamation No. 172 of 29 September 1989 is hereby repealed.

Repeal of Proclamation 210 of 1989

35. Proclamation No. 210 of 29 December 1989 is hereby repealed.

Transitional provisions

36. (1) Any rural council established under section 12A of the Regional Services Councils Act, 1985 (Act No. 109 of 1985), and which existed immediately prior to the commencement of this Act, shall be deemed to have been established under the said section 12A as amended by this Act.

(2) Any notice issued or regulation made under section 12A of the Regional Services Councils Act, 1985, and which was in force immediately prior to the commencement of this Act, shall be deemed to have been issued or made under the said section 12A as amended by this Act.

(3) Anything done or which was commenced with in terms of a provision of any law the administration of which is assigned with effect from 1 April 1993 under section 98A of the Republic of South Africa Constitution Act, 1983 (Act No. 110 of 1983), but was 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.

Short title and commencement

37. This Act shall be called the Local Government Affairs Amendment Act, 1993, and shall be deemed to have come into operation on 1 April 1993.