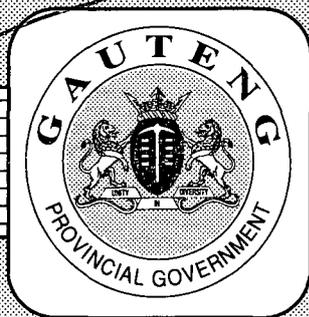


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**THE PROVINCE OF
GAUTENG**



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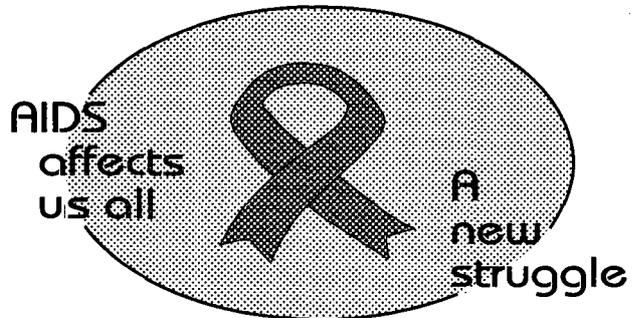
Vol. 6

PRETORIA, 6 SEPTEMBER 2000

No. 124

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GENERAL NOTICES

NOTICE 6200 OF 2000**NOTICE RELATING TO THE ESTABLISHMENT OF THE SEDIBENG DISTRICT MUNICIPALITY AS CONTEMPLATED IN SECTION 12 OF THE LOCAL GOVERNMENT MUNICIPAL STRUCTURES ACT, 1998**

I, Paul Shipokosa Mashatile, Acting Member of the Executive Council responsible for local government in the Province of Gauteng, under section 12(4)(c) of the Local Government: Municipal Structures Act, 1998 (Act No. 117 of 1998), hereby publish particulars of the notice establishing the Sedibeng District Municipality as set out in the Schedule hereto for public comment.

Any person or body who wishes to make any comment in relation to this notice is invited to submit written comments within 14 days of date of publication of this Notice, clearly marked for the attention of Ms Nambitha Nazo at the following address:

The Head of Department
Department of Development Planning and Local Government
Private Bag X86
Marshalltown
2107

Facsimile: (011) 355-5082

Given under my hand at Johannesburg on this Fourth day of September, Two Thousand.



P S MASHATILE
ACTING MEC: Development Planning and Local Government
GAUTENG PROVINCE

SCHEDULE

PART 1

DEFINITIONS

1. In this Schedule, unless inconsistent with the context, a word or expression to which a meaning has been assigned in the Municipal Structures Act has the same meaning; and-

"Demarcation Board" means the Municipal Demarcation Board established by section 2 of the Local Government: Municipal Demarcation Act, 1998 (Act No. 27 of 1998);

"effective date" means

- (a) the day on which the result of the first election of the councils of the district municipality and the local municipalities in the district municipal area are declared in terms of section 190(1)(c) of the Constitution; or
- (b) if the results of any one or more of these councils cannot be declared, and a re-election must be held, the day on which the results of the re-election are declared.

"disestablished municipality" means a municipality disestablished in terms of paragraph 36 of this schedule;

"district municipal area" means the area indicated by Map No. 2 in Provincial Notice No. 1175 dated 2 March 2000;

"district municipality" means the category C municipality established by part 2 of this Schedule;

"local municipality" means a category B municipality established by part 3, 4 and 5 of this Schedule;

"new municipality" means a district municipality or a local municipality, as the case may be, established in this Schedule;

"Municipal Structures Act" means the Local Government: Municipal Structures Act, 1998 (Act No. 117 of 1998);

"Gauteng Types of Municipality Act" means the Gauteng Types of Municipality Act, 2000 (Act No. 3 of 2000);

"**proportionally elected councillors**" means councillors elected to proportionally represent parties in the council of the municipality concerned; and

"**ward councillor**" means a councillor elected to represent a ward in a municipal council.

ESTABLISHMENT OF NEW MUNICIPALITIES

2. (1) New municipalities are hereby established for the district municipal area as set out in Part 2, 3, 4 and 5 of this Schedule.
- (2) The establishment of the municipalities referred to in subparagraph (1) hereof, takes effect on the effective date.

PART 2

ESTABLISHMENT OF THE DISTRICT MUNICIPALITY

3. For the district municipal area as a whole and as indicated by Map No. 2 in Provincial Notice No 1175 dated 2 March 2000, a new district municipality called **Sedibeng** is hereby established.

CATEGORY

4. The **Sedibeng** district municipality is a category C municipality as determined by Demarcation Board in terms of section 4 of the Municipal Structures Act.

TYPE

5. The **Sedibeng** district municipality is a municipality with a mayoral executive system as described in section 4(b) of the Gauteng Types of Municipality Act.

BOUNDARIES

6. (1) The boundaries of **Sedibeng** district municipality are as indicated in Map No. 2 in Provincial Notice No. 1175 dated 2 March 2000.

- (2) The area of jurisdiction of **Sedibeng** district municipality shall be the area falling within the boundaries referred to in subparagraph (1) hereof.

COUNCILLORS

7. (1) The council of **Sedibeng** district municipality consist of 43 councillors as determined in Provincial Notice No. 4588 dated 13 July 2000 of which:
- a) 17 must be proportionally elected councillors;
 - b) 22 must be appointed by local municipality mentioned in Part 3 of this Schedule.
 - c) 2 must be appointed by local municipality mentioned in Part 4 of this Schedule.
 - d) 2 must be appointed by local municipality mentioned in Part 5 of this Schedule.

FULL TIME COUNCILLORS

8. (1) The following office bearers may be designated by the council of the **Sedibeng** district municipality as full-time councillors:
- a) The Executive Mayor;
 - b) The Deputy Executive Mayor; and
 - c) Members of the Mayoral Committee.

SEAT

9. The seat of **Sedibeng** district municipality shall be the Municipal offices at Corner Leslie and Beaconsfield Street, Vereeniging or the council of the municipality may by resolution decide that the seat of the **Sedibeng** district municipality shall be at such other place as it may determine.

PART 3

ESTABLISHMENT OF THE LOCAL MUNICIPALITY

10. For that part of the district municipal area as indicated by Map No.3 in

Provincial Notice No 1175 dated 2 March 2000, a local municipality called **Emfuleni** is hereby established.

CATEGORY

11. The local municipality of **Emfuleni** is a category B municipality as determined by Demarcation Board in terms of section 4 of the Municipal Structures Act.

TYPE

12. The local municipality of **Emfuleni** is a municipality with a mayoral executive system as described in section 3(c) of the Gauteng Types of Municipality Act.

BOUNDARIES

13. (1) The boundaries of the local municipality of **Emfuleni** are as indicated in Map No. 3 in Provincial Notice No. 1175 dated 2 March 2000.
- (2) The area of jurisdiction of the local municipality of **Emfuleni** shall be the area falling within the boundaries referred to in subparagraph (1) hereof.

COUNCILLORS

14. (1) The council of the local municipality of **Emfuleni** consist of 85 councillors as determined in the Provincial Notice No. 2813 dated 9 May 2000, of which:
- (a) 42 must be proportionally elected councillors; and
- (b) 43 must be ward councillors.

FULLTIME COUNCILLORS

15. (1) The following office bearers may be designated by the council of the local municipality of **Emfuleni** as full-time councillors:
- a) The Executive Mayor;
- b) The Deputy Executive Mayor; and

- c) Members of the Mayoral Committee.

WARDS

16. The local municipality of **Emfuleni** consist of 43 wards with boundaries as indicated by Map No. 1 to Map No. 43 in Provincial Notice No. 3688 dated 8 June 2000.

SEAT

17. The seat of the local municipality of **Emfuleni** shall be the Municipal Offices at Corner Klasie Havenga and Frikkie Meyer Boulevard, Vanderbijlpark or the council of the municipality may by resolution decide that the seat of the local municipality of **Emfuleni** shall be at such other place as it may determine.

PART 4

ESTABLISHMENT OF THE LOCAL MUNICIPALITY

18. For that part of the district municipality as indicated by Map No.4 in the Provincial Notice 1175 dated 2 March 2000, a local municipality called **Midvaal** is hereby established.

CATEGORY

19. The local municipality of **Midvaal** a is a category B municipality as determined by Demarcation Board in terms of section 4 of the Municipal Structures Act.

TYPE

20. The local municipality of **Midvaal** is a collective executive system as described in section 3(a) of the Gauteng Types of Municipality Act.

BOUNDARIES

21. (1) The boundaries of the local municipality of **Midvaal** are as indicated in Map No. 4 in Provincial Notice No. 1175 date 2 March 2000.

- (2) The area of jurisdiction of the local municipality of **Midvaal** shall be the area falling within the boundaries referred to subparagraph (1) hereof.

COUNCILLORS

22. (1) The council of the local municipality of **Midvaal** consist of 18 councillors as determined in the Provincial Notice No. 2813 dated 9 May 2000 of which:
- (a) 9 must be proportionally elected councillors; and
 - (b) 9 must be ward councillors

FULLTIME COUNCILORS

23. The Mayor shall be the office - bearer that may be designated by the council of the local municipality of **Midvaal** as a full-time councillor.

WARDS

24. The local municipality of **Midvaal** consist of 9 wards with boundaries as indicated by Map No. 1 to Map No. 9 in Provincial Notice No. 3690 dated 8 June 2000.

SEAT

25. The seat of the local municipality **Midvaal** shall be the Municipal offices at Corner Mitchel and Junius Street, Meyerton or the council of the municipality may by resolution decide that the seat of **Midvaal** local municipality shall be at such other place as it may determine.

PART 5

ESTABLISHMENT OF LESEDI LOCAL MUNICIPALITY

26. For that part of the district municipal area as indicated by Map No. 5 Provincial Notice No. 1175 dated 2 March 2000, a local municipality called **Lesedi** is hereby established.

CATEGORY

27. The local municipality of **Lesedi** is a category B municipality as determined by Demarcation Board in terms of section 4 of the Municipal Structures Act.

TYPE

28. The local municipality of **Lesedi** local municipality is a municipality with a collective executive system as described in section 3(a) of the Gauteng Types of Municipality Act.

BOUNDARIES

29. (1) The boundaries of the local municipality of **Lesedi** are as indicated in Map No. 5 in Provincial Notice No. 1175 dated 2 March 2000.
- (2) The area of jurisdiction of local municipality of **Lesedi** shall be the area falling within the boundaries referred to in subparagraph (1) hereof.

COUNCILLORS

30. (1) The council of the local municipality of **Lesedi** shall consist of 21 councillors as determined in the Provincial Notice No. 2813 dated 9 May 2000 of which:
- (a) 10 must be proportionally elected councillors; and
- (b) 11 must be ward councillors.

FULL TIME COUNCILLORS

31. The Mayor shall be the office - bearer that may be designated by the council of the local municipality of **Lesedi** as a full-time councillor.

WARDS

32. the local municipality **Lesedi** consist of 11 wards with boundaries as indicated by Map No. 1 to Map No. 11 in Provincial Notice No. 3689 dated 8 June 2000

SEAT

33. The seat of the local municipality of **Lesedi** shall be the municipal offices at HF Verwoerd and Voortrekker Street, Heidelberg or the council of the municipality may by resolution decide that the seat of the local municipality of **Lesedi** shall be at such other place as it may determine.

ADJUSTMENTS OF POWERS AND FUNCTIONS

34. (1) The following powers and functions vested in the district municipality in terms of section 84 of Municipal Structures Act are allocated to the local municipality of Emfuleni, Midvaal and Lesedi:

- (a) Fire fighting services serving the area of the district municipality as a whole.
- (b) The establishment, conduct and control of fresh produce markets and abattoirs serving the area of the district municipality as a whole.
- (c) The establishment, conduct and control of cemeteries and crematoria serving the district municipality as a whole.
- (d) Municipal health services serving the area of the district municipality as a whole.
- (e) The imposition and collection of taxes, levies and duties as related to the above functions.

EXEMPTIONS

35. The new municipalities are not exempted from the provisions of the Municipal Structures Act.

DISESTABLISHMENT OF EXISTING MUNICIPALITIES

36. (1) The following existing municipalities are disestablished with effect from the effective date to the extent that those municipalities fall within the district municipal area:

- (a) Lekoa/Vaal Metropolitan Council established by Provincial Proclamation No. 3 dated 1 January 1995 as amended;

- (b) Vereeniging/Kopanong Metropolitan Local Council established by Provincial Proclamation No. 3 dated 1 January 1995 as amended;
- (c) Western Vaal Metropolitan Local Council established by Provincial Proclamation No. 3 dated 1 January 1995 as amended;
- (d) Heidelberg Town Council established by Provincial Proclamation No. 45 dated 15 December 1994 as amended;
- (e) Eastern Gauteng Services Council established by Provincial Proclamation No. 3 dated 1 January 1995 as amended;
- (f) De Deur/Walkerville Transitional Rural Council established by Provincial Proclamation No. 3 dated 1 January 1995 as amended;
- (g) Devon/Impumelelo Transitional Rural Council established by Provincial Proclamation No. 3 dated 1 January 1995 as amended;
- (h) Eikenhof Transitional Rural Council established by Provincial Proclamation No. 3 dated 1 January 1995 as amended;
- (i) Randvaal Transitional Rural Council established by Provincial Proclamation No. 3 dated 1 January 1995 as amended;
- (j) Vaal Marina Transitional Rural Council established by Provincial Proclamation No. 3 dated 1 January 1995 as amended;
- (k) Blesbokspruit Transitional Representative Council established by Provincial Proclamation No. 3 dated 1 January 1995 as amended;
- (l) Suikerbosrand Transitional Representative Council established by Provincial Proclamation No. 3 dated 1 January 1995 as amended;
- (m) Western Gauteng Services Council established by Provincial Proclamation No. 5 dated 1 January 1995 as amended;

- (n) Vaal River Transitional Representative Council established by Provincial Proclamation No. 5 dated 1 January 1995 as amended;
 - (o) Vaal Oewer Transitional Rural Council established by Provincial Proclamation No. 5 dated 1 January 1995 as amended;
 - (p) Vischkuil Transitional Rural Council established by Provincial Proclamation No. 3 dated 1 January 1995 as amended.
- (2) Until it is disestablished on the effective date, a municipality referred to in subparagraph (1)
- (a) continues after the establishment of the new municipalities; and
 - (b) remains competent to function as the municipality for its area of jurisdiction.

VACATION OF OFFICE

37. A councillor of the disestablished municipality vacates office on the effective date and shall deliver to the new municipality any property of the disestablished municipality of which he or she as a councillor, was or is in his or her possession or under his or her control.

TRANSITIONAL PROVISIONS RELATING TO ASSETS, LIABILITIES, OBLIGATIONS, RIGHTS AND RECORDS

38. (1) As from the effective date all the assets and liabilities (excluding investments, cash and cash balances), obligations, rights and all the administrative and other records of a disestablished municipality vest in the new municipality to the extent that the whole or any portion of the area of the disestablished municipality falls within the boundaries of the district municipal area in accordance with the following rules:
- (a) Assets, liabilities, obligations, rights and administrative and other records relating to a specific function and power of a disestablished municipality or the performance of a specific function and power in a specific area are allocated to the new municipality which, in terms of section 84 of the Municipal Structures Act, is responsible for the performance

of that specific function and power or for the performance of that specific function and power in that specific area.

- (b) Assets, liabilities, obligations, rights and administrative records other than those referred to in subparagraph (a) are allocated to the new municipality in whose area the administrative headquarters responsible for the control of such assets, liabilities, and administrative records, immediately before the effective date, was located.
- (2) A new municipality to whom assets, liabilities, obligations, rights or records were allocated in terms of subparagraph (1) may, by agreement with another new municipality within the district municipal area, and must if the MEC so directs, transfer or cede any of those assets, liabilities or records to that other new municipality.
- (3) The person who was the Chief Executive Officer or the Town Clerk of the disestablished municipality must by not later than seven days after the effective date draw up-
- (a) an inventory of all the assets and liabilities of that municipality as at that date; and
 - (b) submit that inventory to the acting municipal managers concerned.

INVESTMENTS, CASH AND CASH BALANCES

39. As from the effective date all investments and all cash and cash balances in a bank account of a disestablished municipality accrue to a new municipality : Provided that where the area of the disestablished municipality falls in more than one newly established municipal area, the portion of such investments, cash and cash balances as determined by the MEC, will accrue to the new municipality.

TRANSITIONAL PROVISIONS RELATING TO STAFF

40. (1) A person who on the effective date is an employee of a disestablished municipality becomes an employee of a new municipality in accordance with the following rules:
- (a) Employees who are for most of their normal working day occupied with work directly related or incidental to the

performance of a specific function allocated, in terms of section 84 of the Municipal Structures Act, to a new municipality or the performance of a specific function in a specific area, become employees of the new municipality which as from the effective date is responsible for the performance of that specific function or for the performance of that specific function in that specific area.

- (b) Employees not mentioned in paragraph (a) become employees of the new local municipality in whose area they are stationed on the effective date.
 - (c) For the purposes of paragraph (a) "function" include a power.
- (2) The employment of persons transferred to a new district or a new local municipality in terms of subparagraph (1)-
- (a) must be regulated in accordance with any collective agreement, and
 - (b) is subject to section 197 of the Labour Relations Act, 1995 (Act No. 66 of 1995).
- (3) Until an agreement referred to in subparagraph (2)(a) has been reached:
- (a) employees are employed by the new district or a new local municipality on the same terms and conditions including remuneration applicable to them as employees of the disestablished municipality which previously employed them;
 - (b) service by a person so transferred is deemed to be service as an employee of the new municipality to which the person is transferred and any leave, pension and other benefits that may have accrued to that person by virtue of service with a disestablished municipality shall be deemed to have accrued in favour of such a person by virtue of service with the new municipality to which she or he is transferred; and

- (c) where an employee transferred in terms of subparagraph (1) was a member of a medical aid scheme, pension or provident fund immediately before the effective date-
- (i) that employee continues as such a member unless continued membership is contrary to the rules of the scheme or fund in question or unless the new municipality to which the employee is transferred and the employee, after consultation with the fund or scheme, agree otherwise;
 - (ii) the new municipality must deduct the necessary employee's contributions to the scheme or fund from the remuneration of the employee and pay it over to the scheme or fund in question together with the employer's contribution.
- (4) Subparagraph (3) does not prevent the new municipality concerned from implementing a scheme to re-organise its staff subject to the Labour Relations Act, 1995.
- (5) A new municipality to whom an employee is transferred in terms of subparagraph (1), may by agreement with another new municipality transfer the employee, with that employee's written consent, to that other new municipality.
- (6) If a disestablished municipality only partially falls within the district municipal area, subparagraphs (1) to (5) apply only to those employees of the disestablished municipality whose main place of work is situated within the district municipal area.
- (7) The person who was the chief executive officer or town clerk of a disestablished municipality must, by not later than seven days after the effective date draw up-
- (a) a list containing the names and particulars of all persons who on that date were in the employ of the municipality; and
 - (b) Submit that list to the acting municipal manager.

DISPUTE RESOLUTION

41. (1) A dispute resolution committee is hereby established to resolve disputes between new municipalities in the district municipal area concerning the application of paragraphs 38, 39 and 40, and to resolve disputes with the adjoining municipalities.
- (2) The committee consists of-
- (a) the municipal manager of the new district municipality (or any person acting in that capacity) and one councillor of that municipality nominated by the council of that municipality; and
 - (b) the municipal manager of each of the new local municipalities (or any person acting in that capacity) and one councillor of each of those municipalities nominated by the councils of each of the new local municipalities concerned.
- (3) (a) The committee shall elect one of its members, who shall be a councillor, as the chairperson of the committee.
- (b) The chairperson of the committee decides when and where the committee meets, but a majority of the members may request the chairperson in writing to convene a meeting of the committee at a time and place set out in the request.
- (c) The chairperson presides at meetings of the committee, but if the chairperson is absent from a meeting, the members present must elect another member to preside at the meeting.
- (4) The committee may determine its own procedures, subject to the following:
- (a) Only those members who are councillors may vote.
 - (b) A question before the committee is decided with a supporting vote of the majority of the councillors present at the meeting.

- (c) At least one half of the members who are councillors must be present at a meeting before a vote may be taken on any matter.
- (5) The new district municipality and the new local municipalities are bound by the decisions of the committee, subject to paragraph 42.
- (6) The Code of Conduct contained in Schedule 5 of the Municipal Structures Act applies to members of the committee to the extent that the code can be applied.

INTERVENTION POWERS OF MEC

- 42. (1) The MEC may at any time intervene in the proceedings of the committee referred to in paragraph 41 and request the committee to refer an unresolved matter before it to the MEC for resolution.
- (2) The MEC may reconsider a matter on which the committee has taken a decision and confirm, vary or withdraw the decision of the committee.
- (3) The new district municipality and the new local municipalities are bound by the decisions of the MEC.

VALUATION ROLL

- 43. With effect from effective date, in respect of the district municipal area and notwithstanding the provisions of any applicable law, any valuation roll in force or arising from the introduction of interim or additional valuations, as the case may be, shall, subject otherwise to the provisions of such law, remain in force and effect until the introduction of a general valuation roll for the new municipality.

TRANSITIONAL PROVISIONS RELATING TO EXISTING BY-LAWS, RESOLUTIONS, DELEGATIONS, TOWN PLANNING SCHEMES AND STATUTORY NOTICES

- 44. (1) All by-laws, resolutions, delegations, town planning schemes and statutory notices of a disestablished municipality that are in force on the effective date, continue in force in the area in which they were applicable subject to any amendment or repeal by the competent municipality.

- (2) A by-law, resolution, delegation, town planning scheme or statutory notice of the disestablished municipality must be applied by the new district municipality and new local municipality to the extent to which that by-law, resolution, delegation, town planning scheme or statutory notice continues in force in terms of subparagraph (1) in the area of the new district municipality and the area of the new local municipality.
- (3) Unless inconsistent with the context or clearly inappropriate, a reference in any such by-law, resolution, delegation, town planning scheme or statutory notices to-
 - (a) a disestablished municipality must be construed as a reference to the new municipality which has to apply the by-law, resolution, delegation, town planning scheme or statutory notices in terms of subparagraph (2); and
 - (b) a structure or functionary of a disestablished municipality, must be construed as a reference to the corresponding structure or functionary of the new municipality which has to apply the by-law, resolution, delegation, town planning scheme or statutory notices in terms of subparagraph (2).

APPOINTMENT OF A MUNICIPAL MANAGER AND OF AN ACTING MUNICIPAL MANAGER

- 45. (1) The municipal manager shall be for all purposes and in any other applicable law be the municipal manager contemplated in section 82(a) of the Municipal Structures Act.
- (2) Until such time that the municipal managers for the new municipalities are appointed, all powers, function and duties attached to the office of the municipal manager shall be exercised and performed, as the case may be, by a person who shall be nominated as acting municipal manager.
- (3) The acting municipal manager shall be a person nominated as such for the new municipalities by the Municipal Facilitation Committee for the Southern District, established in terms of section 14(5) of the Municipal Structures Act, and shall be approved and designated as such by the MEC until the councils of those new municipalities appoint the municipal managers.

- (4) The acting municipal manager shall assume his or her duties as such on the effective date, and shall relinquish those duties when the appointed municipal manager assume his office, and on relinquishing such duties shall, if not appointed as the municipal manager, perform such other duties as the council may determine.
- (5) If, for any reason whatsoever, the acting municipal manager fails to assume his or her duties as such on the effective date or thereafter ceases to be the acting municipal manager prior to the municipal manager assuming office, then a person designated by the MEC shall be the acting municipal manager.
- (6) The acting municipal manager must, on the effective date, be or be deemed to be, an employee of the new municipality and shall cease to be an employee of the new municipality upon the termination for any reason of his or her employment.
- (7) The acting municipal manager shall:
 - (a) subject to the provisions of any applicable law, exercise all the powers and perform all the functions and duties of the new municipality, from the effective date, until the first meeting of the council and all such powers, functions and duties shall be deemed to have been duly delegated to the acting municipal manager for that period;
 - (b) act as the head of administration and also as the accounting officer of the new municipality until the municipal manager assumes office.

FIRST MEETING OF THE COUNCIL

46. (1) The acting municipal manager shall, as required in terms of section 29(2) of the Municipal Structures Act, convene a meeting of the Council within 14 days of the effective date and any other applicable law shall mutatis mutandis apply insofar as they relate to the convening of such meeting.
- (2) The order of business on the agenda of such meeting shall be determined by the acting municipal manager.

REMUNERATION OF COUNCILLORS

47. The remuneration for councillors of the new district and the new local municipality must be in accordance with the Remuneration of Public Office Bearers Act, No 20 of 1998.

BUDGET

48. Notwithstanding the provisions of any applicable law to the contrary and notwithstanding the disestablishment of the municipalities concerned, but subject otherwise to any relevant provisions of this Schedule;
- (a) the 2000/2001 budget of a disestablished municipality shall remain in force until 30 June 2001;
 - (b) the 2000/2001 budget of a disestablished municipality shall insofar as such budget pertains to the area of the new municipality, remain in force until 30 June 2001;
 - (c) the budgets referred to in paragraphs (a) and (b) above shall together be deemed to constitute the budget of the new district and the new local municipality until 30 June 2001 and may be adjusted in terms of any applicable law.

LEGAL PROCEEDINGS

49. All legal proceedings in respect of any cause of action arising on or before the effective date in respect of which a disestablished municipality is cited as a party shall pass to and become the exclusive right or responsibility of the new municipality in respect of its area of jurisdiction as from the effective date, and the citing of the disestablished municipality shall be deemed to be a citation of the new municipality.

APPOINTMENT OF ACTING OFFICERS

50. For the purposes of the National Building Regulations and Building Standards Act, the Health Act and the Fire Brigade Services Act or any other relevant piece of legislation, all persons appointed by the disestablished municipalities as Building Control Officer, Welfare and Health Officers and Chief Fire Officers or in any other capacity will continue to perform their respective duties as if appointed by the new municipality until the new municipality has made its own appointments in terms of the relevant legislation.

PEACE OFFICERS

51. Any person who immediately prior to the effective date was a peace officer as provided for in section 334 of the Criminal Procedure Act, No. 51 of 1977, by virtue of an office which he or she held in the service of a disestablished municipality and who holds a corresponding office in the service of the disestablished municipality shall, from the effective date and notwithstanding such disestablishment, continue to exercise all his or her powers, functions and duties as a peace officer in the employ of the new municipality and in the area of jurisdiction of the new municipality.

POWERS, FUNCTIONS AND DUTIES

52. Subject to the provisions of any law to the contrary -
- (1) the powers, functions and duties of the new municipality in respect of its area of jurisdiction shall, *mutatis mutandis*, be those -
 - (a) provided for in, under or by virtue of any law which on the effective date is applicable to municipalities in Gauteng Province or which is applicable to that new municipality in particular;
 - (b) provided for in, under or by virtue of any law which after the effective date becomes applicable to municipalities in Gauteng Province or which becomes applicable to that new municipality in particular;
 - (c) which have at any time been assigned or delegated or which in, under or by virtue of the Constitution or any law applicable to municipalities in Gauteng Province or to the new municipality in particular;
 - (d) which are provided for in this Schedule;
 - (e) which are or may be contained in any other legislative enactment whatsoever which is applicable to municipalities in Gauteng Province or to the new municipality in particular.

(2) Without in any way limiting or otherwise derogating from the provisions of subparagraph (1) or of any other provision of this Schedule, the new municipality, in respect of its area of jurisdiction, shall from the effective date -

(a) have the power to levy and claim, at rates determined in accordance with the provisions of the Regional Services Councils Act, 1985 (Act No. 109 of 1985), the levies referred to in Section 12(1) of the said Act and, in addition, the powers, functions and duties of a Regional Services Council in terms of the said Act shall mutatis mutandis apply to the new municipality.

NOTICE 6201 OF 2000**PROPOSED NOTICE RELATING TO THE ESTABLISHMENT OF THE CITY OF JOHANNESBURG AS CONTEMPLATED IN SECTION 12 OF THE LOCAL GOVERNMENT: MUNICIPAL STRUCTURES ACT, 1998**

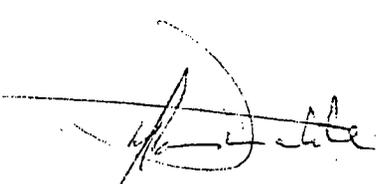
I, Paul Siphokosa Mashatile, Acting Member of the Executive Council responsible for local government in the Province of Gauteng, under section 12(4)(c) of the Local Government: Municipal Structures Act, 1998 (Act No. 117 of 1998); hereby publish particulars of the proposed notice to establish the City of Johannesburg as set out in the Schedule hereto for public comment.

Any person or body who wishes to make any comment in relation to the proposed notice is invited to submit written comments within fourteen (14) days of the date of publication of this notice clearly marked for the attention of Mr Quintin Kuhn at the following address:

The Head of Department
Department of Development Planning and Local Government
Private Bag X86
Marshalltown
2107

Facsimile: (011) 355-5082

Given under my hand at Johannesburg on this Fourth day of September, Two Thousand.



P S MASHATILE

**Acting MEC: Development Planning and Local Government
GAUTENG PROVINCE**

SCHEDULE

PART 1

DEFINITIONS

1. In this Schedule, unless inconsistent with the context, a word or expression to which a meaning has been assigned in the Municipal Structures Act has the same meaning; and-

"Demarcation Board" means the Municipal Demarcation Board established by section 2 of the Local Government: Municipal Demarcation Act, 1998 (Act No. 27 of 1998);

"disestablished municipality" means an existing municipality disestablished in terms of clause 14 of this Schedule;

"effective date" means-

- (a) the day on which the results of the first election of the council of the metropolitan municipality in the metropolitan area are declared in terms of section 190(1)(c) of the Constitution; or
- (b) if the results of the council can not be declared and a re-election must be held, the day in which the results of the re-election are declared;

"Gauteng Types of Municipality Act" means the Gauteng Types of Municipality Act, 2000;

"metropolitan area" means the area indicated by Map No. 1 in Provincial Notice No. 3489 dated 2 June 2000;

"metropolitan municipality" means the municipality established by clause 3 of this Schedule;

"Municipal Structures Act" means the Local Government: Municipal Structures Act, 1998 (Act No. 117 of 1998);

"proportionally elected councillors" means councillors elected to proportionally represent parties in the council of the metropolitan municipality;

"ward councillor" means a councillor elected to represent a ward in the council of the metropolitan municipality.

ESTABLISHMENT OF NEW MUNICIPALITY

2. (1) A new municipality is hereby established for the metropolitan area as set out in Part 2 of this Schedule.
- (2) The establishment of the municipality takes effect on the effective date.

PART 2

ESTABLISHMENT OF METROPOLITAN MUNICIPALITY

3. For the metropolitan area as a whole, a new metropolitan municipality called the City of Johannesburg as indicated by Map No. 3489 dated 2 June 2000 is hereby established.

CATEGORY

4. The City of Johannesburg is a Category A municipality as determined by the Demarcation Board in terms of section 4 of the Municipal Structures Act.

TYPE

5. (1) The City of Johannesburg is a municipality with a mayoral executive system combined with a ward participatory system as described in section 2(g) of the Gauteng Types of Municipality Act; or
- (2) The City of Johannesburg is a municipality with a mayoral executive system combined with both a sub council and a ward participatory system as described in section 2(h) of the Gauteng Types of Municipality Act.

BOUNDARIES AND AREA OF JURISDICTION

6. (1) The boundaries of the City of Johannesburg are as indicated in Map No. 1 in Provincial Notice No. 3489 dated 2 June 2000.
- (2) The area of jurisdiction of the City of Johannesburg shall be the area falling within the boundaries referred to in subparagraph (1).

NUMBER OF COUNCILLORS

7. The council of the City of Johannesburg consists of 217 councillors as determined in Provincial Notice No. 2813 dated 9 May 2000 of which:
- (a) 108 must be proportionally elected councillors; and
 - (b) 109 must be ward councillors.

FULL-TIME COUNCILLORS

8. (1) Any or all of the following office-bearers may be designated by the council of the City of Johannesburg as full-time councillors:
- (a) The Speaker;
 - (b) The Executive Mayor;
 - (c) The Executive Deputy Mayor; and
 - (d) Members of the Mayoral Committee.
- (2) The MEC may at any time, acting in accordance with section 18(4) of the Municipal Structures Act, determine that, in addition to the office-bearers referred to in subparagraph (1), other office-bearers in the council may be designated by the council as full-time councillors.

WARDS

9. The City of Johannesburg consists of 109 wards with boundaries as set out in Provincial Notice No. 3691 dated 8 June 2000.

EXEMPTIONS

10. The City of Johannesburg is not exempted from any of the provisions of the Municipal Structures Act.

SEAT

11. The seat of the City of Johannesburg shall be the Metropolitan Centre, 158 Loveday Street, Extension, Braamfontein, or the council of the

municipality may by resolution decide that the seat of the City of Johannesburg shall be at such other place as it may determine.

LOCAL AUTHORITY CONTEMPLATED IN PART 1 OF THE SIXTH SCHEDULE OF THE LOCAL GOVERNMENT ORDINANCE, 1939

12. The City of Johannesburg shall, as from the effective date, be deemed to be a local authority as contemplated in Part 1 of the Sixth Schedule of the Local Government Ordinance, 1939 (Ordinance No. 17 of 1939).

AUTHORISED LOCAL AUTHORITY

13. The City of Johannesburg shall:
- (1) under section 2 of the Town-Planning and Townships Ordinance, 1986 (Ordinance No. 15 of 1986), as from the effective date be an authorised local authority for the purposes of Chapters II, III and IV of the said Ordinance;
 - (2) under section 3 of the Division of Lands Ordinance, 1986 (Ordinance No. 20 of 1986), as from the effective date be an authorised local authority for purposes of Chapter IV of the said Ordinance.

PART 3

DISESTABLISHMENT OF EXISTING MUNICIPALITIES

14. (1) The following existing municipalities are hereby disestablished with effect from the effective date to the extent that those municipalities fall within the metropolitan area.
- (a) Greater Johannesburg Metropolitan Council established by Proclamation No. 24 dated 3 December 1994;
 - (b) Northern Johannesburg Metropolitan Local Council established by Proclamation No. 24 dated 3 December 1994;
 - (c) Eastern Johannesburg Metropolitan Local Council established by Proclamation No. 24 dated 3 December 1994;

- (d) Southern Johannesburg Metropolitan Local Council established by Proclamation No. 24 dated 3 December 1994;
 - (e) Western Johannesburg Metropolitan Local Council established by Proclamation No. 24 dated 3 December 1994;
 - (f) Edenvale/Modderfontein Metropolitan Local Council established by Proclamation No. 2 dated 1 January 1995;
 - (g) Midrand/Rabie Ridge/Ivory Park Metropolitan Local Council established by Proclamation No. 2 dated 1 January 1995.
 - (h) Khayalami Metropolitan Council established by Proclamation No. 2 dated 1 January 1995.
- (2) Until it is disestablished on the effective date, a municipality referred to in subparagraph (1)-
- (a) continues after the establishment of the City of Johannesburg; and
 - (b) remains competent to function as the municipality for its area of jurisdiction.

SUPERSEDING MUNICIPALITY

15. (1) The City of Johannesburg is, in respect of its area of jurisdiction, from the effective date and in accordance with the provisions of section 14 of the Municipal Structures Act -
- (a) the superseding municipality of the disestablished municipalities;
 - (b) the successor-in-law of the assets, obligations, rights and liabilities of the disestablished municipalities.
- (2) All assets, obligations, rights and liabilities of the disestablished municipalities shall vest in and be transferred to the City of Johannesburg on the effective date.

VACATION OF OFFICE

16. The councillors of the municipalities referred to in clause 14(1) vacate office on the effective date and shall deliver to the City of Johannesburg any property of the disestablished municipality of which he or she was a councillor and which is in his or her possession or under his or her control.

POWERS, FUNCTIONS AND DUTIES

17. Subject to the provisions of any law to the contrary -
- (1) the powers, functions and duties of the City of Johannesburg in respect of its area of jurisdiction shall, *mutatis mutandis*, be those -
 - (a) provided for in, under or by virtue of any law which on the effective date is applicable to municipalities in Gauteng Province or which is applicable to the City of Johannesburg in particular;
 - (b) provided for in, under or by virtue of any law which after the effective date becomes applicable to municipalities in Gauteng Province or which becomes applicable to the City of Johannesburg in particular;
 - (c) which have at any time been assigned or delegated or which may in future be assigned or delegated in, under or by virtue of the Constitution or any law applicable to municipalities in Gauteng Province or to the City of Johannesburg in particular;
 - (d) which are provided for in this Schedule;
 - (e) which are or may be contained in any other legislative enactment whatsoever which is applicable to municipalities in Gauteng Province or to the City of Johannesburg in particular.
 - (2) Without in any way limiting or otherwise derogating from the provisions of subparagraph (1) or of any other provision of this Schedule, the City of Johannesburg, in respect of its area of jurisdiction, shall from the effective date -

- (a) have the power to levy and claim, at rates determined in accordance with the provisions of the Regional Services Councils Act, 1985 (Act No. 109 of 1985), the levies referred to in Section 12(1) of the said Act and, in addition, the powers, functions and duties of a Regional Services Council in terms of the said Act shall mutatis mutandis apply to the City of Johannesburg;
- (b) in respect of the incorporated area of a disestablished municipality, be the successor-in-law to all the powers, functions and duties which the disestablished municipality had in respect of that incorporated area, insofar as such powers, functions and duties are of force and effect on the effective date.

TRANSITIONAL PROVISIONS RELATING TO STAFF

18. (1) A person who is an employee of a disestablished municipality on the effective date becomes an employee of the City of Johannesburg.
- (2) The employment of persons by the City of Johannesburg in terms of subparagraph (1)-
- (a) must be regulated in accordance with any collective agreement concluded between the City of Johannesburg and trade unions representing those employees; and
 - (b) is subject to section 197 of the Labour Relations Act, 1995 (Act No. 66 of 1995).
- (3) Until an agreement referred to in subparagraph (2)(a) has been reached:
- (a) employees are employed by the City of Johannesburg on the same terms and conditions applicable to them as employees of the disestablished municipalities which previously employed them;
 - (b) service by a person so transferred is deemed to be service as an employee of the City of Johannesburg to which the person is transferred and any leave, pension and other benefits that may have accrued to that person by virtue of service with a disestablished municipality shall be deemed

to have accrued in favour of such a person by virtue of service with the City of Johannesburg to which she or he is transferred; and

- (c) where an employee transferred in terms of subparagraph (1) was a member of a medical aid scheme, pension or provident fund immediately before the effective date-
 - (i) that employee continues as such a member unless continued membership is contrary to the rules of the scheme or fund in question or unless the City of Johannesburg to which the employee is transferred and the employee, after consultation with the fund or scheme, agree otherwise;
 - (ii) the City of Johannesburg must deduct the necessary employee's contributions to the scheme or fund from the remuneration of the employee and pay it over to the scheme or fund in question together with the employer's contribution.
- (4) The council of the City of Johannesburg must appoint a person who became an employee of the municipality in terms of subparagraph (1), in a post on the establishment of the municipality, but such person remains subject to any decisions, proceedings, rulings and directions applicable to that person immediately before becoming such an employee.
- (5) Subparagraphs (3) and (4) does not prevent the City of Johannesburg from implementing a scheme to re-organise its staff subject to the Labour Relations Act, 1995.
- (6) If a disestablished municipality only partially falls within the metropolitan area, subparagraphs (1) to (5) apply only to those employees of the disestablished municipality whose main place of work is situated within the metropolitan area.
- (7) The City of Johannesburg may by agreement with an adjoining municipality transfer an employee referred to in subparagraph (6), with that employee's written consent, to the adjoining municipality.
- (8) The person who was the chief executive officer of a disestablished municipality must by no later than seven days after

the effective date draw up a list containing the names and particulars of all persons who on that date were in the employ of that municipality and submit that list to the acting municipal manager referred to in clause 22 of this Schedule.

CHANGES IN POST

19. (1) For the purpose of this Section, a change in a post includes one or more of the following -

- (a) the post no longer exists;
- (b) the post is disestablished;
- (c) the employee is required to apply for the post;
- (d) the functions and powers of the post are changed;
- (e) there is a change in the identity of the employer;
- (f) the post is made subject to different reporting lines;
- (g) the post is described differently.

(2) An employee whose post is changed as a result of the disestablishment of a disestablished municipality or the establishment of the City of Johannesburg or both such events shall not be considered redundant for the purposes of -

- (a) any term or condition of employment and/or
- (b) any pension fund rule

that gives the employee the election to terminate employment with benefits.

(3) The provisions of this section apply only if the employee unreasonably refuses an offer of alternative employment.

TRANSITIONAL PROVISIONS RELATING TO ASSETS, LIABILITIES, RECORDS, RIGHTS AND OBLIGATIONS

20. (1) As from the effective date all the assets, liabilities, rights, obligations and all the administrative and other records of a

disestablished municipality vest in the City of Johannesburg to the extent that the whole or any portion of the area of a disestablished municipality falls within the boundaries of the City of Johannesburg.

- (2) The City of Johannesburg may by agreement with an adjoining municipality, or must if the MEC so requests, transfer or cede any assets, liabilities, rights, obligations or records vested in it in terms of subparagraph (1) to that other municipality.
- (3) The person who was the chief executive officer of a disestablished municipality must by no later than seven days after the effective date draw up an inventory of all the assets and liabilities of that municipality as at that date and submit that inventory to the acting municipal manager referred to in clause 22 of this Schedule.

TRANSITIONAL PROVISIONS RELATING TO EXISTING BY-LAWS, RESOLUTIONS, DELEGATIONS, TOWN PLANNING SCHEMES AND STATUTORY NOTICES

21. (1) All by-laws, resolutions, delegations, town planning schemes and statutory notices of a disestablished municipality that were in force on the effective date, continue in force in the area in which they were applicable subject to any amendment or repeal by the City of Johannesburg.
- (2) A by-law, resolution, delegation, town planning scheme or statutory notice of a disestablished municipality must be applied by the City of Johannesburg to the extent to which that by-law, resolution, delegation, town planning scheme or statutory notice continues in force in terms of subparagraph (1) in the area of the City of Johannesburg.
- (3) Unless inconsistent with the context or clearly inappropriate, a reference in any such by-law, resolution, delegation, town planning scheme or statutory notice to-
 - (a) a disestablished municipality must be construed as a reference to the City of Johannesburg which has to apply the by-law, resolution, delegation, town planning scheme or statutory notice in terms of subparagraph (2); and

- (b) a structure or functionary of a disestablished municipality, must be construed as a reference to the corresponding structure or functionary of the City of Johannesburg which has to apply the by-law, resolution, delegation, town planning scheme or statutory notice in terms of subparagraph (2).

ACTING MUNICIPAL MANAGER

22. (1) The acting municipal manager shall be a person nominated as such by the Municipal Facilitation Committee for the Greater Johannesburg Metro, established in terms of section 14(5) of the Municipal Structures Act, and approved and appointed by the MEC.
- (2) The acting municipal manager shall assume his or her duties as such on the effective date, and shall relinquish those duties when the City of Johannesburg has appointed a municipal manager and on relinquishing such duties shall if he or she is not appointed as municipal manager, revert to his or her previous duties as the council of the City of Johannesburg may determine.
- (3) The acting municipal manager must, on the effective date, be or be deemed to be, an employee of the City of Johannesburg and shall cease to be acting municipal manager upon the termination for any reason of his or her employment.
- (4) If, for any reason whatsoever the acting municipal manager fails to assume his or her duties as such on the effective date or thereafter ceases to be acting municipal manager prior to the municipal manager assuming office, then the Municipal Facilitation Committee referred to in subparagraph (1) must nominate an alternate to act as municipal manager and the provisions of subparagraphs (2) and (3) shall mutatis mutandis apply.
- (5) The acting municipal manager shall:
- (a) subject to the provisions of any applicable law, exercise all the powers and perform all the functions and duties of the City of Johannesburg, including those of the council of the City of Johannesburg, from the effective date, until the first meeting of the council and all such powers, functions and

duties shall be deemed to have been duly delegated to the acting municipal manager for that period;

- (b) act as the head of administration and also as the accounting officer of the City of Johannesburg until the municipal manager assumes office.
- (6) The person who, on the effective date, was an employee of a disestablished municipality, performs the functions and discharges the duties assigned to him or her by the acting municipal manager and thereafter by the municipal manager when he or she assumes office as municipal manager, until such time as the council of the City of Johannesburg decides otherwise.

APPOINTMENT OF ACTING OFFICERS

23. As from the effective date all persons appointed by the disestablished municipalities as building control officers, medical officers of health and chief fire officers will continue to perform and exercise their respective duties in terms of any applicable legislation within the area of jurisdiction of the City of Johannesburg, until the City of Johannesburg has made its own appointments in terms of the relevant legislation.

CONTINUATION OF DUTIES OF PEACE OFFICERS OF DISESTABLISHED MUNICIPALITIES

24. Any person who immediately prior to the effective date was a peace officer as provided for in section 334 of the Criminal Procedure Act, 1977 (Act No. 51 of 1977), by virtue of an office which he or she held in the service of a disestablished municipality shall from the effective date continue to exercise all his or her powers, functions and duties as a peace officer in the employ of the City of Johannesburg.

DISPUTE RESOLUTION

25. (1) A dispute resolution committee is hereby established to resolve any dispute between the City of Johannesburg and the Greater East Rand Metro concerning the division between them of the assets, obligations, rights and liabilities of disestablished municipalities that previously fell within the area of the Greater East Rand Metro and now fall within the area of the City of Johannesburg.
- (2) The committee consists of-

- (a) councillors of the City of Johannesburg appointed by the council of the City of Johannesburg;
 - (b) councillors of the Greater East Rand Metro appointed by the council of the Greater East Rand Metro;
 - (c) the municipal manager (or any person acting in that capacity) of the City of Johannesburg or his or her nominee;
 - (d) the municipal manager (or any person acting in that capacity) of the Greater East Rand Metro or his or her nominee.
- (3) The committee shall elect one of its members, who shall be a councillor, as the chairperson but if it fails to do so then the MEC shall appoint the chairperson.
- (4) The chairperson decides when and where the committee meets, but a majority of the members may request the chairperson in writing to convene a meeting of the committee at a time and place set out in the request.
- (5) The chairperson presides at meetings of the committee, but if the chairperson is absent from a meeting, the members present must elect another member to preside at the meeting.
- (6) The committee may determine its own procedures, subject to the following:
- (a) the committee should endeavour to reach consensus on all matters placed before it;
 - (b) if consensus cannot be reached on a matter it may be put to the vote;
 - (c) subject to paragraph (d), only those councillors who are members of the committee may vote;
 - (d) an alternate member may attend meetings of the committee and participate in any debate, but may only vote if the councillor to whom he or she is the alternate is absent when the vote is taken;

- (e) a question before the committee which is put to the vote shall be decided by a supporting vote of a majority of the councillors present who may vote on that question;
 - (f) any matter to be placed before the committee shall be submitted to the chairperson in writing under the hand of the municipal managers of the respective municipalities or any person acting in either of these capacities and any matter so submitted shall be placed before the committee as reasonably possible.
- (7) The administrative work of the committee shall be undertaken by either the City of Johannesburg or the Greater East Rand Metro, or by both of them, on such basis as the committee may decide.
- (8) Both the City of Johannesburg and the Greater East Rand Metro shall be bound by the decisions of the committee, subject to subparagraph (9) hereof.
- (9) (a) The MEC may at any time intervene in the proceedings of the committee and request the committee to refer an unresolved matter before it to the MEC for resolution.
- (b) If the committee is unable to reach a decision on any matter, the chairperson of the committee must refer the matter to the MEC for decision, who may confirm, vary or withdraw the decision of the committee;
- (c) The City of Johannesburg and the Greater East Rand Metro shall be bound by the decisions of the MEC.
- (10) The Code of Conduct contained in Schedule 5 of the Municipal Structures Act applies to members of the committee to the extent that the Code can be applied.

VALUATION ROLLS

26. Any valuation roll and any supplementary valuation roll of a disestablished municipality which was of force and effect on the effective date shall continue to be of force and effect from the effective date in the area of jurisdiction of the City of Johannesburg until such time as it is superseded by another valid valuation roll.

BUDGET

27. (1) Notwithstanding the provisions of any applicable law to the contrary, the 2000/2001 budget of a disestablished municipality shall remain in force until 30 June 2001.
- (2) The budgets referred to in subparagraph (1) shall together be deemed to constitute the budget of the City of Johannesburg until 30 June 2001 and may be adjusted in terms of any applicable law.

FIRST MEETING OF THE COUNCIL

28. (1) The acting municipal manager of the City of Johannesburg shall convene a meeting of the council of the City of Johannesburg within 14 days of the effective date and the relevant provisions of any applicable law shall apply insofar as they relate to the convening of such meeting.
- (2) The order of business on the agenda of such meeting shall be determined by the council of the City of Johannesburg.
- (3) The acting municipal manager shall act as chairperson at the meeting until a speaker is duly elected by the council of the City of Johannesburg.

REMUNERATION OF COUNCILLORS

29. If, on the effective date, remuneration for councillors of the City of Johannesburg has not been fixed in accordance with the Remuneration of Public Office Bearers Act, 1998, (Act No. 20 of 1998), then until such time as their remuneration has been fixed in terms of the said Act, the councillors shall be remunerated on the basis applicable to the councillors of the disestablished Greater Johannesburg Transitional Metropolitan Council.

LEGAL PROCEEDINGS

30. All legal proceedings in respect of any cause of action arising in an area of a disestablished municipality on or before the effective date in respect of which a disestablished municipality is cited as a party shall pass to and become an exclusive right or responsibility of the City of Johannesburg as from the effective date, and the citing of the disestablished municipality shall be deemed to be a citation of the City of Johannesburg.

