



REPUBLIC OF SOUTH AFRICA

# GOVERNMENT GAZETTE

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## STAATSKOERANT

VAN DIE REPUBLIEK VAN SUID-AFRIKA

*Registered at the Post Office as a Newspaper*

*As 'n Nuusblad by die Poskantoor Geregistreer*

VOL. 395

CAPE TOWN, 27 MAY 1998

KAAPSTAD, 27 MEI 1998

No. 18929

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OFFICE OF THE PRESIDENT

No. 746. 27 May 1998

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

No. 17 of 1998: Transfer of Staff to Municipalities Act, 1998.

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KANTOOR VAN DIE PRESIDENT

No. 746. 27 Mei 1998

Hierby word bekend gemaak dat die President sy goedkeuring gegee het aan die onderstaande Wet wat hierby ter algemene inligting gepubliseer word:—

No. 17 van 1998: Wet op die Oorplasing van Personeel na Munisipaliteite, 1998.

# ACT

**To provide for the transfer of certain employees from a provincial administration to designated municipalities; and to provide for matters connected therewith.**

*(English text signed by the President.)  
(Assented to 21 May 1998.)*

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

## Definitions

1. In this Act, unless the context indicates otherwise—
- (i) **“employee”** means an employee as defined in section 1 of the Public Service Act, 1994 (Proclamation No. 103 of 1994), and who was immediately before the commencement of this Act permanently in the service of a provincial administration; (iv) 5
  - (ii) **“MEC”** means the member of the Executive Council of a province responsible for local government in that province; (i) 10
  - (iii) **“municipality”** means a municipality as defined in section 10B of the Local Government Transition Act, 1993 (Act No. 209 of 1993); (ii)
  - (iv) **“provincial administration”** means a provincial administration as defined in the Public Service Act, 1994 (Proclamation No. 103 of 1994). (iii)

## Transfer of employees 15

2. (1) Subject to the Labour Relations Act, 1995 (Act No. 66 of 1995), an MEC may transfer such number of employees as may be necessary for the effective administration of the municipality in question and which may be required to render efficient municipal services, to a municipality designated by the MEC with effect from a date determined by him or her by notice in the *Gazette*. 20

(2) No employee may be transferred without—

- (a) his or her consent; and
- (b) the concurrence of the designated municipality.

(3) If an employee is so transferred, the conditions of service of the municipality in question apply to him or her, but the conditions of service may in the aggregate not be less favourable than the conditions of service which applied to the employee immediately before. 25

## Accumulated vacation leave

3. (1) Any vacation leave standing to the credit of an employee immediately before his or her transfer must, from the date of the transfer, be regarded as leave credited to him or her in the employment of the municipality in question, subject to the cash value, on date of transfer, of such leave being adjusted to an equivalent cash value applicable to an employee of similar rank of the municipality in question. 30

(2) (a) In respect of each employee transferred the relevant province must pay the municipality from its provincial revenue fund, the equivalent cash value contemplated in subsection (1). 35

(b) The payment contemplated in paragraph (a) must be made within 60 days of the date on which the employee is transferred.

(3) The cash value of the number of days vacation leave standing to the credit of an

# WET

Om voorsiening te maak vir die oorplasing van sekere werknemers van 'n provinsiale administrasie na aangewese munisipaliteite; en om voorsiening te maak vir aangeleenthede wat daarmee in verband staan.

*(Engelse teks deur die President geteken.)  
(Goedgekeur op 21 Mei 1998.)*

**D**AAR WORD BEPAAL deur die Parlement van die Republiek van Suid-Afrika, soos volg:—

## Woordomskrywing

1. In hierdie Wet, tensy uit die samehang anders blyk, beteken—

- 5 (i) “**LUR**” die lid van die Uitvoerende Raad van 'n provinsie verantwoordelik vir plaaslike regering in daardie provinsie; (ii)  
(ii) “**munisipaliteit**” 'n munisipaliteit soos omskryf in artikel 10B van die Oorgangswet op Plaaslike Regering, 1993 (Wet No. 209 van 1993); (iii)  
10 (iii) “**provinsiale administrasie**” 'n provinsiale administrasie soos omskryf in die Staatsdienswet, 1994 (Proklamasie No. 103 van 1994); (iv)  
(iv) “**werknemer**” 'n werknemer soos omskryf in artikel 1 van die Staatsdienswet, 1994 (Proklamasie No. 103 van 1994), en wat onmiddellik voor die inwerkingtreëding van hierdie Wet in die voltydse diens van 'n provinsiale administrasie was. (i)

## 15 Oorplasing van personeel

2. (1) 'n LUR kan behoudens die Wet op Arbiedsverhoudinge, 1995 (Wet No. 66 van 1995), die getal werknemers wat nodig is vir die doeltreffende administrasie van die betrokke munisipaliteit en die lewering van doeltreffende munisipale dienste oorplaas na 'n munisipaliteit deur die LUR aangewys met ingang van 'n datum deur hom of haar  
20 by kennisgewing in die *Staatskoerant* bepaal.

(2) Geen werknemer word oorgeplaas nie sonder—

(a) sy of haar toestemming; en

(b) die instemming van die aangewese munisipaliteit.

(3) Indien 'n werknemer aldus oorgeplaas word, is die diensvoorwaardes van die  
25 betrokke munisipaliteit op hom of haar van toepassing, maar die diensvoorwaardes mag in totaal nie minder gunstig wees nie as die diensvoorwaardes wat onmiddellik voor die oorplasing op die werknemer van toepassing was.

## Opgehoopde vakansieverlof

3. (1) Enige vakansieverlof waarmee 'n werknemer onmiddellik voor sy of haar  
30 oorplasing gekrediteer was, moet vanaf die datum van die oorplasing geag word verlof te wees waarmee hy of sy in diens van die betrokke munisipaliteit gekrediteer is, behoudens die aanpassing van die kontantwaarde van sodanige verlof op datum van oorplasing na 'n gelykwaardige kontantwaarde van toepassing op 'n werknemer van soortgelyke rang van die betrokke munisipaliteit.

35 (2) (a) Die betrokke provinsie betaal uit sy provinsiale inkomstefonds die gelykstaande kontantwaarde beoog in subartikel (1) aan die munisipaliteit ten opsigte van elke werknemer wat oorgeplaas word.

(b) Die betaling in paragraaf (a) beoog, moet binne 60 dae na die datum waarop die werknemer oorgeplaas is, gemaak word.

40 (3) Die kontantwaarde van die getal dae vakansieverlof wat op die datum van

## Act No. 17, 1998

## TRANSFER OF STAFF TO MUNICIPALITIES ACT, 1998

employee at the date of transfer which exceeds the number of days vacation leave which an employee in the service of the municipality in question may accumulate, must be paid to the employee by that municipality at the rate applicable to the employee immediately before his or her transfer to the municipality.

**Pensions**

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4. Any employee who is a member of the Government Employees Pension Fund immediately before his or her transfer, remains a member of that fund, but may withdraw from that fund in accordance with the Government Employees Pension Law, 1996 (Proclamation No. 21 of 1996).

**Disciplinary steps or grievance procedure suspends transfer**

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5. (1) Any disciplinary steps instituted or being considered against an employee liable to be transferred in terms of section 2, or any grievance procedure instituted by such employee, suspends the transfer of the employee concerned until the finalisation of the relevant disciplinary steps or grievance procedures.

(2) The transfer of an employee contemplated in subsection (1) becomes effective on the first day of the month following the finalisation of the disciplinary steps or grievance procedure, unless the employee is dismissed.

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**Short title**

6. This is the Transfer of Staff to Municipalities Act, 1998.

oorplasing tot die krediet van 'n werknemer staan, en wat die getal dae wat 'n werknemer in die diens van die betrokke munisipaliteit kan ophoop, te bowe gaan, word deur daardie munisipaliteit aan die werknemer betaal teen die koers wat onmiddellik voor sy of haar oorplasing na die munisipaliteit, op die werknemer van  
5 toepassing was.

### **Pensioene**

4. 'n Werknemer wat onmiddellik voor sy of haar oorplasing 'n lid van die Regeringsdienspensioenfonds is, bly 'n lid van daardie fonds, maar kan in ooreenstemming met die Wet op die Regeringsdienspensioenfonds, 1996 (Proklamasie No. 21 van  
10 1996), van daardie fonds onttrek.

### **Dissiplinêre stappe of grieweprocedure skort oorplasing op**

5. (1) Enige dissiplinêre stappe wat teen 'n werknemer wat ingevolge artikel 2 oorgeplaas gaan word, ingestel is of oorweeg word, of enige grieweprocedure wat deur sodanige werknemer ingestel is, skort die oorplasing van die betrokke werknemer op  
15 totdat die betrokke dissiplinêre stappe of grieweprocedure afgehandel is.

(2) Die oorplasing van 'n werknemer in subartikel (1) beoog, tree in werking op die eerste dag van die maand wat volg op die afhandeling van die dissiplinêre stappe of grieweprocedure, tensy die werknemer afgedank word.

### **Kort titel**

20 6. Hierdie Wet is die Wet op die Oorplasing van Personeel na Munisipaliteite, 1998.

