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OF  
SOUTH AFRICA



REPUBLIEK  
VAN  
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# Government Gazette Staatskoerant

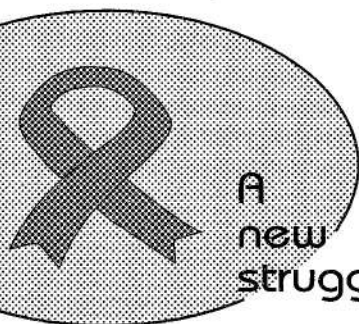
Vol. 425

PRETORIA, 20 NOVEMBER 2000

No. 21782

**We all have the power to prevent AIDS**

AIDS  
affects  
us all



A  
new  
struggle

Prevention is the cure

**AIDS  
HELPLINE**

**0800 012 322**

DEPARTMENT OF HEALTH

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## GENERAL NOTICE

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### NOTICE 4481 OF 2000

#### MINISTRY FOR PROVINCIAL AND LOCAL GOVERNMENT

#### LOCAL GOVERNMENT: MUNICIPAL STRUCTURES SECOND AMENDMENT BILL, 2000

1. I, Fholisani Sydney Mufamadi, Minister for Provincial and Local Government, hereby, in terms of section 154(2) of the Constitution, publish the Local Government: Municipal Structures Second Amendment Bill, 2000, for public comment.
2. This Bill replaces the Bill that was published on 3 November 2000 in *Government Gazette* 21727, and is the same Bill that was considered by the Provincial and Local Government Portfolio and Select Committees during the public hearings on 16 November 2000.
3. All comments received during the public hearings on 16 November 2000, will be taken into consideration when the Bill is re-considered by the Portfolio and Select Committees.
4. Comments must be submitted in writing to –  
  
The Director-General  
Attention: Mr S L Louw  
Department of Provincial and Local Government  
Private Bag X 804  
**PRETORIA**  
0001
5. Comments may also be faxed to (012) 334 0608 at the above address.
6. No comments will be considered which are received after 1 December 2000.

**LOCAL GOVERNMENT: MUNICIPAL STRUCTURES SECOND AMENDMENT BILL,  
2000**

**GENERAL EXPLANATORY NOTE:**

\_\_\_\_\_ Words underlined with a solid line indicate insertions in existing enactments.

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**BILL**

**To amend the Local Government: Municipal Structures Act, 1998, so as to provide for the retention of the powers, functions and role of the institution of traditional leadership; to provide for powers and functions of traditional authorities in local government matters; and to foster and harmonise partnership between traditional authorities and municipal councils so as to enhance the culture of co-operative governance between traditional authorities and municipal councils; and to provide for matters connected therewith.**

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

**Substitution of Part 6 of Chapter 4 of Act 117 of 1998, as amended by Schedule 3 of Act 32 of 2000 and section 5 of Act 33 of 2000**

1. The following Part is hereby substituted for Part 6 of Chapter 4 of the Local Government: Municipal Structures Act, 1998:

**“Part 6: Traditional leaders**

**Powers and functions of traditional authorities in local government matters**

81. (1) Despite anything contained in any other law, a traditional authority observing a system of customary law continues to exist and to exercise powers and perform functions conferred upon it in terms of indigenous law, customs and statutory law, which powers and functions include—

- (a) the right to administer communal land;
- (b) communicating decisions of the municipal council affecting its area to the people living in the area;
- (c) communicating to the municipal council the views of the people living in its area;
- (d) promoting the development of its area and the people living in the area;
- (e) participating in development planning;
- (f) alerting the municipality to any hazard or calamity threatening its area or the well-being of people living in the area;
- (g) making recommendations to the municipality on any matter affecting its

area; and

(h) exercising any other power or performing any other function assigned to it by notice in the *Provincial Gazette*, by the MEC for local government acting in accordance with a policy framework issued by the Minister.

(2) A municipality must consider a recommendation made in terms of subsection (1)(g) and inform the traditional authority of any decision taken.

### **Relationship between traditional authorities and municipal councils**

**81A.** (1) Traditional authorities and municipal councils must exercise their powers and perform their functions in a manner that respects the functional and institutional integrity of one another.

(2) Traditional authorities and municipal councils must—  
(a) co-operate with one another in areas of common interest; and  
(b) endeavour to resolve any dispute amicably."

### **Repeal of Schedule 6 of Act 117 of 1998**

2. Schedule 6 to the Local Government: Municipal Structures Act, 1998, is repealed.

**Short title**

**3.** This Act is called the Local Government: Municipal Structures Second Amendment Act, 2000.



## **MEMORANDUM ON THE OBJECTS OF THE LOCAL GOVERNMENT: MUNICIPAL STRUCTURES SECOND AMENDMENT BILL, 2000**

### **1. BACKGROUND**

Traditional leaders have expressed concern that the new municipal boundaries will result in their losing control over various functions traditionally performed by them.

### **2. CONTENTS OF BILL**

In order to deal with the concerns expressed by the traditional leaders, the Minister of Provincial and Local Government proposes amendments to Part 6 of Chapter 4 of the Local Government: Municipal Structures Act, 1998 (Act No. 117 of 1998). Part 6 deals with the participation of traditional leaders in local government.

### **3. OTHER DEPARTMENTS AND PERSONS CONSULTED**

- The Office of the President.
- The Chief State Law Adviser.

### **4. FINANCIAL IMPLICATIONS FOR STATE**

There will not be any additional financial implications for the state.

### **5. IMPLICATIONS FOR PROVINCES**

None

### **6. PARLIAMENTARY PROCEEDINGS**

The State Law Advisers and the Department of Provincial and Local Government are of the opinion that this Bill must be dealt with in accordance with the procedure established by section 76 of the Constitution since it deals with "Traditional leadership", which is a matter referred to in Schedule 4 to the Constitution.

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Publications: Tel: (012) 334-4508, 334-4509, 334-4510  
Advertisements: Tel: (012) 334-4673, 334-4674, 334-4504  
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