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PROVINCE OF THE WESTERN CAPE

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**CAPE METROPOLITAN  
COMMISSION LAW, 1995**

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PROVINSIE WES-KAAP

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**WET OP DIE KAAPSE  
METROPOLITAANSE  
KOMMISSIE, 1995**

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No 4 , 1995

# LAW

To provide for the establishment of a commission for the rationalisation and restructuring of local government in the Cape Metropolitan Area; and for matters incidental thereto.

**B**E IT ENACTED by the Provincial Legislature of the Province of Western Cape, as follows:—

## Definition

1. In this Law, unless the context indicates otherwise—
- (i) “Act” means the Local Government Transition Act, 1993 (Act 209 of 1993); (vii) 5
  - (ii) “Cape Metropole” means the area determined under paragraph 2 of Schedule 1 to the Act as the metropolitan area of local government for the establishment of a transitional metropolitan council in the Western Cape Region; (ii) 10
  - (iii) “Commission” means the Cape Metropolitan Commission established by section 2; (iii)
  - (iv) “Competent authority” means the competent authority referred to in the definition of “Administrator” in section 1 of the Act; (i) 15
  - (v) “Premier” means the Premier of the Province of Western Cape, acting in accordance with the Constitution; (v)
  - (vi) “substructure” means a transitional metropolitan substructure as defined in the Act, and (vi) 20
  - (vii) “transitional metropolitan council” means a transitional metropolitan council as defined in the Act. (iv)

## Establishment of Commission

2. There is hereby established a commission to be known as the Cape Metropolitan Commission. 25

## Composition of Commission

3. The Commission shall consist of not more than six members appointed by the Premier by Proclamation in the *Provincial Gazette*.

## Qualification of Commission members

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4. The members of the Commission shall be persons who have skill and experience in any of the following:

- (a) municipal and public administration and municipal services;
- (b) accounting and municipal finance;
- (c) law, with particular reference to municipal law and the law relating to the winding up of affairs and the re-allocation of assets, liabilities, rights and obligations; 35
- (d) personnel management;
- (e) labour relations;
- (f) organisational structuring. 40

### **Chairperson and vice-chairperson**

5. (1) The Premier shall designate one member of the Commission as chairperson and another member as vice-chairperson.

(2) Whenever the chairperson is absent or unable to perform his or her functions in terms of this Law, the vice-chairperson shall act as chairperson, and if, at any meeting, both the chairperson and the vice-chairperson are absent or unable to perform their functions in term of this Law, the members present shall elect one of their number to act as chairperson at that meeting. 5

(3) Whenever the vice-chairperson or a member of the Commission acts as chairperson, he or she may exercise all the powers and shall perform all the duties of the chairperson. 10

### **Tenure**

6. The members of the Commission shall hold office as members, and the members designated as chairperson or vice-chairperson shall hold office as chairperson or vice-chairperson of the Commission at the pleasure of the Premier. 15

### **Procedure and meetings**

7. (1) The time and place of the first meeting of the Commission shall be announced by the Premier and thereafter meetings of the Commission shall be held at such times and places as the chairperson may determine and cause to be notified to the members of the Commission. 20

(2) The Commission may make rules relating to the holding of, and procedure at, meetings of the Commission.

(3) The majority of the members of the Commission shall form a quorum for a meeting.

(4) The decision of the majority of the members of the Commission present at any meeting thereof shall be the decision of the Commission; provided that in the event of an equality of votes, the chairperson shall have a casting vote in addition to his or her deliberative vote. 25

### **Committees**

8. (1) The Commission may establish one or more committees consisting of such members of the Commission and other persons as it may appoint and may designate one of the members as chairperson and another as vice-chairperson; provided that a member of a committee who is not a member of the Commission shall not be entitled to vote at a meeting of the committee. 30

(2) A committee referred to in subsection (1) shall investigate matters contemplated in section 12 on behalf of the Commission and may, for the purpose of such investigation, exercise all the powers conferred, and perform all the duties imposed, on the Commission. 35

(3) A committee referred to in subsection (1) shall submit to the Commission a written report on every investigation carried out by it. 40

### **Administrative staff**

9. (1) The Director-General shall designate officers in the employ of the Provincial Administration to undertake the administrative work relating or incidental to the functions of the Commission and shall designate one of such officers as the secretary of the Commission. 45

(2) The secretary of the Commission shall ensure that a proper record is kept of the Commission's activities, including minutes of the meetings of the Commission or of any committee appointed by the Commission.

## Remuneration

10. (1) The conditions of service, remuneration, allowances and other benefits of the members of the Commission shall be determined by the Premier subject to such norms and standards, if any, as may be determined by the Minister of Finance. 5

(2) Any member of a committee who is a public servant or an employee of the Provincial Administration shall not receive any remuneration, allowance or other benefit contemplated in subsection (1).

## Object of the Commission

11. The object of the Commission is to advise the competent authority on the steps to be taken by him or her in terms of the Act to restructure and rationalise local and regional government in the Cape Metropole. 10

## Functions of the Commission

12. (1) The functions of the Commission shall be to investigate and to advise the competent authority in writing on the following matters: 15

- (a) The re-allocation of the functions of the former Western Cape Regional Services Council;
- (b) the handling of the remainder of the former Western Cape Regional Services Council area;
- (c) the re-allocation of the assets, debts, obligations and loans of the former Western Cape Regional Services Council; 20
- (d) the conferment of functions on the transitional metropolitan council and substructures with due regard to the autonomy, viability and capacity of such substructures;
- (e) the need for the application of additional financial and other measures to support and enhance the capacity of particular substructures; 25
- (f) the transfer and placement of staff in substructures, the former Western Cape Regional Services Council and the transitional metropolitan council with due regard to the protection of the rights and benefits, including the remuneration, allowances and other benefits of such staff; 30 provided that in respect of the aforementioned matters the Commission shall seek and obtain the views and recommendations of the organisations representing the employers and the employees;
- (g) the restructuring or establishment of local government bodies with a view to such bodies becoming efficient and cost-effective in the exercise of their powers and the performance of their duties and functions; 35
- (h) any other matter relating to the object of the Commission or on which the competent authority may require the Commission to advise him or her.

(2) The functions referred to in subsection (1) shall be performed with due regard to the agreement reached by the Cape Metropolitan Negotiating Forum and the contents of Proclamation No 18/1995 as published in Provincial Gazette Extraordinary 4929 dated 6 February 1995 as well as any further proclamations issued on this subject. 40

(3)(a) The Commission shall investigate and make recommendations to the competent authority regarding any matter referred to in subsection (1) upon and in terms of a specific request made to it by the competent authority and it shall submit a report to the competent authority within a reasonable time after having received such request. 45

(b) The Commission shall from time to time as required by the competent authority submit progress reports on any matter relating to the object of the Commission and its functions. 50

**Incorporation of certain sections of Commissions Ordinance, 1945**

13. Sections 5(1), 6, 7, 9, 10 and 13 of the Commissions Ordinance, 1945 (Ordinance No 1 of 1945) are hereby incorporated *mutatis mutandis*, into this Law.

**Sittings to be held in public**

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14. All the evidence and addresses before the Commission shall be heard in public; provided that the chairperson may cause any person who wilfully interrupts the proceedings of the Commission or who wilfully hinders or obstructs the Commission in the performance of its functions to be removed from the place where the Commission is sitting.

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**Regulations**

15. The Premier may by notice in the *Provincial Gazette* make regulations relating to any matter which is necessary or expedient for the effective carrying out of the provisions of this Law.

**Lapsing of Law**

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16. Twelve months after the enactment of this Law it shall lapse and be of no further force and effect; provided that the Premier may from time to time by notice in the *Provincial Gazette* given while the Law is still in force, extend the duration of the Law for such period or periods as he or she may determine.

**Penalties**

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17. Any person who is convicted of an offence in terms of this Law shall be liable to a fine or to imprisonment not exceeding four years or to both such fine and such imprisonment.

**Short title**

18. This Law shall be called the Cape Metropolitan Commission Law, 1995.

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