

**LOCAL GOVERNMENT: MUNICIPAL STRUCTURES ACT, 1998  
(ACT 117 OF 1998)**

*Amended by:*

*Provincial Notice 666 dated 4 December 2000  
Provincial Notice 447 dated 19 December 2002  
Provincial Notice 175 dated 28 May 2003  
Provincial Notice 2 dated 3 January 2006  
Provincial Notice 90 dated 28 February 2006  
Provincial Notice 108 dated 28 March 2008*

**ESTABLISHMENT OF THE WEST COAST DISTRICT MUNICIPALITY (DC1)**

By virtue of the powers vested in me by section 12 and 14 of the Local Government: Municipal Structures Act, 1998 (Act 117 of 1998), I hereby give notice of the establishment of the West Coast District Municipality on the terms set out in the Schedule hereto.

Dated this 22<sup>nd</sup> day of September 2000.

P UYS, PROVINCIAL MINISTER OF LOCAL GOVERNMENT

**SCHEDULE**

*Definitions and Interpretation*

1. In this Schedule, unless the context otherwise indicates, the singular includes the plural and vice versa, the English text prevails in the event of an inconsistency between the different texts and a word or expression to which a meaning has been assigned in the Municipal Structures Act has the same meaning, and –
  - (1) **“Bargaining Council”** means the Western Cape division of the South African Local Government Bargaining Council which has applied for registration as a bargaining council in terms of General Notice 1513/1999 as published in Government Gazette No. 20282 of 16 July 1999;
  - (2) **“CEO”** means the chief executive officer of the West Coast Council;
  - (3) *(subsection (3) deleted by PN.175/2003)*
  - (4) **“Constitution”** means the Constitution of the Republic of South Africa, 1996 (Act 108 of 1996);
  - (5) **“disestablished municipalities”** means those existing municipalities disestablished in terms of section 3 of this Schedule;
  - (6) **“District Management Area”** means that part of the area of the District Municipality that has been declared as a district management area by the Municipal Demarcation Board, acting in terms of section 6 of the Municipal Structures Act, as reflected in the map no. 2 appearing in the

Schedule to General Notice 1139/2000 published in Government Gazette No. 20972 of 10 March 2000;

- (7) “**District Municipality**” means the West Coast District Municipality, established in terms of section 4 of this Schedule;
- (8) “**District Transformation Forum**” means the West Coast District Transformation Forum established in terms of the DTF Notice;
- (9) “**DTF Notice**” means Provincial Notice 78/2000 published in Provincial Gazette Extraordinary No 5435 dated 10 March 2000;
- (10) “**effective date**” means the commencement date of the election;
- (11) “**election**” means the first general election of Municipal Councils after the commencement of the Constitution;
- (12) “**inter-municipal budgetary transfers**” means the transfer of funds between municipalities to achieve revenue stability during the period of transition;
- (12A) “**interim municipal manager**” means the interim municipal manager of the District Municipality appointed in terms of section 21(1) who from the effective date shall be the acting municipal manager of the District Municipality, or the acting municipal manager or municipal manager of the District Municipality appointed by the Municipal Council of the District Municipality after the effective date;
- (subsection (12A) amended by PN.666/2000)*
- (13) “**Local Municipalities**” means:
- (a) the Matzikama Municipality (WCO11);
  - (b) the Cederberg Municipality (WCO12);
  - (c) the Bergrivier Municipality (WCO13);
  - (d) the Saldanha Bay Municipality (WCO14), and
  - (e) the Swartland Municipality (WCO15),
- to be established with effect from the effective date in the area of the District Municipality;
- (subsection (13) amended by PN.666/2000)*
- (13A) “**Local Municipality IMM**” means the interim municipal manager of a Local Municipality;
- (subsection (13A) inserted by PN.666/2000)*
- (13B) “**Local Municipality Notices**” means Provincial Notices 481/2000, 482/2000, 483/2000, 484/2000 and 485/2000 published in Provincial Gazette Extraordinary No. 5589 dated 22 September 2000;
- (subsection (13B) inserted by PN.666/2000)*
- (13C) “**mayoral executive system**” means a system which allows for the exercise of executive authority through an executive mayor in whom the executive leadership of the Municipality is vested and who is assisted by a mayoral committee;
- (subsection (13C) inserted by PN.175/2003)*
- (14) “**Municipal Demarcation Act**” means the Local Government: Municipal Demarcation Act, 1998 (Act 27 of 1998);

- (15) “**Municipal Demarcation Board**” means the Municipal Demarcation Board established by section 2 of the Municipal Demarcation Act;
- (16) “**Municipal Structures Act**” means the Local Government: Municipal Structures Act, 1998 (Act 117 of 1998);
- (16A) “**Municipal Structures Amendment Act**” means the Local Government: Municipal Structures Amendment Act, 2000 (Act 33 of 2000);
- (subsection (16A) inserted by PN.666/2000)*
- (16B) “**National Minister**” means the national Minister responsible for local government;
- (subsection (16B) inserted by PN.666/2000)*
- (17) “**Province**” means the Province of Western Cape;
- (18) “**Provincial Minister**” means the member of the Cabinet of the Province of Western Cape responsible for local government;
- (19) “**RSC levies**” means “regional services levy” and “regional establishment levy” as defined in section 1 of the Regional Services Council Act, 1985 (Act 109 of 1985);
- (20) “**Rural Areas Act**” means the Rural Areas Act (House of Representatives), 1987 (Act 9 of 1987);
- (20A) “**section 18 notice**” means a notice promulgated in terms of section 18 of the Municipal Structures Amendment Act;
- (subsection (20A) inserted by PN.666/2000)*
- (20B) “**section 84(3) notice**” means a notice promulgated in terms of section 84(3) of the Municipal Structures Act;
- (subsection (20B) inserted by PN.666/2000)*
- (20C) “**senior management team**” means the senior management team or heads of department of the West Coast District Council;
- (subsection (20C) inserted by PN.666/2000)*
- (20D) “**Staff**” means all staff, including operational, managerial and support staff, and includes budgeted vacant posts but not unbudgeted vacant posts;
- (subsection (20D) inserted by PN.666/2000)*
- (21) “**statutory plan**” means a plan required in terms of any legislation, including but not limited to, any structure plan, land use plan, zoning scheme, integrated development plan, water services plan, skills development plan and employment equity plan;
- (22) “**trade unions**” means the Independent Municipal and Allied Trade Union and the South African Municipal Workers Union;
- (22A) “**transfer process**” means the process as set out in this Schedule to effect the transfer of all staff, assets, liabilities and records of the disestablished municipalities to the District Municipality or the Local Municipalities, which process includes:
- (a) the identification of all staff, assets, liabilities and records to be transferred;

- (b) the application of the principles for effecting transfer as set out in this Schedule;
- (c) the allocation of every staff member, asset, liability and record to either the District Municipality or a Local Municipality, and
- (d) the putting into operation of the transfer;

*(subsection (22A) inserted by PN.666/2000)*

- (23) **“Transformation of Certain Rural Areas Act”** means the Transformation of Certain Rural Areas Act, 1998 (Act 94 of 1998);
- (24) **“WECLOGO”** means the Western Cape Local Government Organisation, being the provincial organisation for the Western Cape recognised in terms of section 2(1)(b) of the Organised Local Government Act, 1997 (Act 52 of 1997).

*Preamble*

- 2.(1) On 3 March 2000 the Municipal Demarcation Board, acting in terms of section 21 of the Municipal Demarcation Act, determined the boundaries of the Municipality, as reflected in the map appearing in Provincial Notice 69/2000 published in Provincial Gazette Extraordinary No. 5431 of 3 March 2000 and amended by Provincial Notice 478/2000 published in Provincial Gazette Extraordinary No. 5587 of 19 September 2000. A copy of the map is republished in Annexure “1” to this Schedule.

*(section 2(1) amended by PN.2/2006)*

- (2) On 10 March 2000 the Municipal Demarcation Board, acting in terms of section 6 of the Municipal Structures Act, declared the area reflected in map no. 2 published in Government Gazette No. 21617 of 29 September 2000 as a district management area. A copy of the map is republished in Annexure “2A” to this Schedule.

*(section 2(2) amended by PN. 666/2000)*

- (3) The Provincial Minister, acting in terms of section 12(4) of the Municipal Structures Act, has:-
  - (a) given written notice of the proposed establishment of the District Municipality to WECLOGO and to the disestablished municipalities by way of a circular letter dated 12 July 2000 and referenced AAO 509/1/4;
  - (b) consulted with WECLOGO and the disestablished municipalities;
  - (c) published particulars of this Notice in Provincial Notice 385/2000 published in Provincial Gazette Extraordinary No. 5571 dated 28 August 2000, and
  - (d) considered the comments received following the publication of the proposed Notice.
- (4) The Provincial Minister has also considered the advice of the District Transformation Forum given to him in terms of section 11(2) of the DTF Notice.
- (5) The Provincial Minister, acting in terms of section 12 and 14 of the Municipal Structures Act, as read with the Western Cape Determination of Types of Municipalities Act, 2000 (Act 9 of 2000), now gives notice of the establishment of the District Municipality on the terms set out herein.

- (6) The Provincial Minister, acting in terms of chapter 2 of the Municipal Structures Amendment Act as read with section 14(2)(b) of the Municipal Structures Act now gives notice of the regulation of the legal, practical and other consequences of the disestablishment of the disestablished municipalities, including:-
- (a) the principles determining, and the process for, effecting the transfer of staff to the District Municipality, which process will commence on the publication date of this notice and will end on a date to be determined by the Provincial Minister;
  - (b) the principles determining, and the process for, effecting the transfer of assets, liabilities, rights and obligations and administrative and other records to the District Municipality, which process will commence on the publication date of this notice and will end on a date to be determined by the Provincial Minister;
  - (c) the provision of transitional administrative arrangements for the period from the effective date to a date to be determined by the Provincial Minister to ensure continued service delivery and to ensure the integrity and financial viability of the District Municipality.

*(subsection (6) inserted by PN.666/2000)*

*Disestablishment of the Existing Municipalities*

- 3.(1) With effect from midnight on the day before the effective date, the following municipalities shall be disestablished:-
- (a) Bitterfontein/Nuwerus Transitional Local Council, established in terms of Proclamation No. 19/1995 dated 31 January 1995;
  - (b) Clanwilliam Transitional Representative Council, established in terms of Proclamation No. 18/1996 dated 26 April 1996, to the extent that its area is included within the boundaries of the district management area as determined by the Municipal Demarcation Board and referred to in section 2(2);
  - (c) Malmesbury Transitional Representative Council, established in terms of Proclamation No. 18/1996 dated 26 April 1996, to the extent that its area is included within the boundaries of the district management area as determined by the Municipal Demarcation Board and referred to in section 2(2);
  - (d) Rietpoort Transitional Local Council, established in terms of Proclamation No. 88/1995 dated 26 May 1995, to the extent that its area is included within the boundaries of the district management area as determined by the Municipal Demarcation Board and referred to in section 2(2);
  - (e) Vanrhynsdorp Transitional Representative Council, established in terms of Proclamation No. 18/1996 dated 26 April 1996, to the extent that its area is included within the boundaries of the district management area as determined by the Municipal Demarcation Board and referred to in section 2(2);
  - (f) Vredendal Transitional Representative Council, established in terms of Proclamation No. 18/1996 dated 26 April 2000, to the extent that its area is included within the boundaries of the district management area as

determined by the Municipal Demarcation Board and referred to in section 2(2), and

(g) West Coast District Council, established in terms of Proclamation No. 152/1995 dated 15 December 1995.

- (2) The councillors of the disestablished municipalities must vacate their offices when the newly elected Council of the District Municipality is declared elected and by midnight on that day must return to the CEO of the relevant disestablished municipality or his nominee any property in their possession which belongs to a disestablished municipality.

*Establishment and Name*

4. With effect from the effective date, a municipality shall be established, to be known in English as “West Coast District Municipality”, in Afrikaans as “Weskus Distriksmunisipaliteit” and in isiXhosa as “U Masipala weSithili saseWest Coast”.

*Category*

5. The District Municipality is a district municipality as defined in section 1 of the Municipal Structures Act, being a municipality that has municipal executive and legislative authority in an area that includes more than one municipality, and which is described in section 155(1) of the Constitution as a category C municipality.

*Type*

6. The District Municipality is a municipality with a mayoral executive system as provided for in the Western Cape Determination of Types of Municipalities Act, 2000 (Act 9 of 2000), as amended by the Western Cape Determination of Types of Municipalities Amendment Act, 2002 (Act. 4 of 2002).

*(section 6 amended by PN.175/2003)*

*Boundaries*

7. The boundaries of the District Municipality shall be the boundaries determined by the Municipal Demarcation Board and referred to in section 2(1).

*Number of Councillors*

8. The Municipal Council of the District Municipality has 23 (twenty-three) councillors, as determined by the Provincial Minister in Provincial Notice 100/2004 published in Provincial Gazette Extraordinary No. 6137 of 8 June 2004, of which:-

- (a) 10 (ten) proportionally represent the parties contesting the election in the District Municipality in terms of section 23(1)(a) of the Municipal Structures Act;
- (b) 12 (twelve) directly represent the Local Municipalities in terms of section 23(1)(b) of the Municipal Structures Act, of which:-
- (i) 2 (two) directly represent the Matzikama Municipality (WCO11);
  - (ii) 2 (two) directly represent the Cederberg Municipality (WCO12);
  - (iii) 2 (two) directly represent the Bergrivier Municipality (WCO13);
  - (iv) 3 (three) directly represent the Saldanha Bay Municipality (WCO14);

- (v) 3 (three) directly represent the Swartland Municipality (WCO15), and
- (c) 1 (one) proportionally represent the parties contesting the election in the District Management Area in terms of section 23(1)(c) of the Municipal Structures Act.

*(section 8 amended by PN.666/2000 and PN.90/2006)*

#### *Full-time Councillors*

- 9. The District Municipality may designate the following councillors as full-time councillors:-
  - (a) the executive mayor;
  - (b) the members of the mayoral committee, and
  - (c) the speaker.

*(section 9 amended by PN.447/2002 and PN175/2003)*

#### *Functions and Powers*

- 10. There will be no adjustment of the functions and powers of the District Municipality in terms of section 85 of the Municipal Structures Act.

#### *Exemptions*

- 11. The District Municipality is not exempted from any of the provisions of the Municipal Structures Act.

#### *Principles determining the Transfer of Staff*

- 12.(1) With effect from the effective date, and in accordance with the provisions of section 197 of the Labour Relations Act, 1995 (Act 66 of 1995):-
  - (a) all staff of the disestablished municipalities associated exclusively with functions to be carried out by the District Municipality (which shall include functions to be carried out by the District Municipality in a District Management Area) shall be transferred to the District Municipality;
  - (b) all staff of the disestablished municipalities associated exclusively with functions to be carried out by the Local Municipalities shall be transferred to the Local Municipality concerned;
  - (c) any member of staff of a disestablished municipality associated with one or more functions which, with effect from the effective date, will be fulfilled by the District Municipality and one or more Local Municipality or by more than one Local Municipality, shall be transferred according to the function taking up the largest portion of such staff member's time;
  - (d) all staff of the disestablished municipalities not associated with a particular function of functions to be carried out by the Local Municipality or the District Municipality shall be transferred to either the District or a Local Municipality in proportions based on the total number of posts transferred in terms of paragraphs (a), (b) and (c);
  - (e) all un-budgeted vacant posts of the disestablished municipalities shall be abolished.
- (2) Subject to any collective agreement, all the rights and obligations between the disestablished municipalities and each of their respective employees at the time of transfer shall continue in force as if they were rights and obligations

between a Local Municipality or the District Municipality, as the case may be, and each of its employees, and anything done before the transfer by or in relation to the relevant disestablished municipality will be considered to have been done by or in relation to the Local Municipality or District Municipality, as the case may be.

- (3) The transfer does not interrupt an employee's continuity of employment and it continues with the Local Municipality or District Municipality, as the case may be, as if with the relevant disestablished municipality.
- (4) Subject to the human resource policies and procedures referred to in section 14(a) of this Schedule, any employee that is transferred to the District Municipality may be required to report to any of the offices of the District Municipality and, unless otherwise agreed, will not be entitled to any additional remuneration as a result thereof.

*(section 12 amended by PN.666/2000)*

#### *Process for Effecting the Transfer of Staff*

12A.(1) Notwithstanding the provisions of section 12 and 16C, and pending the completion of the transfer process in terms of this section, all staff of the disestablished municipalities shall, to the extent necessary, be temporarily placed in the service of the District Municipality, and accordingly all staff to be transferred to a Local Municipality in terms of the provisions of sections 12 or 16C of this Schedule shall be deemed to be seconded to the District Municipality in terms of an agency arrangement between the District Municipality and the Local Municipality concerned to the effect that the District Municipality will fulfill the function or functions with which the specific staff are associated on behalf of the Local Municipality.

(2) In order to:-

- (a) accommodate any transitional arrangements in terms of the Municipal Structures Amendment Act, or
- (b) allow the District Municipality and the Local Municipalities to enter into agreements, including operational agreements,

that may affect the transfer of staff in terms of this Schedule, no member of staff shall be finally allocated as provided for in subsection (4) before 30 June 2001, or such alternative date that may be determined by the Provincial Minister.

- (3) On or before a date to be determined by the Provincial Minister every CEO must prepare a schedule of all staff of his or her disestablished municipality in accordance with a format prescribed by the Provincial Minister, must provisionally allocate each staff member and budgeted vacant post of his or her disestablished municipality in accordance with the principles set out in sections 12 and 16C, and must submit copies of the full schedule to the interim municipal manager and the Local Municipality IMMs.
- (4) On or before a date to be determined by the Provincial Minister, but subject to subsection (2), the interim municipal manager, in consultation the Local Municipality IMMs, must:-
  - (a) consolidate the schedules referred to in subsection (2) into a single schedule and must finally allocate in his or her discretion each staff member and budgeted vacant post listed in the consolidated schedule to



either a Local Municipality or the District Municipality for transfer on the effective date, in accordance with the principles set out in section 12 and 16C or any agreement referred to in subsection (2);

- (b) submit a copy of the schedule to each Local Municipality IMM and obtain from each Local Municipality IMM the copy of the schedule prepared by such Local Municipality IMM, and
  - (c) consolidate the schedule referred to in paragraph (a) with the schedule received from the Local Municipality IMM referred to in paragraph (b) into a single schedule reflecting all staff to be transferred to the District Municipality.
- (5) Notwithstanding the principles set out in section 12 and 16C, the interim municipal manager may, by agreement with the Local Municipality IMM, adjust the allocation of staff in terms of subsection (3) to provide for a more effective overall allocation of staff between the District Municipality and the Local Municipality or between the Local Municipalities; provided that no such adjustment may be made after a member of staff has been notified in terms of subsection (8).
- (6) Should any dispute with regard to the allocation of staff arise between the interim municipal manager and one or more Local Municipality IMM such dispute must be referred to the Provincial Minister for determination by the Provincial Minister or his nominee in accordance with procedures determined by the Provincial Minister, and the decision of the Provincial Minister or his nominee shall be final and binding.
- (7) The interim municipal manager shall, in writing, verify the consolidated schedule referred to in subsection (4)(c) and must submit the schedule to the Provincial Minister on or before a date to be determined by the Provincial Minister.
- (8) After preparation of the single consolidated schedule referred to in subsection (4)(c) the interim municipal manager must furnish each prospective staff member of the District Municipality with a written notice informing such staff member that he or she is employed by the District Municipality with effect from the effective date.
- (9) Failure to receive the written notice referred to in subsection (8) shall not invalidate any transfer.
- (10) Should any member of staff ("the objector") contend that his or her transfer has not been effected in accordance with the principles set out in section 12 and 16C, any agreement referred to in subsection (2), or the process set out in this section, the objector may lodge a written objection with the interim municipal manager of the municipality to which he or she has been transferred within 14 days of being notified in terms of subsection (5). The interim municipal manager must refer the objection to the Provincial Minister for determination by the Provincial Minister or his nominee in accordance with procedures determined by the Provincial Minister, and the decision of the Provincial Minister or his nominee shall be final and binding.
- (subsection (10) amended by PN 108/2008)*
- (11) Pending a determination by the Provincial Minister or his nominee in terms of subsection (10) the objector shall be transferred to the municipality as determined in accordance with this section. Should the Provincial Minister or

his nominee determine that the objector should have been transferred to another municipality the objector will be transferred to that municipality, and his or her transfer will be deemed to have taken place on the effective date in accordance with section 12 and 16C.

- (12) Should any member of staff not be reflected in the schedule referred to in subsection (4)(a), or should any member of staff be allocated to more than one municipality with effect from the effective date, such member of staff must, immediately upon becoming aware of either of these facts, report to the interim municipal manager or a Local Municipality IMM who must refer the matter to the Provincial Minister for determination by the Provincial Minister or his nominee in accordance with procedures determined by the Provincial Minister, and the decision of the Provincial Minister or his nominee shall be final and binding.
- (13) On or before a date to be determined by the Provincial Minister the District Municipality must approve a staff establishment for the District Municipality in terms of relevant legislation and must submit a copy of the document setting out the staff establishment to the Transformation Sub-Chamber of the Bargaining Council; provided that the District Municipality shall not finally approve a staff establishment for the District Municipality before the interim municipal manager has verified the consolidated schedule in terms of subsection (7).
- (14) On or before a date to be determined by the Provincial Minister, to the extent that agreement has not been reached before the effective date in terms of section 13(2) of this Schedule, the District Municipality, as a member of the Transformation Sub-Chamber of the Bargaining Council, must endeavour to reach collective agreement in the Transformation Sub-Chamber of the Bargaining Council with the trade unions regarding the principles, procedures and criteria to be followed for making appointments to the posts flowing from the creation of a new organisational structure of the District Municipality.
- (15) On or before a date to be determined by the Provincial Minister the District Municipality shall make appointments to the positions on the staff establishment in accordance with the principles, procedures and criteria agreed to in the Transformation Sub-Chamber of the Bargaining Council.

*(section 12A inserted by PN.666/2000)*

### *Collective Agreements*

13.(1) Any collective agreement entered into:-

- (a) at a national level, or
- (b) at the Bargaining Council, or
- (c) at a local level;

prior to the date of publication of this Schedule, shall remain of full force and effect until amended or terminated in accordance with the provisions of the relevant agreement.

- (2) Before the effective date the disestablished municipalities, as members of the Transformation Sub-Chamber of the Bargaining Council, must endeavour to reach agreement with the trade unions regarding:-
- (a) the process and criteria for the placement of staff into new organisational structures after the effective date;

- (b) the process to be followed for the filling of new posts flowing from the creation of a new organisational structure for the District Municipality;
- (c) the adoption of terms and conditions of employment for the District Municipality after the effective date, and
- (d) any other labour matter relating to the establishment of the District Municipality.

*Human Resource Matters*

14. Subject to any collective agreement,-
- (a) the human resource policies and procedures of the District Municipality shall be the human resource policies and procedures that existed prior to the effective date and continue to be applicable to all employees in the same manner as was the case prior to the effective date, subject to any amendment or repeal by the District Municipality;
  - (b) the terms and conditions of employment of all employees of the District Municipality shall be the terms and conditions of employment that applied to each employee prior to the effective date; provided that any employee appointed after the effective date shall be appointed on the terms and conditions of employment determined by the District Municipality.

*Consequences of Transition in Respect of Certain Staff Issues*

- 15.(1) Subject to any collective agreement, an employee whose post is changed as a result of the transition will not be considered redundant for the purposes of any term or condition of employment or any pension fund rule that gives the employee the election to terminate his or her employment with benefits.
- (2) The provisions of this section apply only if the employee unreasonably refuses to accept the District Municipality's offer of alternative employment.
- (3) For the purpose of this section, a change in 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.

*Legal Succession*

16. With effect from the effective date:-
- (1) the District Municipality shall be the successor in law of the disestablished municipalities and the municipalities to be disestablished in terms of the Local Municipality Notice in relation to the specific assets and liabilities allocated to the District Municipality in terms of this Schedule.

- (2) Subject to subsection (1) and section 16D of this Schedule, all rights and obligations of the disestablished municipalities not allocated in terms of this Schedule shall be allocated to the District Municipality, and the District Municipality shall be the successor in law of the disestablished municipalities in relation to such rights and obligations.
- (3) All rates, revenue and other monies payable to or recoverable by any disestablished municipality shall be payable to and be recoverable by the successor in law to such disestablished municipality in accordance with the provisions of this Schedule.
- (4) Notwithstanding subsection (1):-
  - (a) the District Municipality shall be the successor in law of the disestablished municipalities with reference to the matters set out in the Transformation of Certain Rural Areas Act and the Rural Areas Act and, to that extent, until transferred to an entity envisaged in section 3 of the Transformation of Certain Rural Areas Act:-
    - (i) land which is held in trust by the Minister for Agriculture and Land Affairs in terms of section 7 of the Rural Areas Act and which is subject to the provisions of section 3 of the Transformation of Certain Rural Areas Act will remain vested in the Minister for Agriculture and Land Affairs, and
    - (ii) land that has been acquired by the disestablished municipalities in terms of the Rural Areas Act and which is subject to the provisions of section 3 of the Transformation of Certain Rural Areas Act will vest in the District Municipality with effect from the effective date;
  - (b) land referred to in paragraph (2)(a) shall, pending transfer in terms of section 3 of the Transformation of Certain Rural Areas Act, be managed by the District Municipality in terms of the Rural Areas Act and the regulations made in terms of the Rural Areas Act.

*(section 16 amended by PN.666/2000)*

*Principles determining the Transfer of Assets, Liabilities and Records*

16A. With effect from the effective date:-

- (1) All assets, liabilities and records of the disestablished municipalities associated exclusively with functions to be carried out by the District Municipality (which shall include functions to be carried out by the District Municipality in a District Management Area) shall be transferred to the District Municipality.
- (2) All assets, liabilities and records of the disestablished municipalities associated exclusively with functions to be carried out by any one of the Local Municipalities shall be transferred to the Local Municipality concerned.
- (3) Any movable asset of one of the disestablished municipalities associated with one or more functions which, with effect from the effective date, will be fulfilled by the District Municipality and one or more Local Municipalities or

by more than one Local Municipalities, and which can be divided between them, shall be divided amongst them according to:-

- (a) the percentage of actual time the particular asset is utilised for the function in each area;
  - (b) the percentage of actual time the particular asset is utilised for the function for the benefit of each party, or
  - (c) on any other basis approved by the Provincial Minister.
- (4) All immovable assets of the disestablished municipalities associated with a function or functions to be carried out by the District Municipality and one or more of the Local Municipalities or more than one Local Municipalities, and all movable assets associated with a function or functions to be carried out by the District Municipality and one or more of the Local Municipalities or more than one Local Municipalities and which cannot be divided between them shall, if the District Municipality will be the major user of such asset, be transferred to the District Municipality, and in all other cases be transferred to the Local Municipality that will be the major user of such asset, provided that any municipality having an interest in such asset shall be entitled to continue to use such asset against payment of a proportional share of the costs and until its right of use is terminated by agreement.
- (5) Notwithstanding the provisions of subsection (4), the Local Municipalities and the District Municipality may agree to subdivide any immovable asset, referred to in subsection (4) capable of subdivision or to divide any group of assets referred to in subsections (3) and (4) on an equitable basis, having regard to the nature and purpose served by such an asset or assets as agreed between them, and to allocate each portion thereof in accordance with such agreement.
- (6) All financial assets of the disestablished municipalities associated with a function or functions to be carried out by the District Municipality and one or more of the Local Municipalities or more than one Local Municipality shall be equitably divided between the municipalities concerned, having regard to the nature and purpose served by such an asset.
- (7) All financial assets and liabilities of the disestablished municipalities not associated with a particular function shall be divided between the Local Municipalities and the District Municipality on the following basis:-
- (a) accumulated provisions for employee benefits, such as accumulated leave funds, shall be transferred, in the event that the provision can be linked to a specific employee in accordance with the transfer of that employee in terms of this Schedule, and in all other instances in proportion to the total salary and wages provision to be transferred to the Local Municipalities and the District Municipality;
  - (b) reserves and provisions accumulated for a specific purpose shall be transferred on an equitable basis having regard to the nature and purpose served by each particular reserve or provision;
  - (c) reserves and accumulated surpluses of a general nature shall be divided between the Local Municipalities and the District Municipality on one of the following bases:-
    - (i) in proportion to the most recent consolidated financial statements of the District Municipality and Local Municipalities;

- (ii) any other basis approved by the Provincial Minister.
- (8) All incorporeal assets of the disestablished municipalities associated with a function or functions to be carried out by the District Municipality and one or more of the Local Municipalities or more than one Local Municipalities shall be allocated to one municipality, provided that any other municipalities with an interest in such incorporeal asset shall be entitled to:-
- (a) equitable compensation, including financial, exchange or other compensation, as may be agreed, and
  - (b) continue to use such asset against payment of a proportional share of the costs until its right of use is terminated by agreement.
- (9) All records of the disestablished municipalities associated with a function or functions to be carried out by the District Municipality and one or more of the Local Municipalities or more than one of the Local Municipalities and which cannot be divided between the said municipalities shall be allocated to one municipality according to the function to which the records are the most closely connected; provided that the other municipalities shall have the right of access to such records and the right to obtain copies thereof.
- (10) All liabilities of the disestablished municipalities associated with a function or functions to be carried out by the District Municipality and one or more of the Local Municipalities or more of the Local Municipalities shall be shared equitably between the District Municipality and the Local Municipalities concerned, taking account of the nature and purpose of the liability.
- (11) All assets and liabilities of the disestablished municipalities, not associated with a particular function, other than those referred to in subsection (7) shall be transferred to the Local Municipality to which they are the most closely connected and in the case of immovable assets, including associated moveable assets, shall be transferred to the Local Municipality in whose area it is situated.

*(section 16A inserted by PN.666/2000)*

*The Process for Effecting the Transfer of Assets, Liabilities and Records*

- 16B.(1) Notwithstanding the provisions of section 16A and 16C, and pending the completion of the transfer process in terms of this section, all assets, liabilities and records of the disestablished municipalities shall, to the extent necessary, be temporarily transferred to the District Municipality, and accordingly all assets, liabilities and records to be transferred to a Local Municipality in terms of the provisions of sections 16A or 16C of this Schedule shall be deemed to be transferred to the District Municipality in terms of an agency arrangement between the District Municipality and the Local Municipality concerned to the effect that the District Municipality will fulfill the function or functions with which the specific assets, liabilities and records are associated on behalf of the Local Municipality.
- (2) In order to:-
- (a) accommodate any transitional arrangements in terms of the Municipal Structures Amendment Act, or
  - (b) allow the District Municipality and the Local Municipalities to enter into agreements, including operational agreements,

that may affect the transfer of assets, liabilities and records in terms of this Schedule, no asset, liability or record shall be finally allocated as provided for in subsection (4) before 30 June 2001, or such alternative date that may be determined by the Provincial Minister.

- (3) On or before a date to be determined by the Provincial Minister every CEO must prepare a schedule of all assets, liabilities and records of his or her disestablished municipality in accordance with a format prescribed by the Provincial Minister, must provisionally allocate all assets, liabilities and records of his or her disestablished municipality in accordance with the principles set out in sections 16A and 16C, and must submit copies of the full schedule to the interim municipal manager and the Local Municipality IMMs.
- (4) On or before a date to be determined by the Provincial Minister, but subject to subsection (2), the interim municipal manager, in consultation with the Local Municipality IMMs, must:-
  - (a) consolidate the schedules referred to in subsection (1) into a single schedule and must finally allocate all assets, liabilities and records listed in the consolidated schedule to either the Local Municipalities or the District Municipality for transfer on the effective date, in accordance with the principles set out in section 16A and 16C or any agreement referred to in subsection (2);
  - (b) submit a copy of the schedule to the Local Municipality IMM and obtain from each Local Municipality IMM the copy of the schedule prepared by such Local Municipality IMM, and
  - (c) consolidate the schedule referred to in paragraph (a) with the schedules received from the Local Municipality IMMs referred to in paragraph (b) into a single schedule reflecting all assets, liabilities and records to be transferred to the District Municipality.
- (5) Notwithstanding the principles set out in sections 16A and 16C, the interim municipal manager may, by agreement with the Local Municipality IMMs, adjust the allocation of assets, liabilities and records in terms of subsection (4) to provide for a more effective overall allocation between the District Municipality and the Local Municipalities or between the Local Municipalities.
- (6) Should any dispute with regard to the allocation of any assets, liabilities or records arise between the interim municipal manager and one or more Local Municipality IMM, such dispute must be referred to the Provincial Minister for determination by the Provincial Minister or his nominee in accordance with procedures determined by the Provincial Minister, and the decision of the Provincial Minister or his nominee shall be final and binding.
- (7) The interim municipal manager shall, in writing, verify the consolidated schedule referred to in subsection (4)(c) and must submit the schedule to the Provincial Minister on or before a date to be determined by the Provincial Minister.
- (8) As soon as possible after verifying the consolidated schedule in terms of subsection (7), but by no later than a date to be determined by the Provincial Minister, the interim municipal manager must put in operation the transfer of all assets, liabilities and records of the disestablished municipalities.

- (9) The District Municipality shall audit the transfer of assets, liabilities and records no later than 12 months after the effective date, or by such later date as may be determined by the Provincial Minister.

*(section 16B inserted by PN.666/2000)*

*Transfer of staff, assets and liabilities relating to functions other than those listed in section 84 of the Municipal Structures Act*

- 16C. Notwithstanding the provisions of sections 12(1) and 16A of this Schedule, with effect from the effective date:-

- (a) all staff, assets, liabilities and records of the disestablished municipalities associated exclusively with:-

- (i) roads other than municipal roads;
- (ii) ambulance services;
- (iii) health services other than municipal health services;
- (iv) housing;
- (v) libraries;
- (vi) museums;
- (vii) disaster management;
- (viii) water supply systems other than potable water supply systems;
- (ix) nature and environmental conservation, including coastal control, environmental education, animal control and control over inland waters, and
- (x) traffic and law enforcement;

shall be transferred to the District Municipality in terms of section 12(2), (3) and (4) and the process set out in sections 12A and 16B of this Schedule;

- (b) any member of staff, assets liabilities and records of the disestablished municipalities not associated with a function referred to in section 84(1) of the Municipal Structures Act or paragraph (a) shall be transferred, in terms of the principles and process set out in sections 12, 12A, 16A and 16B of this Schedule, to the Local Municipality that will fulfill the function with which it is associated with effect from the effective date.

*(section 16C inserted by PN.666/2000)*

*Transfer of staff, assets, liabilities and records relating to municipal service delivery agreements*

- 16D.(1) Notwithstanding anything to the contrary contained in any municipal service delivery agreement entered into by a disestablished municipality in terms of which such disestablished municipality is the service provider, all staff, assets, liabilities and records of the disestablished municipalities shall be transferred in accordance with the provisions of this Schedule.

- (2) The Provincial Minister shall determine which municipality will be the successor in law of the disestablished municipality in terms of any municipal service delivery agreement entered into by a disestablished municipality in terms of which such disestablished municipality is the service provider, and may direct the District Municipality or any Local Municipality to implement and



administer any interim service delivery arrangements in terms of section 19 of this Schedule in order to ensure continued service delivery in terms of such agreement.

- (3) For the period from the effective date to the date on which the Provincial Minister has made a determination in terms of subsection (3), the District Municipality shall be the successor in law of the disestablished municipalities with regard to any municipal service delivery agreement referred to in subsection (1) in accordance with the provisions of section 19.

*(section 16D inserted by PN.666/2000)*

*Failure to implement certain provisions of this Schedule*

- 16E. In the event that the interim municipal manager or any other person required to perform a task set out in section 12A or section 16B, fails or refuses to do so within the time periods specified in those sections, then the Provincial Minister may nominate any person to perform such tasks, in which event the District Municipality or Local Municipalities concerned shall be obliged to co-operate fully with such person.

*(section 16E inserted by PN.666/2000)*

*Transitional Provisions Relating to By-Laws and Resolutions*

- 17.(1) Any by-law in force in the area of a disestablished municipality immediately prior to the effective date shall, with effect from the effective date, and pending the review and rationalisation thereof in terms of section 15 of the Municipal Structures Act, remain of full force and effect within the area for which it was promulgated, subject to any amendment or repeal by the District Municipality.
- (2) Unless inconsistent with the context or clearly inappropriate, a reference in any such by-law to:-
- (a) a disestablished municipality or its predecessor, must be construed as a reference to the District Municipality, and
  - (b) a structure or functionary of a disestablished municipality, must be construed as a reference to the corresponding structure or functionary of the District Municipality.
- (3) Subject to the provisions of this Schedule, and notwithstanding the disestablishment of the disestablished municipalities, any:-
- (a) resolution taken;
  - (b) notice, certificate or other document issued;
  - (c) direction, approval, consent or authority given;
  - (d) exemption, license or permit granted or issued;
  - (e) appointment made;
  - (f) employee nominated;
  - (g) agreement or contract entered into;
  - (h) delegation of powers granted to an employee;
  - (i) rates, tariffs or charges levied or imposed;
  - (j) reservation of land made, and
  - (k) other action taken or thing done.

by a disestablished municipality shall, subject to the provisions of the Schedule, be deemed to have been issued, given, made, nominated, entered into, granted, levied, imposed or done by the District Municipality, pending the review and rationalisation thereof in terms of section 15 of the Municipal Structures Act.

- (4) Subject to section 20 of this Schedule, any person who on the effective date exercises a power or performs a duty or function by virtue of the office held by him or her or by the virtue of a delegation of power conferred upon him or her by a disestablished municipality, shall continue to exercise that power or perform that duty or function until such time as it may be decided to the contrary by the District Municipality.
- (5) For the purposes of the schedule to the Regulation relating to the Declaration of Peace Officers made in terms of section 334 of the Criminal Procedure Act, 1977 (Act 51 of 1977), any law enforcement officer appointed by a disestablished municipality shall, from the effective date, be deemed to have been appointed by the District Municipality for the area of jurisdiction of the District Municipality.
- (6) Any statutory plan in force or in operation in the area of jurisdiction of the disestablished municipalities, shall remain in force or in operation in respect of the area to which it was intended to apply until amended, varied or repealed by the District Municipality.

#### *Financial Matters*

- 18.(1). With effect from the effective date the existing budgets of the disestablished municipalities shall constitute the budget of the District Municipality up to 30 June 2001, and inter-municipal budgetary transfers shall continue for the 2000/2001 financial year.
- (2) Notwithstanding the provisions of subsection (1), the District Municipality may:-
  - (a) adjust the existing budgets, or
  - (b) resolve to close its accounts and the budget for the remainder of the budget year;

provided that any such budget is adjusted or prepared and adopted, as the case may be, in accordance with relevant legislation.
- (3) In the interest of financial stability, from the effective date to 30 June 2001 any budgets attached to a function to be carried out by a Local Municipality shall be available to that Local Municipality irrespective of whether the provision was budgeted for by a disestablished municipality, unless otherwise agreed by the District Municipality and the relevant Local Municipality.
- (4) Before the commencement of the 2001/2002 financial year the District Municipality must consider the adoption of financial management plans and policies that deal with:-
  - (a) measures, including inter-municipal budgetary transfers, to ensure revenue stability for the period after the 2000/2001 financial year;
  - (b) medium term expenditure;
  - (c) equalisation of tariff structures for the District Management Area;

- (d) the preparation of a new general valuation roll for the District Management Area and the introduction of equitable property taxes for the District Management Area;
  - (e) the introduction of consolidated billing system;
  - (f) the consolidation of financial accounting systems and budgetary systems;
  - (g) credit control, and
  - (h) procurement.
- (5) Any committed capital project to be administered by a Local Municipality that is funded from RSC levies on a cash basis shall, after the effective date, continue to be so funded until completion of such project, in order to avoid the Local Municipality having to take up additional loan finance.

*Transitional Administrative Arrangements*

- 19.(1) From the effective date to the date that all staff, assets, liabilities and records have been finally allocated in terms of the provisions of this Schedule, or such alternative date as may be determined by the Provincial Minister, the District Municipality:-
- (a) shall be obliged to deal with all staff, assets, liabilities or records:-
    - (i) temporarily placed in terms of section 12A(1);
    - (ii) temporarily transferred in terms of section 16B(1), and
    - (iii) provisionally allocated in terms of sections 12A(3) and 16B(3),
 in the utmost good faith having due regard to the interests of the Local Municipalities;
  - (b) without derogating from the generality of subsection (1) and subject to section 12(2), shall not, with reference to paragraphs (i) and (vii) hereunder without the prior written approval of the Provincial Minister, which approval may be conditional, and with reference to paragraphs (ii), (iii), (iv), (v), (vi) and (viii) hereunder without the prior written approval of the Local Municipalities, which approval shall not be unreasonably withheld, make or effect any alteration to the staff establishment temporarily placed in terms of section 12A(1) or provisionally allocated in terms of section 12A(3) by:-
    - (i) creating or filling any new posts;
    - (ii) filling any vacancies;
    - (iii) initiating and implementing the regrading or upscaling of any posts;
    - (iv) promoting any member of staff;
    - (v) assigning any functions or duties to personnel other than on a temporary basis;
    - (vi) subject to any law, existing collective agreement or contract of employment:-
      - (aa) approving and implementing any allowance or acting allowance;

- (bb) implementing any increase in salaries or wages;
  - (vii) implementing any permanent alteration to staff structures and organisational structures, and
  - (viii) entering into any collective agreement, other than a collective agreement negotiated and agreed to in the Bargaining Council, which will bind the District municipality in respect of any matter listed in this subsection;
- (c) without derogating from the generality of subsection (1), shall not, without the prior written approval of the Local Municipalities, which approval shall not be unreasonably withheld, make or implement any decision in relation to any assets, liabilities or records transferred in terms of section 16B(1) or provisionally allocated in terms of section 16B(3) that will result in such municipality:-
- (i) selling or leasing immovable or movable assets to a value exceeding R20 000,00 (twenty thousand rand) other than in terms of existing contractual arrangements; provided that this provision shall not apply to the disposal of immovable property in terms of an approved housing scheme in terms of the Housing Act, 1997 (Act 107 of 1997);
  - (ii) purchasing immovable or movable assets to a value exceeding R20 000,00 (twenty thousand rand) other than in terms of existing contractual arrangements;
  - (iii) concluding new contracts with a duration longer than one year;
  - (iv) renewing contracts for a duration longer than three months;
  - (v) acquiring information technology systems, including hardware and software, and
  - (vi) using:-
    - (aa) statutory funds either for direct capital, or other expenditure or to finance expenditure by taking up internal loans for purposes other than for committed and necessary infrastructural projects approved in the 2000/2001 budget;
    - (bb) trust funds (which does not include a council's own accounts) for any purpose other than that for which the funds are held;
    - (cc) reserve funds, reserve capital or reserve provisions for a purpose other than for necessary budgeted infrastructural maintenance, non-budgeted emergency infrastructural maintenance which cannot be financed from the operational budget or for the writing off of bad debts, and
    - (dd) any statutory trust, reserve or provision which is not cash funded other than for the writing off of bad debts;
- provided that this subsection shall not apply in the case of an emergency, and

- (d) shall not make or implement any decision that will result in the District Municipality exceeding its approved capital or operating budget for the 2000/2001 financial year.
- (2) Should any dispute with regard to the provisions of subsection (1) arise between the District Municipality and one or more Local Municipalities, such dispute must be referred to the Provincial Minister for determination by the Provincial Minister or his nominee in accordance with procedures determined by the Provincial Minister, and the decision of the Provincial Minister or his nominee shall be final and binding.
- (3) Any contract entered into in breach of the provisions of subsections (1) or (2) shall be null and void.

*(section 19 amended by PN.666/2000)*

*Appointment of Interim Municipal Manager*

20. Before the effective date the Provincial Minister, after considering any recommendations of the District Transformation Forum, appoint an interim municipal manager, who shall assume office upon appointment and remain in office until the District Municipality has appointed its own municipal manager or acting municipal manager and whose duties shall, subject to directions or resolutions to the contrary adopted by the District Municipality, be the following:-
- (a) call the first meeting of the Council of the District Municipality in terms of section 29(2) of the Municipal Structures Act;
  - (b) preside over the first meeting of the Council of the District Municipality until the election of the speaker;
  - (c) after the effective date, act as the head of administration and chief accounting officer of the District Municipality until the appointment by the District Municipality of its own municipal manager or acting municipal manager;
  - (d) after the effective date, fulfill all duties required to be fulfilled by the CEO of a municipality in terms of relevant legislation;
  - (e) assume responsibility for effecting the transfer of all staff, assets, liabilities and administrative and other records to the District Municipality;
  - (f) appoint such persons as are necessary to fulfill his or her obligations in terms of this Schedule;
  - (g) take all reasonable steps to ensure that service delivery continuity is maintained after the effective date;
  - (h) establish interim financial control mechanisms for the District Municipality;
  - (i) establish interim reporting lines and delegations for the District Municipality;
  - (j) review and recommend service contracts, agency arrangements and service delivery agreements;
  - (k) implement any interim service delivery arrangements between the Local Municipalities and the District Municipalities;

- (l) delegate any of his or her powers or duties to any employee of the District Municipality and amend or revoke any such delegation, and
- (m) in the period prior to the effective date, prepare for the performance of the functions set out in paragraphs (a) to (l).

*(section 20 amended by PN.666/2000)*

*Interim Assistant Municipal Managers*

- 20A. With effect from the operative date of this Notice, the members of the senior management team are appointed as interim assistants to the interim municipal manager, who shall assume office upon appointment and remain in office until the District Municipality has confirmed or terminated the appointment.

*(section 20A inserted by PN.666/2000)*

*Senior Management Team*

- 20B. The interim municipal manager and his or her assistants shall form the senior management team of the District Municipality to oversee the implementation of the establishment of the District Municipality.

*(section 20B inserted by PN.666/2000)*

*First meeting of the Council of the District Municipality*

- 21.(1) The interim municipal manager shall, at least three days before the first meeting of the Council of the District Municipality, send to each councillor at his or her place of residence or other place nominated by the councillor concerned, a notice specifying the place, date and time of the first meeting and an agenda; provided that the interim municipal manager may call the first meeting on shorter notice should it in his or her opinion be necessary to do so.
- (2) Notwithstanding any by-law in force, but subject to the provisions of the Municipal Structures Act, the rules and orders for the first meeting of the Council of the District Municipality are the rules and orders as set out in Provincial Notice 411/1988 as promulgated in Provincial Gazette No. 4532 of 20 May 1988 with the necessary changes required by the context, which rules shall remain in force until the adoption of rules and orders by the Council of the District Municipality.

*(section 21(2) amended by PN.666/2000)*

- (3) The venue for the first meeting of the Council of the District Municipality shall be the Council Chamber of the disestablished West Coast District Council in Moorreesburg.
- (4) The agenda of the first meeting shall be as follows:-
- (a) the election of the speaker;
  - (b) whether the District Municipality wishes to establish an executive committee, and if so, the determination of a system of representation for the election of the executive committee;
  - (c) the election of councillors to serve on the executive committee;
  - (d) the election of the mayor from the members of the executive committee;
  - (e) the election of the deputy mayor, for which approval is granted by the Provincial Minister, from the members of the executive committee, and

- (f) any other business as determined by the interim municipal manager and set out in the agenda.

*(section 21 amended by PN.666/2000)*

*Application of this Notice*

- 21A. If any conflict relating to the matters dealt with in this Notice arises between this Notice and the Provisions of any section 84(3) notice promulgated by the National Minister or any section 18 notice promulgated by the Provincial Minister, the provisions of the section 84(3) notice or section 18 notice, as the case may be, shall prevail.

*(section 21A inserted by PN.666/2000)*

*Executive Deputy Mayor*

- 21B. Approval is granted in terms of section 55 of the Municipal Structures Act, as amended, for the election of an executive deputy mayor.

*(section 21B inserted by PN.175/2003)*

*Short title and Commencement*

- 22. This Notice is called the West Coast District Municipality (DC1) Establishment Notice and comes into operation on the date of publication.

**URHULUMENTE WENGINQI: UMTHETHO WAMASEBE KAMASIPALA, KA1998  
(UMTHETHO WE-117 KA-1998)**

*Amended by:*

*neSaziso sePhondo 666 dated we-4 kuDisemba 2000  
neSaziso sePhondo 447 dated we-19 kuDisemba 2002  
neSaziso sePhondo 175 dated we-28 kuMeyi 2003  
neSaziso sePhondo 2 dated we-3 uJanuwari 2006  
neSaziso sePhondo 90 dated we-28 Febhuwari 2006  
neSaziso sePhondo 108 dated we-28 kuMatshi 2008*

**UKUSEKWA KOMASIPALA WESITHILI SASEWEST COAST (DC1)**

Ngamandla andigunyazisayo aqulathwe licandelo-12 ne-14 loRhulumente waseKhaya: uMthetho owasekwa ngo-1998 wamaSebe ooMasipala, (uMthetho we-117 wonyaka we-1998) ukuba ndenze isaziso sokusekwa kwesixeko saseWest Coast ngokwemiqathango edweliswe kolu ludwe lweenkqubo.

Ngomhla wama-22 uSeptemba 2000.

P UYS, UMPHATHISWA WEPHONDO WORHULUMENTE WENGINQI

**ULUNDWE LWEENKQUBO**

*Inkcazo yamagama*

1. Kolu Xwebhu ngaphandle kokuba okuqulathiweyo kukuxelela enye into, isinye sibandakanya isininzi nesininzi sibandakanya isinye, isicatshulwa sesiNgesi siya kuma simi isiso esisetyenziswayo apho kuthe kwakho iyantlukwano kwizcatshulwa ezahlukeneyo okanye kwigama elinokuthi lahluke okanye isiqendwana ngentsingiselo esithe sanikwa yona kuMthetho wamaSebe ooMasipala, intsingiselo yesiNgesi-
  - (1) **“iQumrhu leeNgxoxo”** lithetha iQumrhu leeNgxoxo loRhulumente waseKhaya weCandelo leNtshona-Koloni elifake isicelo sobhaliso njengequmrhu leengxoxo ngokweSaziso esingunombolo 1513/1999 njengoko sipapashwe kwiGazethi kaRhulumente engunombolo 20282 somhla we- 16 kaJulayi 1999;
  - (2) **“uCEO”** sisishungulelo segama elingu-chief executive officer yaseWest Coast;
  - (3) *(subsection (3) deleted by PN.175/2003)*
  - (4) **“uMgaqo-siseko”** uthetha uMgaqo-siseko weRiphabliki yoMzantsi Afrika, we-1996 (uMthetho we- 108 we- 1996);
  - (5) **“ukutshitshiswa koomasipala”** kuthetha abo masipala baza kutshitshiswa ngokwemigaqo yecandelo-3 lesi Saziso;



- (6) **“uLawulo loMmandla weSithili”** kuthetha ummandla kaMasipala weSithili othathwa njengommandla wolawulo lwesithili yiBhodi yokuCandwa kooMasipala, olusebenza ngokwecandelo –6 loMthetho wamaSebe kaMasipala njengoko kuchaziweyo kwimaphu engunombolo-3 ekolu ludwe lweenkqubo nakwiSaziso esingunombolo 1139/2000 nesapapashwa kwiGazethi kaRhulumente engunombolo 20972 ngomhla we- 10 kuMatshi 2000;
- (7) **“uMasipala weSithili”** uthetha uMasipala weSithili saseWest Coast, owamiselwa ngokwecandelo-5 lesi Saziso;
- (8) **“iQonga leNguqulelo leSithili”** lithetha iQonga leNguqulelo leSithili saseWest Coast elamiselwa ngokweSaziso seDTF;
- (9) **“iSaziso seDTF”** sithetha iSaziso sePhondo esingunombolo 78/2000 esapapashwa kwiGazethi yePhondo Eyongeselelweyo engunombolo 5435 yomhla we-kuMatshi 2000;
- (10) **“umhla wokuqala wonyulo”** uthetha umhla wokuqalisa unyulo;
- (11) **“unyulo”** luthetha unyulo lokuqala jikelele lwamaBhunga ooMasipala onyulwa emva kokusebnza koMgaqo-siseko;
- (12) **“inkqubo yotshintsho lohlahlo-lwabiwo-mali lomasipala”** lithetha inkqubo yotshintsho lohlahlo-lwabiwo-mali phakathi koomasipala ukuphumeza uzinzi lwengeniso ngexesha lenguqulelo;
- (12A) **“umphathi wethutyana kamasipala”** uthetha umphathi wethutyana kamasipala weSithili obekwe ngokwemiqathango yecandelo-21(1) nozakuba ngumphathi obambeleyo kamasipala kuMasipala weSithili ukususela ngomhla wokuqalisa, okanye umphathi wethutyana obambeleyo okanye umphathi kamasipala kuMasipala weSithili nobekwe iKansile yoMasipala weSithili emva Komhla wokuqalisa;
- (subsection (12A) inserted by PN.666/2000)*
- (13) **“uMasipala weNgingqi”** uthetha:
- (a) U Masipala waseMatzikama (WCO11);
  - (b) U Masipala waseCederberg (WCO12);
  - (c) U Masipala waseBergrivier (WCO13);
  - (d) U Masipala waseSaldanha Bay (WCO14), kwakunye
  - (e) U Masipala waseSwartland (WCO15),
- oza kusekwa ukususela ngomhla wokuqalisa kummandla woMasipala weSithili;
- (subsection (13) amended by PN.666/2000)*
- (13A) **“i-MM yoMasipala weNgingqi”** ithetha umphathi wethutyana kaMasipala weNgingqi;
- (subsection (13A) inserted by PN.666/2000)*
- (13B) **“iSaziso sikaMasipala weSithili”** Sithetha iZaziso zePhondo 481/2000, 482/2000, 483/2000, 484/2000 no- 485/2000 ezapapashwa kwiGazethi yePhondo eyoNgezelelweyo nenguNombolo 5589 yomhla wama-22 kuSeptemba 2000;
- (subsection (13B) inserted by PN.666/2000)*

- (13C) “**inkqubo yesigqeba solawulo secandelo losodolophu**” ithetha inkqubo evumela ukuba kusetyenziswe igunya lesigqeba solawulo, oko kusenziwa kudlulwe kusodolophu osemagunyeni apho inkqubo yokhokelo lwesigqeba yoMasipala igunyaziswe khona kwanocediswa ikomiti yecandelo losodolophu;

*(subsection (13C) inserted by PN.175/2003)*

- (14) “**Umthetho wokuCandwa kooMasipala**” uthetha uMthetho woRhulumente waseKhaya we-, 1998 (uMthetho 27 we-1998);

- (15) “**iBhodi yokuCandwa kooMasipala**” ithetha iBhodi yokuCandwa kooMasipala eyamiselwa phantsi kwecandelo-2 loMthetho wokuCandwa kooMasipala;

- (16) “**uMthetho wamaSebe kaMasipala**” ithetha uMthetho kaMasipala woRhulumente waseKhaya we-1998 (uMthetho we-117 we-1998);

- (16A) “**uMthetho-sihlomelo wamaSebe ooMasipala**” uthetha uMthetho wooMasipala beeNgingqi: Umthetho-sihlomelo wooMasipala beeNgingqi, 2000 (uMthetho 33 wonyaka wama-2000);

*(subsection (16B) inserted by PN.666/2000)*

- (16B) “**UMphathiswa weSizwe**” uthetha uMphathiswa wesizwe osingethe imicimbi yoorhulumente beengingqi;

*(subsection (16B) inserted by PN.666/2000)*

- (17) “**iPhondo**” lithetha iPhondo leNtshona-Koloni;

- (18) “**uMphathiswa wePhondo**” uthetha ilungu lesiGqeba soWiso-mthetho wePhondo leNtshona-Koloni elinozanduva likujongana norhulumente wengingqi;

- (19) “**irhafu yeeNkonza zaKansile yoMmandla (RSC)**” “ithetha irhafu yeenkonzo zekansile yommandla” “nerhafu emiselweyo yommandla” njengoko kuchaziweyo kwicandelo 1 loMthetho weeNkonzo zeKansile yoMmandla ka-1985 (uMthetho 109 ka 1985);

- (20) “**uMthetho weeNgingqi zasemaPhandleni**” uthetha uMthetho weeNgingqi zasemaPhandleni (iNdlu yabaMeli), we-1987 (uMthetho we-1987);

- (20A) “**Isaziso secandelo 18**” sithetha isaziso esibhengezwe ngokwemiqathango yecandelo 18 loMthetho wamaSebe ooMasipala;

*(subsection (20A) inserted by PN.666/2000)*

- (20B) “**Isaziso secandelo 84(3)**” sithetha isaziso esibhengezwe ngokwemiqathango yecandelo 84(3) loMthetho wamaSebe ooMasipala;

*(subsection (20B) inserted by PN.666/2000)*

- (20C) “**imbumba yamagosa akwizikhundla eziphezulu zokuphatha**” ithetha imbumba yamagosa akwizikhundla zokuphatha eziphezulu okanye iintloko zamasebe eKansile yeSithili Overberg;

*(subsection (20C) inserted by PN.666/2000)*

- (20D) “**abasebenzi**” kuthethwa bonke abasebenzi, kuqukwa abo benza umsebenzi, abakwizikhundla zokuphatha nezincedisayo, kananjalo kubandakanywa nezikhundla ezingenamntu nezifakwe kwizicwangciso zovalozikhewu, kodwa zingabandakanywanga izikhundla ezingenamntu ezingafakwanga kwizicwangciso zovalozikhewu;

*(subsection (20D) inserted by PN.666/2000)*

- (21) **“iimanyano zabasebenzi”** zithetha iimanyano eziziMeleyo neziDibeneyo zoMasipala kwaneemanyano zabasebenzi bakaMasipala woMzantsi Afrika;
- (22) **“uYilo oluseMthethweni”** luthetha uyilo oluyimfuneko ngokwemigaqo yowiso-mthetho kubandakanya, kodwa kungaphelanga apho naluphi na olunye uyilo lokusetyenziswa komhlaba, inkqubo yokwahlulwa, uyilo lophuhliso oluhlanganisiweyo, uyilo lweenkonzo zamanzi, uyilo lophuhliso oluhlanganisiweyo, uyilo lophuhliso lwezakhono noyilo lolungiso kumathuba engqesho;
- (22A) **Inkqubo yogqithiselo”** ithetha inkqubo, echazwe kule Shedyuli, yokugqithisela abasebenzi, impahla, amatyala neerekhodi zoomasipala abatshitshisiweyo kuMasipala weSithili okanye kooMasipala beeNgingqi, nkqubo leyo iquka:-
- (a) ukuchongwa kwabo bonke abasebenzi, yonke impahla, wonke amatyala nazo zonke iirekhodi eziza kugqithiselwa;
- (b) ukusetyenziswa kwemimiselo yokugqithiselwa njengoko ichazwe kule Shedyuli;
- (c) ukunikezelwa kwabo bonke abasebenzi, yonke impahla, wonke amatyala nazo zonke iirekhodi kuMasipala weSithili kungenjalo kuMasipala weNgingqi, kananjalo
- (d) ukuqaliswa kogqithiselo olo.

*(subsection (22A) inserted by PN.666/2000)*

- (23) **“ukuGuqulwa kwemiThetho ethile yamaPhandle”** kuthetha ukuGuqulwa kweMithetho ethile yamaPhandle, we-1998 (uMthetho wama-94 we-1998);
- (24) **“uWECLOGO”** ligama elithetha uMbutho weNtshona-Koloni woRhulumente baseKhaya, ongumbutho wephondo leNtshona-Koloni onikwa ingqalelo ngokwemigaqo yecandelo 2(1)(b) lomthetho woRhulumente weNgingqi olungiselelweyo we-1997 (uMthetho –52 we 1997).

### *Intshayelelo*

- 2.(1) Ngomhla wesi-3 kuMatshi ka-2000 iBhodi kaMasipala yokuMiswa kweMida, esebenza ngokubhekiselele kwicandelo 21 leMunicipal Demarcation Act, yenza izigqibo ngemida kaMasipala weNgingqi, njengoko kubonisiwe emephini ebonakala kwiSaziso sePhondo esingu-69/2000 esapapashwa kwiGazethi yePhondo eyoNgezelelweyo enguNombolo 5431 yomhla wesi-3 kuMatshi ka-2000 saza salungiswa siSaziso sePhondo esingu-478/2000 esapapashwa kwiGazethi yePhondo eyoNgezelelweyo enguNombolo 5587 yomhla we-19 kuSeptemba ka-2000. Ikopi yemaphu eyapapashwa ngokutsha kwiSongezelelo “1” solu ludwe lweNkqubo.

*(section 2(1) amended by PN.2/2006)*

- (2) Ngomhla 10 kuMatshi 2000 IBhodi yokuCandwa kweMida yooMasipala, ibhengeze ummandla obonakaliswe kwimaphu engunombolo 2 nexokonyezelwe neyapapashwa kwiGazethi kaRhulumente enguNombolo 21617 yo-we-29 kuSeptemba 2000 njengommandla wolawulo lwesithili, oko

ekwenza ngokwecandelo 6 loMthetho wamaSebe kaMasipala. Ikopi yaloo maphu iphinde yapapashwa phaya kwisixomezelelo "2A" sale Shedyuli.

*(section 2(2) amended by PN.666/2000)*

- (3) Umphathiswa wePhondo, esebenza ngokwesahluko se- 12(4) soMthetho wamaSebe ooMasipala:-
- (a) ukhuphe isaziso esibhaliweyo sokusekwa kukaMasipala weSithili okusayilwayo ekhuphela I-WECLOGO kunye noomasipala abathe batshitshiswa njengoko kumiselweyo kwisekyula yomhla we-12 kuJulayi 2000 nengqinisiswe kwiAAO 509/1/4;
  - (b) Udlene indlebe neWECLOGO kunye noomasipala abathe batshitshiswa;
  - (c) Upapashe iinkcukacha zesi Saziso kwiSaziso sePhondo esingunombolo 385/2000 esapapashwa kwiGazethi yePhondo eyoNgezelelweyo engunombolo 5571, yomhla wama-28 ku-Agasti 2000, kwakunye
  - (d) uziqwalasele izimvo ezithe zamkelwa emva kopapasho lweSaziso ekulindeleke ukuba samkelwe.
- (4) Umphathiswa uthethe waziqwalasela iingcebiso zeQonga eNguqulelo leSithili athe wazinikwa ngokwesahluko se- 11(2) seSaziso seDTF.
- (5) Umphathiswa wePhondo, esebenza ngokwesahluko se- 12 nese- 14 soMthetho wamaSebe ooMasipala, njengoko ufundwa kunye noMthetho ka2000 wokuMiselwa kweeNdidi zooMasipala eNtshona-Koloni (uMthetho we-9 ka2000), nekungoku nje ukhupha isaziso sokusekwa koMasipala weSithili ngokwemigaqo edweliswe kolu xwebhu.
- (6) Umphathiswa wePhondo, ngokugunyaziswa yimiqathango yesahluko 2 soMthetho-sihlomelo wamaSebe ooMasipala, xa sifundwa necandelo 14(2)(b) loMthetho wamaSebe ooMasipala kungoku nje wazisa ngeziphumo ezayamene nomthetho, ezinokwenzeka kanti nezinye iziphumo zokutshitshiswa koomasipala abatshitshisiweyo, nto leyo iquka:-
- (a) imimiselo emiselwe ukugqithiselwa, nenkqubo yokugqithiselwa ngokunjalo, kwabasebenzi kuMasipala weNgingqi, nkqubo leyo iya kuqala ngomhla wokupapashwa kwesi saziso neza kugqitywa ngomhla oya kumiselwa nguMphathiswa wePhondo;
  - (b) imimiselo emiselwe nkugqithiselwa, nenkqubo yokugqithiselwa ngokunjalo, kwempahla, amatyala, amalungelo nezinyanzeliso neerekhodi zolawulo kanti nezinye, kuMasipala weNgingqi, nkqubo leyo iya kuqala ngomhla wokupapashwa kwesi saziso neza kugqitywa ngomhla oya kumiselwa nguMphathiswa wePhondo;
  - (c) ukubonelelwa ngamalungiselelo olawulo ethuba ukususela ngomhla wokuqalisa ukuya kumhla oya kumiselwa nguMphathiswa wePhondo ukuqinisekisa ukuqhubeka kobonelelo ngeenkonzo nokuqinisekisa ukuthembeka nokuma kakuhle koMasipala weNgingqi ngokwezimali.

*(subsection (6) inserted by PN.666/2000)*

*Ukutshitshiswa kooMasipala abakhoyo*

- 3.(1) Ukususela ezinzulwini zobusuku eziphambi komhla wokuseka, aba masipala balandelayo baya kutshitshiswa:-

- (a) iKansile yeSithili saseBitterfontein/Nuwerus, eyasekwa ngokwemigaqo yoPapasho olungunombolo 19/1995 lomhla we-31 kuDisemba 1995;
  - (b) uTshintsho lwabaMeli beKansile yaseClanwilliam eyasekwa ngokwemigaqo yoPapasho olungunombolo 88/1995 lomhla wama- 26 kuMeyi 1995, ukuya kutsho kwisahlulo sayo sommandla othe wabandakanywa kwimida ephantsi kolawulo lukamasipala njengoko kumiselweyo yiBhodi yokuCandwa kwemida njengoko yooMasipala ekubhekiselwe kuyo kwicandelo 2(2);
  - (c) uTshintsho lwabaMeli beKansile yaseMalmesbury eyasekwa ngokwemigaqo yoPapasho olungunombolo 18/1996 ngomhla wama- 26 kuEpreli 1996, ukuya kutsho kwisahlulo sayo sommandla othe wabandakanywa kwimida ephantsi kolawulo lukamasipala njengoko kumiselweyo yiBhodi yokuCandwa kwemida yooMasipala ekubhekiselwe kuyo kwicandelo 2(2);
  - (d) uTshintsho lwabaMeli beKansile yaseRietpoort, eyasekwa ngokwemigaqo yoPapasho olungunombolo 88/1995 lomhla wama- 26 kuMeyi 1995, ukuya kutsho kwisahlulo sayo sommandla othe wabandakanywa kwimida ephantsi kolawulo lukamasipala njengoko kumiselweyo yiBhodi yokuCandwa kwemida njengoko yooMasipala ekubhekiselwe kuyo kwicandelo 2(2);
  - (e) uTshintsho lwabaMeli beKansile yaseVanrhynsdorp yasekwa ngokwemigaqo yoPapasho olungunombolo 18/1996 ngomhla wama- 26 kuEpreli 1996, ukuya kutsho kwisahlulo sayo sommandla othe wabandakanywa kwimida ephantsi kolawulo lukamasipala njengoko kumiselweyo yiBhodi yokuCandwa kwemida yooMasipala ekubhekiselwe kuyo kwicandelo 2(2);
  - (f) uTshintsho lwabaMeli beKansile yaseVredendal, eyasekwa ngokwemigaqo yoPapasho olungunombolo 18/1996 lomhla wama- 26 kuEpreli 1996, ukuya kutsho kwisahlulo sayo sommandla othe wabandakanywa kwimida ephantsi kolawulo lukamasipala njengoko kumiselweyo yiBhodi yokuCandwa kwemida yooMasipala ekubhekiselwe kuyo kwicandelo 2(2), kwakunye
  - (g) iBhunga leKansile yaseWest Coast, elasekwa ngokwemigaqo yoPapasho olungunombolo 152/1995 ngomhla we- 15 kudisemba 1995.
- (2) OoCeba abatshitshiswayo kufuneka bazishiye ii-ofisi zabo ukusukela kwinzulu yobusuku yomhla eliy kuthi iBhunga likaMasipala elitsha linyulwe ngawo likwachazwa njengelinyuliweyo, kwaye kufuneka babuyisele kwigosa eliyintloko elilawulay lomasipala (CEO) lowo utshitshisweyo okanye umnyulwa wakhe yonke impahla ekubo eselungelweni lalo masipala utshitshisiweyo.

*Ukusekwa kunye neGama*

4. Ukususela ngomhla wokuqalisa wanyulo umasipala oyokusekwa uyakwaziwa ngesiXhosa njenge “U Masipala weSithili waseWest Coast”, ze negisiNgesi aziwe njenge “West Coast District Municipality” ze ngesiBhulu aziwe njenge “Weskus Distriksmunisipaliteit”.

*iCandelo*

5. Umasipala weSithili uya kuba ngumasipala wesithili njengoko kuxeliwe kwicandelo 1 loMthetho wamaSebe kaMasipala, eya kuba ngumasipala onamagunya awodwa olawulo nokuphatha kwingingqi leyo ebandakanya

oomasipala abaninzi, kwanochaziweyo kwicandelo 155(1) loMgaqosiseko njengecandelo C lomasipala.

*uDidi*

6. UMasipala weSithili ngumasipala oeenkqubo zesigqeba secandelo losodolophu njengokuba zilungisiwe ngomthetho, iWestern Cape Determination of Types of Municipalities Act, 2000 (Act 9 of 2000), njengokuba zimiselwe ngumthetho, iWestern Cape Determination of Types of Municipalities Amendment Act, (Act of 2002).

*(section 6 amended by PN.175/2003)*

*Imida*

7. Imida kaMasipala weSithili iya kuba yimida esekwe yiBhodi yokuCandwa kwemida yooMasipala nekubhekiselelwe kuyo kwicandelo 2(1).

*Inani looCeba*

8. IBhunga ledolophu kuMasipala weNgingqi linoceba abangama-23 (abangamashumi amabini anesithathu), njengoko kugqityiwe ngumPhathiswa wePhondo kwiSaziso sePhondo esingu-100/2004 esapapashwa kwiGazethi yePhondo enguNombolo 6137 yomhla wesi-8 kuJuni ka-2004, apho ke:

- (a) Abali-10 (abalishumi) ngolwalamano bamele amaqela azigqatsele unyulo lukaMasipala weNgingqi ngokubhekiselele kwicandelo 23(1)(a) leMunicipal Structures Act:
- (b) abali-12 (abalishumi elinambini) bamele ooMasipala beedolophu ngokubhekiselele kwicandelo 23(1)(b) leMunicipal Structures Act, apho ke:
- (i) aba-2 (ababini) bamele uMasipala waseMatzikama (WCO11);
- (ii) aba-2 (ababini) bamele uMasipala waseCederberg (WCO12);
- (iii) aba-2 (ababini) bamele uMasipala waseBergrivier (WCO13);
- (iv) aba-3 (abathathu) bamele uMasipala waseSaldanha Bay (WCO14), ukuze
- (v) aba-3 (abathathu) bamele uMasipala waseSwartland (WCO15),
- (c) Oyi-1 (omnye) ngolwalamano amele amaqela azigqatsele unyulo kwiNdawo yoLawulo lweNgingqi ngokubhekiselele kwicandelo 23(1)(c) leMunicipal Structures Act.

*(section 8 amended by PN.666/2000 and PN.90/2006)*

*OoCeba abasebenza isigxina*

9. UMasipala weSithili angamisela aba ceba balandelayo njengooceba besigxina:-
- (a) Usodolophu wesigqeba solawulo,
- (b) Amalungu ecandelo losodolophu, ndawonye
- (c) nosomlomo.

*(section 9 amended by PN.447/2002 and PN.175/2003)*

*Imisebenzi namaGunya*

10. Akuyi kubakho luhlenga-hlengiso ngokubhekiselele kwimisebenzi nakumagunya kaMasipala weSithili ngokwecandelo 85 loMthetho wamaSebe ooMasipala.

*uKungachaphazeleki*

11. Umasipala akasayi kungachatshazelwa nayiyiphi na imiqathango yoMthetho wamaSebe kaMasipala.

*Imimiselo emisa uGqithiselo lwaBasebenzi*

- 12.(1) uKususela ngomhla wokuqalisa nangokwemiqathango yecandelo 197 loMthetho wezoBudlelwane eMsebenzini,1995 (uMthetho-66 wonyaka we-1995:-
- (a) bonke abasebenzi boomasipala abatshitshisiweyo nabamsebenzi wabo wayanyaniswa ngokukodwa nemisebenzi efanele ukwenziwa nguMasipala weSithili (misebenzi leyo ibandakanya imisebenzi efanele ukwenziwa nguMasipala weSithili kuMmandla woLawulo lweSithili) baya kugqithiselwa kuMasipala weSithili;
  - (b) bonke abasebenzi boomasipala abatshitshisiweyo nabamsebenzi wabo wayanyaniswa ngokukodwa nemisebenzi efanele ukwenziwa nguMasipala weNgingqi baya kugqithiselwa kuloo Masipala weNgingqi uchaphazelekayo;
  - (c) nawuphi na umntu ongomnye otshitshisiweyo owayanyaniswa nomnye okanye neminye imisebenzi eza kwenziwa nguMasipala weNgingqi noMasipala weSithili, ukususela ngomhla wokuqalisa, uya kufezekiswa nguMasipala weSithili nomnye okanye nooMasipala beeNgingqi abangaphezu kwesinye okanye ngooMasipala beeNgingqi abangaphezulu kwesinye, uya kugqithiselwa ngokobuninzi bexesha elidliwa ngumsebenzi lowo wenziwa nguloo mntu xa kuthelekiswa nexesha elidliwa yeminye imisebenzi eyenziwa nguloo mntu;
  - (d) bonke abasebenzi boomasipala abatshitshisiweyo nabamsebenzi wabo ungayanyanisiwayo nomsebenzi othile okanye nemisebenzi ethile efanele ukwenziwa nguMasipala weNgingqi okanye nguMasipala weSithili baya kugqithiselwa kuMasipala weSithili kungenjalo kuMasipala weNgingqi oko kusenziwa ngokwemilinganiselo esekelwe kwinani lezikhundla sezizonke ezigqithiselwe kwabo masipala ngokwemiqathango yemithlathi (a), (b) no-(c);
  - (e) zonke izikhundla koomasipala abatshitshisiweyo ezingenamntu nezingenzelwanga zicwangiciso zovalo-zikhewu ziya kutshitshiswa.
- (2) Phantsi kwemiqathango yezivumelwano ezihlanganyelweyo onke amalungelo nezibophelelo eziphakathi koomasipala abatshitshisiweyo naphakathi kwabaqeshwa boomasipala abo ngelixa logqithiselo aya kuhlala esebenza ngokunga ngamalungelo okanye izibophelelo eziphakathi koMasipala weNgingqi okanye uMasipala weSithili, nokuba nguwuphi kwabo masipala, nomqeshwa wakhe ngamnye, kananjalo nantoni na eyenziwa ngaphambi koggqithiselo olo ngumasipala owatshitshiswayo okanye ngokunxulumene nomasipala lowo utshitshiswayo iya kuthatyathwa njengento eyenziwayo okanye eyenziwa ngokunxulumene noMasipala weNgingqi okanye uMasipala weSithili, nokuba nguwuphi kwabo masipala.
- (3) Ukughubeka kwengqesho yomqeshwa akuyi kuphazanyiswa lugqithiso kananjalo ingqesho leyo iya kuqhubeka kuMasipala weNgingqi okanye uMasipala weSithili, nokuba nguwuphi kwabo masipala, ngokunga iqhubeka kumasipala lowo utshitshisiweyo.

- (4) Phantsi kwemigaqo-nkqubo neenkqubo zomsebenzi eziphathelele kubantu nekubhekiswe kuzo phaya kwicandelo 14(a) lale Shedyuli, kuse nokufuneka ukuba umqeshwa ogqithiselwe kuMasipala weSithili asebenzele nayiphi na i-ofisi kaMasipala weSithili kwaye, ngaphandle kokuba kuvunyelenwe ngenye indlela, akayi kuba nalungelo lakongezelwa umvuzo ngenxa yaloo nto.

*(section 12 amended by PN.666/2000)*

*Inkqubo yoKugqithiselwa kwaBasebenzi*

12A.(1) Ingatyeshelwanga imiqathango yecandelo 12 necandelo 16C, kananjalo ngeli lixa kusalindelwe ukufezekiswa kwenkqubo yogqithiselo ngokweli candelo, bonke abasebenzi boomasipala abatshitshisiweyo, xa kukho imfuneko yoko, baya kusebenzela uMasipala weSithili, kwaye ke ngoko bonke abasebenzi abafanele ukugqithiselwa kuMasipala weNgingqi bona baya kuthatyathwa njengabasancedisayo kuMasipala weSithili oko kusenziwa ngokwamalungiselelo aphakathi koMasipala weSithili noloo Masipala weNgingqi uchaphazelekayo, malungisilelo lawo achaza ukuba uMasipala weSithili uya kufezekisa umsebenzi okanye imisebenzi eyayamene nbo basebenzi oko ekwenza egameni loMasipala weNgingqi.

(2) Ukuze ku:-

- (a) kube nokulungiselelwa nawaphi na amalungiselelo ngokwemigaqo yoMthetho oHlonyelweyo wamaSebe ooMasipala; okanye
- (b) kube nokuvunyelwa uMasipala weNgingqi kwanoMasipala weSithili ukuba bangene kwizivumelwano, kuqukwa nezivumelwano ezimalunga nomsebenzi.

Ezinokuchaphazela utshintsho lwabasebenzi ngokwemigaqo yale Shedyuli, akukho nalinye ilungu eliya kunikezelwe ngokupheleleyo ngaphambi komhla wama-30 kuJuni 2001, okanye olo suku luya kube lumiswe nguMphathiswa wePhondo.

(3) Ngomhla okanye ngaphambi komhla oya kumiselwa nguMphathiswa wePhondo i-CEO nganye kuya kufuneka iqulunqe uxwebhu olunoludwe lwamagama abo bonke abasebenzi bomasipala wayo otshitshisiweyo ngokwendlela eyalelewe nguMphathiswa wePhondo, kwaye kuya kufuneka ukuba amisele okwethutyana ilungu ngalinye labasebenzi isikhundla esobelwe imali somasipala wakhe otshitshisiweyo ngokuhambelanayo nemithetho-siseko echaziweyo phaya kwicandelo 12 nele 16C, kananjalo anike umphathi wethutyana kamasipala ne-IMM yoMasipala weSithili iikopi ezipheleleyo zolo xwebhu.

(4) Ngomhla okanye ngaphambi komhla oya kumiselwa nguMphathiswa wePhondo, kodwa ngokwemiqathango yecandelo (2), umphathi wethutyana kamasipala, ebonisene ne-IMM zooMasipala beeNgingqi kuy kufuneka ukuba:-

- (a) ahlanganise amaxwebhu ekudweliswe kuwo amagama nekubhekiswe kuwo phaya kwicandelwana (2) awenze abe luxwebhu olunye kananjalo ekugqibeleni abele ngokuthanda kwakhe uMasipala weNgingqi okanye uMasipala weSithili ngabasebenzi nezikhundla ezingenamntu ezikwizicwangciso nezidweliswe phaya kuxwebhu oluhlanganisiweyo, ngomhla wokuqalisa, oko kusenziwa ngokwenmimiselo echazwe phantsi kwecandelo 12 nele 16C okanye kuso nasiphi na isivumelwano ekubhekiswe kuso kwicandelwana (2);



- (b) anike i-IMM kaMasipala weNgingqi ngamnye ikopi yolo xwebhu kananjalo afumane kwi-IMM yoMasipala weNgingqi nganye ikopi yoxwebhu oluqulunqwe yiloo IMM kaMasipala weNgingqi, kananjalo
- (c) ahlanganise uxwebhu ekubhekiswe kulo phaya kumhlathi (a) noxwebhu olufunyenwe kwii-IMM zooMasipala beeNgingqi ekubhekiswe kulo phaya kumhlathi (b) aze loo maxwebhu enziwe uxwebhu olunye olubonakalisa amagama azo sonke isitafu esiza kugqithiselwa kuMasipala weSithili.
- (5) Ingatyeshelwanga imimiselo echazwe kwicandelo 12 nele 16C, umphathi wethutyana kamasipala unokuthi evumelene ne-IMM zooMasipala beeNgingqi, akuhlengahlengise ukwabiwa kwesitafu ngokwecandelwana (3) oko ekwenzela ukulungiselela ukwabelana ngabasebenzi, okufaneleke nangaphezulu, phakathi koMasipala weSithili nooMasipala beeNgingqi, kodwa olo hlengahlengiso aluyi kwenziwa emva koubu umsebenzi azisiwe ngokwemiqathango yecandelwana (8).
- (6) Xa kunokuvela nayiphi na impikiswano, emalunga nokwabelana ngabasebenzi, phakathi komphathi wethutyana kamasipala ne-IMM zoMasipala weNgingqi loo mpikiswano kuya kufuneka ukuba ibhekiswe kuMphathiswa wePhondo okanye kumtyunjwa wakhe ngokweenkqubo ezimiselwe nguMphathiswa wePhondo, kwaye isigqibo soMphathiswa wePhondo akuyi kugqithwa kuso kwaye siya kuba sesibophelelayo.
- (7) Umphathi wethutyana kamasipala uya kuluqinisekisa ngencwadi uxwebhu olunoludwe lwamagama oluhlanganisiweyo nekubhekiswe kulo phaya kwicandelwana (4)(c) kwaye kuya kufuneka ukuba olo xwebhu lunoludwe lwamagama alunike uMphathiswa wePhondo ngomhla okanye ngaphambi komhla oya kumiselwa nguMphathiswa wePhondo.
- (8) Emva kokuqulunqwa koxwebu olunye olunoludwe lwamagama noluhlanganisiweyo ekubhekiswe kulo phaya kwicandelwana (4)(c), kwaye kuya kufuneka ukuba olo xwebhu lunoludwe lwamagama alunike uMphathiswa wePhondo ngomhla okanye ngaphambi komhla oya kumiselwa nguMphathiswa wePhondo.
- (9) Ukungafunyanwa kwesaziso esibhaliweyo ekubhekiswe kuso phaya kwicandelwana (8) akuthethi kungasebenzi kwalo naluphi na ugqithiselo.
- (10) Xa nawuphi na umsebenzi ('umphikisi') esithi ugqithiselo lwakhe alwenziwanga ngokwemimiselo echazwe phaya kwicandelo 12 nele 16C, ngokwaso nasiphi na isivumelwano ekubhekiswe kuso kwicandelwana (2) okanye ngokweenkqubo echazwe kweli candelo, lowo mphikisi angafaka incwadi yokuphikisa kumphathi wethutyana kamasipala womasipala lowo agqithiselwe kuye oko ekwenza kungagqithanga iintsuku ezili-14 emva kokwaziswa kwakhe ngokwemiqathango ephaya kwicandelwana (5). Loo ncwadi yokuphikisa kuya kufuneka ukuba umphathi wethutyana kamasipala ayigqithisele kuMphathiswa wePhondo okanye kumtyunjwa wakhe ukuze uMphathiswa wePhondo okanye umtyunjwa wakhe ibe nguye owenza isigqibo ngokweenkqubo ezimiselwe nguMphathiswa wePhondo, kwaye isigqibo soMphathiswa wePhondo okanye somtyunjwa wakhe akuyi kugqithwa kuso kwaye siya kuba sesibophelelayo.
- (subsection (10) amended by PN 108 2008)*
- (11) Ngeli lixa kusalindelwe isigqibo soMphathiswa wePhondo okanye somtyunjwa wakhe ngokwecandelwana (10) umphikisi uya kugqithiselwa kumasipala, oko kunsenziwa ngokweli candelo. Ukuba uMphathiswa wePhondo okanye

umtyunjwa wakhe ufumanise ukuba umphikisi bekufanele agqithiselwe komnye umasipala umphikisi uya kugqithiselwa kuloo masipala kwaye ugqithiselo lwakhe luya kuthatyathwa njengolwenzeka ngomhla wokuqalisa ngokwecandelo 12 nele 16C.

- (12)Xa kunokwenzeka ukuba igama lomsebenzi lingaveli kuxwebhu olunoludwe lwamagama ekubheksiwe kulo phaya kwicandelwana (4)(a), okanye xa kunokwenzeka ukuthi kanti umsebenzi wabelwe oomasipala abangaphezulu kwesinye ukususela ngomhla wokuqalisa, loo msebenzi kuya kufuneka, ngokukhawuleza emvan kokuva ngayo nokuba yiyiphi kwezo zinto, loo nto ayichaze kumphathi wethutyana kamasipala okanye kwi-IMM yoMasipala weNgingqi yena ke ekuya kufuneka ukuba loo mcimbi awugqithisele kuMphathiswa wePhondo ukuze ibe nguMphathiswa wePhondo okanye umtyunjwa wakhe owneza isigqibo ngokweenkqubo ezimiselwe nguMphathiswa wePhondo kwaye isigqibo soMphathiswa wePhondo okanye umtyunjwa wakhe akuyi kugqithwa kuso kwaye siya kuba sesibophelelayo.
- (13)Ngomhla okanye ngaphambi komhla oya kumiselwa nguMphathiswa wePhondo uMasipala weNgingqi kuya kufuneka ukuba aluvume uphuhliso lwabasebenzi loMasipala weNgingqi ngokwemigaqo yomthetho osebenzayo kwaye kuya kufuneka ukuba ikopi yoxwebhu oluchaza olo phuhliso lwabasebenzi ayandlale phambi kweSebe leQonga leeNguqu leKansile yoThethwano; ngaphandle kokuba uMasipala weNgingqi uthe ekugqibeleni akaluvuma uphuhliso lwabasebenzi ukuba lube loloMasipala weNgingqi ngaphambi kokuba umphathiswa wethutyana kamasipala abe uye wayikhangela ishediyuli eqinisekisiweyo ngokwemigaqo yecandelwana (7).
- (14)Ngomhla okanye ngaphambi komhla oya kumiselwa nguMphathiswa wePhondo, xa kungekafikelelwa kwisivumelwano phanbi komhla wokuqalisa ngokwemiqathango yecandelo (13)(2) lale Shedyuli, u Masipala weNgingqi, njengelungu leSebe leQonga leeNguqu leKansile yoThethwano kuya kufuneka ukuba azame ukufikelela kwisivumelwano esiqukanisayo kwiSebe leQonga leNguqu leCandelwana leKansile yoThethathethwano neemanyano zabasebenzi ngokubhekiselele kwimimiselo, iinkqubo neendlela emazilandelwe xa kuqeshwa abantu abaya kungena kwizikhundla ezivele ngenxa yemo entsha yolawulo lukaMasipala weNgingqi.
- (15)Ngomhla okanye ngaphambi komhla omiselwe nguMphathiswa wePhondo, uMasipala weNgingqi uya kuqesha abantu abayakungena kwizikhundla ezikwi uphuhliso lwabasebenzi ngokwemimiselo, iinkqubo neendlela ekuvunyelwene ngazo kwiSebe leQonga leeNguqu leKansile yoThethwano.

*(section 12A inserted by PN.666/2000)*

*Izivumelwano zokusebenza ezithatyathwe kunye*

13.(1) Nasiphi na isigqibo ekungnwe kuso li Qumrhu lee ngxoxo:-

- (a) kurhulumente kazwelonke, okanye;
- (b) kwi Qumrhu leeNgxoxo, okanye
- (c) kurhulumente wedolophu,

siya kuhlala simi isesi setyenzi swayo de sihlo nyelwe okanye sitshitshiswe nogkokungqinelana kwi miqathango yesi sirumelwano.

- (2) Phambi komhla wokuqala wonyulo ooMasipala abatshutshisiweyo, njengamale eQonga lezokusebenza kufuneka bazame befikelele esigqibeni kunye nemanyano zaba zekenzi ngo kuphathelene nale miba ilandelayo:-
- inkqubo eya kulandelwa xa kumiselwa abasebenzi ezikhundleni ngokwendlela entsha emva komhla wokuqala wonyulo;
  - inkqubo eya kulandelwa ekuqesheni kwizikhundla exiya kuba zikho emva kokusekwa ngokutsha kubume bezikhundla zikaMasipala weSithili;
  - Ukwamkelwa kwemimiselo nemiqathango yengqesho nguMasipala weSithili emva komhla wokuqala wonyulo, kwakunye
  - Nawuphi na umcimbi ekubhekiselele kumiselo loMasipala weSithili.

*Imicimbi yabasebenzi*

14. Ngokuxhomekeke kuso naziphi na izivumelwano ezenziwe kunye:-
- imigaqo-nkqubo kunye namanyathelo okulawula kaMasipala iya kuba yimigaqo-nkqubo namanyathelo abesetyenziswa ngaphambi komhla wokuqala wonyulo kwaye iya kuhlala iyesityenziswayo ngabo bonke abasebenzi ngokufana naleyo yayesityenziswa ngaphambi komhla wokuqala wonyulo, nexhomekeke ekuhlonyelweni okanye ekutshitshisweni nguMasipala;
  - imimiselo nemiqathango yengqesho yabo bonke abasebenzi bakaMasipala iya kuba yimimiselo nemiqathango yengqesho eya kusebenza phambi komhla wokuqala wonyulo kumqeshwa ngamnye nokuba uqeshw emva komhla wokuqala wonyulo uya kuqeshwa ngokwemimiselo nemiqathango yengqesho egqitywe nguMasipala.

*IZiphumo zeNguqu ezibhekiselele kweminye imiba emalunga nabasebenzi*

- 15.(1) Ngokuxhomekeke kuzo naziphi izivumelwano ezenziwe kunye, umsebenzi osikhundla sakhe sitshintshwe ngenxa yenguqu akayi kuthathwa njengongafunekiyo ngokweenjongo zaso nasiphi na isigqibo okanye imiqathango yengqesho kungenjalo nawuphi na umgaqo wngxowa-mali yomhlala phantsi enika umsebenzi ithuba likuba azinyulele ngokwakhe ukuwuyeka umsebenzi wakhe kwaneemfanelo.
- (2) Imiqathango yeli candelo isebenza kuphela xa umsebenzi athe wasikhaba ngaphandle kwesizathu isibonelelo asinikwayo nguMasipala.
- (3) Ngokwenjongo yeli candelo, utshintsho lwezikhundla lungaquka enye yezi zinto zilandelayo:-
- isithuba eso somsebenzi asisekho;
  - isithuba eso somsebenzi sithe satshitshiswa;
  - umsebenzi kufuneka enze isicelo sesithuba ngokutsha;
  - inkqubo kunye namagunya esithuba eso athe atshitshiswa;
  - kuthe kwatshintshwa umqeshi;
  - xa isithuba eso sithe sanaphathi abaninzi ekufuneka umsebenzi enze ingxelo kubo;
  - xa kukho umahluko kwisithuba eso.

*Ukuthabathelana koomasipala izikhundla ngokwaseMthethweni*

## 16. Ukususela ngomhla wokuqalisa:-

- (1) Umasipala weNgingqi uya kuba ngumasipala othabatha isikhundla ngokwasemthethweni sabo masipala batshitshiswayo kananjalo uya kuba ngumasipala oza kusekwa ngokwemiqathango yeSaziso sooMasipala beZithili ngokubhekiselele kwimpahla namatyala abelwe uMasipala weNgingqi ngokwemiqathango yale Shedyuli.
- (2) Ngokwecandelwana (1) necandelo 16D lale Shedyuli wonke amalungelo nezibophelelo zoomasipala abatshitshisiweyo angabiwanga ngokwemiqathango yale Shedyuli ayakwabelwa uMasipala weNgingqi, kwaye kuya kuba nguloo Masipala weNgingqi othabatha isikhundla ngokwasemthethweni sabo masipala batshitshisiweyo, ngokubhekiselele kuloo malungelo nezibophelelo.
- (3) Zonke iintlawulo, ingeniso nazo zonke ezinye iimali ekufanele zihlawulwe okanye ziqokelelwe nawuphina/nabaphina ziya kuhlalulwa okanye ziqokelelwe ongunmasipala onthabathe isikhundla ngokwasemthethweni somasipala otshitshisiweyo ngokwemiqathango yale Shedyuli.
- (4) Lingatyeshelwanga icandelwana (1):-
  - (a) uMasipala uya kuthabatha iintambo ngokusemthethweni koomasipala abatshitshisiweyo ngokwezingqinisiso zemibandela ichaziweyo kuMthetho wokuGuqulwa kweMimandla ethile yasemaPhandleni kwanakuMthetho weeNgingqi zasemaPhandleni, ukuya kutsho kwizahlulo ekubhekiselelwe kuzo, de kube kutshintshelwa kwinkqubo ekubhekiselalwe kuyo kwicandelo le-3 loMthetho wokuGuqulwa kweMimandla ethile yasemaPhandleni:-
    - (i) umhlaba ophantsi kwegunya loMphathiswa wezoLimo neMicimbi yoMhlaba njengoko kuchaziweyo kwicandelo le-7 loMthetho weeNgingqi zasemaPhandleni noxhomekeke kwimiqathango equkathwe licandelo le- 3 loMthetho wokuGuqulwa kweMimandla ethile yasemaPhandleni uya kuhlala phantsi kwegunya loMphathiswa wezoLimo neMicimbi yoMhlaba, kwakunye
    - (ii) umhlaba obuphantsi kwegunya loomasipala abatshitshisiweyo ngokwemimiselo equkathwe nguMthetho weeNgingqi zasemaPhandleni noxhomekeke kwimiqathango yecandelo le- 3 loMthetho wokuGuqulwa kweMimandla ethile yasemaPhandleni uya kuhlala uphantsi kwegunya loMasipala ukususela kumhla wokuqala wonyulo;
  - (b) umhlaba ekubhekiselelwe kuwo kwicandelwana (2)(a) uya, kuthi ngexesha lotshintshelo ngokwemimiselo yecandelo le-3 loMthetho wokuGuqulwa kweMimandla ethile yasemaPhandleni, ube phantsi kolawulo loMasipala njengoko uMthetho weeNgingqi zasemaPhandleni uchaza.

*(section 16 amended by PN.666/2000)*

*Imimiselo yoGaithiselo lweMpahla, amaTyala neeRekhodi*

## 16A. Ukususela ngomhla wokuqalisa:

- (1) yonke impahla, amatyala neerekhodi zoomasipala abatshitshisiweyo neyayanyaniswa ngokukodwa nemisebenzi ekufanele yenziwe nguMasipala weNgingqi iya kugqithiselwa kuMasipala weNgingqi.
- (2) yonke impahla, amatyala neerekhodi zoomasipala abatshitshisiweyo neyayanyaniswa ngokukodwa nemisebenzi ekufanele yenziwe nguMasipala weSithili (misebenzi leyo iquka imisebenzi efanele ukwenziwa nguMasipala weSithili kuMmandla woLawulo lweSithili) iya kugqithiselwa kuMasipala weSithili.
- (3) nayiphi na impahla yomasipala otshitshisiweyo enako ukususwa kwindawo ekuyo neyayanyaniswa nomsebenzi omnye okanye engaphezulu ekufanele ifezekiswe, ukusuela ngomhla wokuqalisa, nguMasipala weNgingqi noMasipala weSithili, nabanako ukwahlulelana ngayo baya kuyahlulelwa:-
  - (a) ngokwepesenti yelona xesha loo mpahla esetyenziswe ngalo kwindawo nganye;
  - (b) ngokwepesenti yelona xesha loo mpahla esetyenziswe ngalo ekwenzeni umsebenzi oya kuba luncedo macala omabini; okanye
  - (c) ngokwayo nayiphi na enye indlela evunywe nguMphathiswa wePhondo.
- (4) yonke impahla yoomasipala abatshitshisiweyo engenakususwa kwindawo ekuyo neyayanyaniswa nomsebenzi okanye imisebenzi ekufanele yenziwe nguMasipala weNgingqi noMasipala weSithili, ndawonye nayo yonke impahla enokususwa kwindawo ekuyo neyayanyaniswa nomsebenzi okanye imisebenzi ekufanele yenziwe nguMasipala weNgingqi noMasipala weSithili abangenakwahlulelana ngayo, iya kugqithiselwa kumasipala oya kuyisebenzisa kakhulu ukugqitha abanye, kodwa nawuphi na umasipala osenomnqweno wokuyisebenzisa loo mpahla unelungelo lokuqhubeka ngokuyisebenzisa oko ekwenza ehlawula inxenye yeendleko zokuyisebenzisa ngokokuyisebenzisa kwakhe de ilungelo lakhe lokuyisebenzisa lipheliswe ngesivumelwano;
- (5) ingatyehelwanga imiqathango yecandelwana (4), uMasipala weNgingqi noMasipala weSithili banokuvumelana ngokuyahlula phakathi, nayiphi na impahla engenakususwa kwindawo ekuyo nekubhekiswe luyo phaya kwincandelwana (4), nenokwahlulelaka phakathi, okanye bohlule naliphi na iqela lempahla ekubhekiswe kulo phaya kumacandelwana (3) no-(4) ngendlela eyanelisayo, oko kusenziwa kunikwe ingqalelo uhlobo noncedo lwaloo mpahla okanye lwezo mpahla, ngokuvumelana kwabo, ze isahlulelo ngasinye saloo mpahla sabiwe ngokwesivumelwano eso;
- (6) yonke impahla eyimali yoomasipala abatshitshisiweyo neyayanyaniswa nomsebenzi okanye imisebenzi ekufanele yenziwe nguMasipala weNgingqi noMasipala weSithili iya kwahlulelwa abo masipala ngendlela eyanelisayo, oko kusenziwa kunikwe ingqalelo uhlobo noncedo lwaloo mpahla;
- (7) yonke impahla eyimali namatyala emali oomasipala abatshitshisiweyo engenakwayanyaniswa nomsebenzi othile iya kwahlulelwa uMasipala weNgingqi noMasipala weSithili ngale ndlela ilandelayo:-
  - (a) Izibonelelo ezingasetyenziswanga eziziimfanelo zabaqeshwa, ezifana neentsuku zekhefu ezingasetyenziswanga, ziya kugqithiselwa kwimo apho izibonelelo zinokunxumaniswa nomqeshwa othile

ngokuhambelanyo nogqithiselo lwaloo mqweshwa ngokwemigaqo yeShudyuli kwanakwezinye izihlo ngokomlinganiselo oya kuthelakiswa nezibonelelo ezilungiselelwe imivuzo seyiphelile nezizakugqithiselwa kuMasipala weNgingqi noMasipala weSithili;

- (b) Izibekelelo nezibonelelo ezingasetyenziswanga ngenjongo ethile ziya kugqithiselwa ngendlela eyanelisayo, oko kusenziwa kunikwe ingqalelo uhlobo nenjongo yesibekelelo okanye yesibonelelo ngasinye;
- (c) Izibekelelo nemali ezingasetyenziswanga eyintsalela yohlobo lwesiqhelo iya kwahlulelwa uMasipala weNgingqi noMasipala weSithili ngenye yezi ndlela zilandelayo:-
- (i) ngokuthelakanisekayo kweengxelo-mali ezihlanganisiweyo zakutsha nje zaMasipala weNgingqi noMasipala Sithili;
  - (ii) nayiphi na enye indlela evunywe nguMphathiswa wePhondo.
- (8) Yonke impahla engaphathekiyo yoomasipala abatshitshisiweyo neyayanyaniswa nomsebenzi okanye imisebenzi ekufanele yenziwe nguMasipala weNgingqi noMasipala weSithili iya kwabelwa umasipala omnye, noko kunjalo nawuphi na omnye umasipala onomnqweno waloo mpahla inaphathekiyo uya kuba nelungelo:-
- (a) lokuzuza imbuyekezo eyanelisayo, oko kuquka imali, ukutshintshiselwa okanye naluphi na olunye yihlobo lwembuyekezo ekunokuvunyelwana ngayo; kananjalo
  - (b) aqhubeke ngokuyisebenzisa loo mpahla xa athe wahlawula isabelo esithelekisekayo seendleko zokuyisebenzisa de elo lungelo lokuyisebenzisa lipheliswe ngokuvumelana.
- (9) zonke iirekhodi zoomasipala abatshitshisiweyo nezayanyaniswa nomsebenzi okanye imisebenzi ekufanele yenziwe nguMasipala weNgingqi noMasipala weSithili nabangenakwahlulelana ngazo, ziya kugqithiselwa kumasipala omnye ngokokusondela kwazo kumsebenzi iirekhodi ezo ezoyamene nawo noko kunjalo nabanye oomasipala baya kubanelungelo lokuzifikelela ezo rekhodi kananjalo baya kubanelungelo lokufunyaniswa iikopi zazo.
- (10) wonke amatyala oomasipala abatshitshisiweyo nayanyaniswa nomsebenzi okanye imisebenzi ekufanele yenziwe nguMasipala weNgingqi noMasipala weSithili aya kwakhulelwa uMasipala weNgingqi noMasipala weSithili ngendlela eyanelisayo, oko kusenziwa kunikwe ingqalelo uhlobo nenjongo yaloo matyala.
- (11) yonke impahla namatyala oomasipala abatshitshisiweyo, ngaphandle kwalawo achazwe phaya kwicandelwana (7), nangenakwayanyaniswa nomsebenzi othile, aya kugqithiselwa kuMasipala weNgingqi.

*(section 16A. inserted by PN.666/2000)*

*Inkqubo yokuGqithisela iMpahla, amaTyala neeRekhodi*

- 16B.(1) Ingatyeshelwanga imiqathango yecandelo 16A necandelo 16C, kananjalo ngeli lixa kusalindelwe ukufezekiswa kwenkqubo yogqithiselo ngokweli candelo, yonke impahla, wonke amatyala nazo zonke iirekhodi zoomasipala abatshitshisiweyo, xa kukho imfuneko yoko, ziya kugqithiselwa okwethutyana kuMasipala weNgingqi, kwaye ke ngoko yonke impahla, wonke amatyala nazo zonke iirekhodi ezifanele ukugqithiselwa kuMasipala weSithili

ngokwemiqathango yecandelo 16A okanye 16C lale Shedyuli ziya kuthatyathwa njengezigqithiselwe kuMasipala weNgingqi oko kusenziwa ngokwamalungiselelo aphakathi koMasipala weNgingqi noMasipala weSithili, malungiselelo lawo achaza ukuba uMasipala weSithili uya kufezekisa umsebenzi okanye imisebenzi eyayamene nempahla, amatyala neerekhodi ezo oko ekwenza enganjeni loMasipala weSithili.

(2) Ukuze ku:-

- (a) kube nokulungiselelwa nawaphi na amalungiselelo ngokwemigaqo yoMthetho oHlonyelweyo wamaSebe ooMasipala; okanye
- (b) kube nokuvunyelwa uMasipala weNgingqi kwanoMasipala weSithili ukuba bangene kwizivumelwano, kuqukwa nezivumelwano ezimalunga nomsebenzi,

ezinokuchaphazela utshintsho lwabasebenzi ngokwemigaqo yale Shedyuli, akukho nalinye ilungu eliya kunikezelwa ngokupheleleyo ngaphambi komhla wama-30 kuJuni 2001, okanye olo suku luya kube lumiswe nguMphathiswa wePhondo.

(3) Ngomhla okanye ngaphambi komhla oya kumiselwa nguMphathiswa wePhondo iDEO nganye kuya kufuneka ilungise ngokwale shedyuli zonke iimpahla, amatyala neerekhodi eziya kunikezelwa ngokupheleleyo ngaphambi komhla oya kumiselwa nguMphathiswa wePhondo kwaye kuya kufuneka ukuba amisele okwethutyana zonke iimpahla, amatyala, neerekhodi zomasipala wakhe otshitshweyo ngokuhambelanayo nemithetho-siseko echaziwevo phaya kwicandelo 16A nele 16C, kananjalo anike iikopi zeshedyuli iyonke kumphathi wethutyana kamasipala nakwi-IMM zoMasipala weSithili.

(4) Ngomhla okanye ngaphambi komhla oya kumiselwa nguMphathiswa wePhondo, kodwa ngokwemiqathango yecandelwana (2), umphathi wethutyana kamasipala, ebonisene ne-IMM yoMasipala weSithili kuya kufuneka ukuba:-

- (a) ahlanganise amaxwebhu ekubhekiswe kuwo phaya kwicandelwana (1) awnze abe luxwebhu olunye aze athi ekugqibeleni obe ngokwahlukeneyo impahla, amatyala neerekhodi ezidweliswe kwishedyuli edityanisiweyo neziza kugqithiselwa kuMasipala weNgingqi okanye kuMasipala weSithili ngomhla wokuqalisa ngokwemiqathango yecandelo 16A nele 16C, kanti nezo ekuya kufuneka ukuba zigqithiselwe ngokwesivumelwano ekubhekiswe kuso kwicandelwana (2);
- (b) anike i-IMM yoMasipala weSithili ikopi yolo xwebhu kananjalo afumane kwi-IMM yoMasipala weSithili ikopi yoxwebhu oluqulungwe yi-IMM yoMasipala weSithili; kananjalo
- (c) ahlanganise uxwebhu ekubhekiswe kulo phaya kumhlathi (a) noxwebhu olufunyenwe kwi-IMM yoMasipala weSithili ekubhekiswe kulo phaya kumhlathi (b) aze loo maxwebhu enziwe uxwebhu olunye olubonakalisa yonke impahla, wonke amatyala nazo zonke iirekhodi eziza kugqithiselwa kuMasipala weNgingqi.

(5) Ingatyeshelwanga imimiselo echazwe kwicandelo 16A no 16C, umphathi wethutyana kamasipala unokuthi evumelene ne-IMM yoMasipala weSithili, akuhlengahlengise ukwabiwa kwempahla, amatyala neerekhodi

ngokwemiqathango yecandelwana (4) oko ekwenzela ukulungiselela ukwabelana, okufaneleke nangaphezulu, ngazo zonke ezo zinto phakathi koMasipala weNgingqi noMasipala weSithili.

- (6)Xa kunokuvela impikiswano ngokubhekiselele kulwabiwo lwempathla, amatyala neerekhodi phakathi komphathi wethutyana kamasipala ne-IMM yoMasipala weSithili loo mpikiswano kuya kufuneka ukuba igqithiselwe kuMpathiswa wePhondo ukuze uMpathiswa wePhondo okanye umtyunjwa wakhe agqibe ngayo ngokweenkqubo ezimiselwe nguMphanthiswa wePhondo, kwaye isigqibo soMphanthiswa wePhondo okanye somtyunjwa wakhe akuyi kugqithwa kuso kwaye siya kuba sesibophelelayo.
- (7)Umphathi wethutyana kamasipala uya kuluqinisekisa ngencwadi uxwebu loludwe oluhlanganisiweyo ekubhekiswe kulo phaya kwicandelwana (4)(c) kwaye kuya kufuneka ukuba uxwebhu olo olunoludwe alunike uMphanthiswa wePhondo ngomhla okanye ngaphambi komhla oya kumiselwa nguMphanthiswa wePhondo.
- (8)Nje ngokukhawuleza kangangoko emva kokuqinisekiswa koxwebhu loludwe oluhlanganisiweyo ngokwecandelwana (7), kodwa kungagqithanga umhla oya kumiselwa nguMphanthiswa wePhondo, umphathi wethutyana kamasipala kuya kufuneka ukuba aqalise ugqithiselo layo yonke impahla, amatyala neerekhodi zoomasipala abatshitshisiweyo.
- (9)Umasipala weNgingqi uya kuliphicotha ugqithiselo lwempahla, amatyala neerekhodi kungagqithanga iinyanga ezili-12 emva komhla wokuqalisa, kungenjalo ngolo suku luya kumiselwa nguMphanthiswa wePhondo.

*(section 16B. inserted by PN.666/2000)*

*Ugqithiselo lwabasebenzi, impahla, namatyala ayanyaniswa nemisebenzi engeyiyo leya idweliswe kwicandelo 84 loMthetho wamaSebe ooMasipala*

- 16C. Ingatyeshelwanga imiqathango yecandelo 12(1) necandelo 16A lale Shedyuli, ukususela ngomhla wokuqalisa:-
- (a) Bonke abasebenzi, yonke impahla, onke amatyala nazo zonke iirekhodi zoomasipala abatshitshisiweyo nezayanyaniswa ngokukodwa:-
- (i) lindlela ezingezizo ezomasipala
  - (ii) neenkonzole zeenqwelo-zigulane;
  - (iii) linkonzo zempilo ezingezizo ezomasipala
  - (iv) ulawulo lweentlekelele;
  - (v) ulwakhiwo lwezindlu;
  - (vi) amathala eencwadi;
  - (vii) umzi wogcino lwezinto zakudala;
  - (viii) iinkqubo zokuzisa amanzi ingezizo ezo zamanzi alungele ukuselwa
  - (ix) ulondolozo lwendalo nokusingqongileyo, kubandakanywa nolawulo lwamazibuko, imfundiso ngokusingqongileyo, ulawulo lwezilwanyana nolawulo lwamanzi angaphakathi elizweni; kananjalo ubuxhakaxhaka bokubonelela ngamanzi ngaphandle kobuxhakaxhaka bokubonelela ngamanzi alungele ukuselwa;
  - (x) nemithetho yendlela nokuthotyelwa kwayo;



ziya kugqithiselwa kuMasipala weNgingqi ngokwenkqubo echazwe kwicandelo 12(2), (3) no (4) necandelo 12A no 16B lale Shedyuli;

- (b) bonke abasebenzi, yonke impahla, onke amatyala nazo zonke iirekhodi zoomasipala abatshitshisiweyo ezingenakwayanyaniswa nemisebenzi ekubhekiswe kuyo phaya kwicandelo 84(1) loMthetho wamaSebe ooMasipala okanye umhlathi (a) okanye (b), ziya kugqithiselwa kuMasipala weNgingqi ngokwemimiselo neenkqubo ezichazwe kwicandelo 12, 12A, 16A no- 16B lale Shedyuli.

*(section 16C. inserted by PN.666/2000)*

*Ugqithiselo lwabasebenzi, impahla, amatyala neerekhodi ezinxulumene nezivumelwano zobonelelo ngeenkonzoz zikamasipala*

- 16D.(1)Kungatyeshelwanga nantoni na ephikisana noko kuqulethwe kuso nasiphi na isivumelwano sokubonelela ngeenkonzoz zoomasipala, esenziwa noomasipala abatshitshisiweyo, sivumelwano eso esithi umasipala lowo utshitshisiweyo kuya kuba nguye obonelela ngeenkonzoz; bonke abasebenzi, yonke impahla, onke amatyala nazo zonke iirekhodi zaloo masipala utshitshisiweyo ziya kugqithiselwa ngokwemiqathango yale Shedyuli
- (2)Umphathiswa wePhondo nguye oya kugqiba ekubeni nguwuphi umasipala oya kuthabatha isikhundla somasipala otshitshisiweyo ngokubhekiselele kwisivumelwano sobonelelo ngeenkonzoz esenziwa ngumasipala otshitshisiweyo sivumelwano eso esithi umasipala lowo utshitshisiweyo nguye oya kubonelela ngeenkonzoz, kwaye unokuyalela uMasipala weNgingqi okanye uMasipala weSithili ukuba aqalise kananjalo alawule nawaphi na amalungiselelo ethutyana obonelelo ngeenkonzoz ngokwemiqathango yecandelo 19 lale Shedyuli, ukuqinisekisa ukuqhubeka kobonelelo ngeenkonzoz ngokubhekiselele kwisivumelwano eso.
- (3)Kwithuba ukususela ngomhla wokuqalisa ukuya kumhla uMphathiswa wePhondo enze ngawo isigqibo ngokwecandelwana (3), uMasipala weNgingqi kuya kuba nguye ongena esikhundleni somasipala otshitshisiweyo ngokwasemthethweni ngokubhekiselele kuzo naziphi na izivumelwano zobonenelelo ngeenkonzoz ekubhekiswe kuzo kwicandelwana (1) ngokwemiqathango yecandelo 19.

*(section 16D. inserted by PN. 666/2000)*

*Ukusilela ekufezekiseni imiqathango ethile yale Shedyuli*

- 16E. Xa kunokwenzeka ukuba umphathi wethutyana kamasipala okanye nabani na ongomnye dkufuneka enze umsebenzi othile ochazwe kwicandelo 12A okanye 16B, asilele okanye ale ukwenza oko kwithuba elichazwe kuloo macandelo, uMphathiswa wePhondo angatyumba nabani na ukuba enze loo msebenzi, xa kunjalo ke loo Masipala weNgingqi okanye loo Masipala weSithili uchaphazelekayo kuya kufuneka asebenzisane ngokupheleleyo naloo mntu.

*(section 16E. inserted by PN.666/2000)*

*Imithetho yeNguqu ebhekiselele kwimithetho yenqila nemimiselo*

- 17.(1) Nayiphi na imithetho esetyenziswayo kummandla womasipala otshitshisiweyo emvan nje komhla wokuqala wonyulo iya kusebenza ukususela ngalo mhla, de kube kuthe ngexesha lokuqwalaselwa ngokutsha nokwenziwa kohlangahlengiso ngokwemiqathango yecandelo le-15 loMthetho wamaSebe

kaMasipala, uhlale usebenza ngokupheleleyo kuloo mmandla umiselwe wona, ukwaxhomekeke nasekubeni uhlonyelwe okanye utshitshiswe nguMasipala.

(2) ngaphandle kokuba le mithetho ayingqinelani neemeko ekubhekiselelwa kuzo okanye ayicaciswanga ngokufanelekileyo, isingqiniso kuyo nayiphi na imithetho yenqila enjengale siya kwenza ukuba:-

(a) umasipala otshitshisiweyo okanye owayengaphambili, achazwe njengosingqiniso kuMasipala weSithili, kwakunye

(b) ubume bamasebe kamasipala lkanye imisebenzi kamasipala otshitshisiweyo, umelwe kukuchazwa njengesingqiniso sobume bamasebe kamasipala okanye imisebenzi kaMasipala ahambelana nayo.

(3) Ngokuxhomekeke kwimiqathango yolu ludwe lweenkqubo nangokugatyanga kutshitshiswa koomasipala abatshitshiweyo, nasiphi na:-

(a) isigqibo esithe sathatyathwa;

(b) isaziso, isiqinisekiso okanye amaxwebhu athe akhutshwa;

(c) isalathiso, ukwamkeleka, imvume okanye ingunya elithe lanikezelwa;

(d) isaphulelo, iphepha-mvume okanye imvume ethe yanikwa okanye yakhutshwa;

(e) ukuqesha ukuthe kwenziwa;

(f) umqeshwa othe watyunjwa;

(g) isivumelwano okanye isibophelelo ekuthe kwangenwa kuso;

(h) amagunya athi anikweze umsebenzi;

(i) amaxabiso, uluhlu lweerhafu/lwamaxabiso okanye iindleko ezibekiweyo;

(j) umhlaba othe wabekelwa bucala, kwakunye

(k) amanye amanyathelo athe athatyathwa okanye izinto ezenziweyo,

ngumasipala otshitshisiweyo oya kuthi, ngokuxhomekeke kwimiqathango yolu luhlu lweenkqubo, zithathwe ezi zinto ngokwezinto abezenza ezikhutshiweyo, ekunikiswe ngazo, ezenziweyo, abaqeshwa abatyunjiweyo, izivumelwano ekungenwe kuzo amagunya anikeziweyo, okumiselweyo, okanye okuthe kwenziwa nguMasipala de kube kuphindwe kwaqwalaselwa ngokutsha kusenziwa nohlenga-hlengiso ngokwemiqathango yecandelo le-15 loMthetho wamaSebe ooMasipala.

(4) Ngokwemiqathango yesahluko sama-20 ekolu luhlu lwenkqubo, nabani na ngomhla wokuqala wonyulo othe wasebenzisa amagunya okanye wenza umsebenzi wkhe kungenjalo esebenza ngokwegunya lesikhundla sakhe nokuba ligunya awayelinikwe ngumasipala otshitshisiweyo, uya kuthi gqolo ukulisebenzisa elo gunya okanye enze umsebenzi lowo kungenjalo asebenze de kufike elo xesha athe wagqiba kwenye into uMasipala omtsha.

(5) Ngokwenjongo zoludwe lweenkqubo yeMiqathango eLawula ukuMiselwa kwamaGosa oxolo njengoko kuchaziwe kwicandelo 334 loMthetho weNkqubo yolwaPhulo-Mthetho ka1977 (uMthetho wama-51 ka1977), nalipi na igosa eliqinisekisa ngokuthotyelwa komthetho elamiselwa ngumasipala

otshitshisisweyo, liya kuthi ukususela kumhla wokuqala wonyulo lithathwe njengeliqeshwe nguMasipala weSithili eso lisebenza kuso.

- (6) Nasiphi na isicwangciso esimiselweyo ngokusemthethweni okanye esisetyenziswayo kummandla wolawulo loomasipala abatshitshisiweyo, siya kuhlala sisetyenziswa lungenjalo siqhutywa kummandla lowo besilungiselelwe ukusetyenziswa kuwo de sibe sihlonyelwe, siguqulwe okanye sitshitshisiwe nguMasipala.

*IMicimbi yeMali*

- 18.(1) ukususela kumhla wokuqala uhlahlo-lwabiwo-mali olukhoyo loomasipala abatshitshisiweyo luya kusebenza kuhlahlo-lwabiwo-mali loMasipala de ibe ngumhla wama-30 kuJuni 2001.

- (2) Ngokungayigatyanga imiqathango yecandelwana (1), uMasipala:-

(a) angenza uhlanga-hlengiso kuhlahlo-lwabiwo-mali olukhoyo, okanye

(b) angagqiba ekubeni azivale iincwadi ze uhlahlo-lwabiwo-mali alwenze ngokutsha ngentsalela yemali yonyaka wohlahlo-lwabiwo-mali;

lungenziwa uhlanga-hlengiso okanye ulungiselelo nokwamkelwa kohlahlo-lwabiwo-mali olunjengolu, phantsi kwaso nasiphi na isizathu, ukuba oko kuya kuhambelana nomthetho osetyenziswayo.

- (3) Khon'ukuze kubekho uzinzo kwezezimali, ukusuela kumhla wokuqala wonyulo ukuya kumhla wama-30 kuJunie 2001 naluphi na uhlahlo-lwabiwo-mali olunxulumene nomsebenzi oya kuqhutywa nguMasipala weNqila luya kufukumaneka kuMasipala weNqila nokuba lwalwenziwe na uhlahlo-lwabiwo-mali lwezibonelelo ngumasipala otshitshisiweyo, ngaphandle kokuba uMasipala weSithili no Masipala weNqila uvumile.

- (4) Phambi kwesiqalo sonyaka-mali ka2001/2002 kuya kufuneka uMasipala ukuba alungiselele ekwamkela izicwangciso zokulawula imali kwanemigaqo-inkqubo ehambelana:-

(a) imiqathango nebandakanya nenkgubo yooMasipala yokutshintshwa kohlahlo lwabiwo mali, ukuqinisekisa uzinzo kwezezimali kwithuba lasenya konyaka mali ka 2000/2001;

(b) neendleko zexesha eliphakathi;

(c) ukulinganiswa kobume boluhlu lweerhafu loLawulo loMmandla weSithili;

(d) ukwenziwa kolungiselelo loxwebhu olutsha loqikelelo-maxabiso loLawulo loMmandla weSithili kwanokuphakanyiswa kweemicimbi yeerhafu ezifikeleleka nakubani zoLawulo loMmandle weSithili;

(e) ukuziswa ngaphambili kwee-akhawunti;

(f) ukuhlenganiswa kwenkqubo zocwangciso-mali neenkqubo zohlahlo-lwabiwo- mali oluhlangeneyo;

(g) ulawulo lwamatyala, kwakunye

(h) inkqubo zokuthengisa.

- (5) Nayiphi na iprojekthi enkulu enokulawulwa nguMasipala weNqila ofumana izibonelelo zemali kwiirhafu yenkozo yekansile yommandla (RSC), noya kuthi emva komhla wokuqala wonyulo, ahlale efumana izibonelelo ezilolu hlobo de

ibe iyagqitywa le projekthi, ukuze uMasipala weNqila abe nokuphepha ukongezeleleka kwemali- mboleko.

*Amalungiselelo eThutyana oLawulo*

- 19.(1) Ukususela ngomhla wokuqalisa ukuya kumhla apho abasebenzi, iimpahla, amatyala neerekhodi zide ekugqibeleni zobiwa ngokwemimiselo ekule Shedyuli, okanye omnye umhla onokumiselwa nguMphathiswa wePhondo, uMasipala weNgingqi:
- (a) uya kunyanzeleka ukuba asebenzisane ngeyona ntembeko inkulu nabo bonke abasebenzi, iimpahla, amatyala okanye iirekhodi
- (i) abaqeshwe ngokwemiqathango yecandelo 12A(1);
  - (ii) abagqithiselwe ngokwemiqathango yecandelo 16B(1) kananjalo
  - (iii) ezobiwe okwethutyana ngokwecandelo 12A(3) nele 16B(3) imo enokuthenjwa ngokubhekiselele kuMasipala weSithili
- (b) engabujongelanga phantsi ububanzi becandelwana (1) kanto nangokwecandelo 12(2), ngokubhekiselele kwimihlatni (i) no (vii) elapha ngezantsi, akayi kuthi enganikwangwa nvume ngencwadi nguMphathiswa wePhondo, mvume leyo inemiqathango ethile ekubhekiselelwe kuyo kwimihlatni (ii), (iii), (iv), (v), (vi) nowe-(viii) elapha ngezantsi, kuthintelwa ngaphandle kwesizathu esivakalayo enze okanye aqalise naziphi na inguqu zophuhliso lwabasebenzi abaqeshwe okwethutyana ngokwemiqathango yecandelo 12A(1), okanye enze izabiwo zethutyana ngokwemiqathango yecandelo 12A(3) ngokuthi:-
- (i) adale okanye avale naziphi na izikhundla ezintsha;
  - (ii) avale izikhundla ezingenamntu;
  - (iii) aphakamisa okanye aqalise ukuguqula ngokutsha nokunyusa umgangatho wazo naziphi na izikhundla ezikhoyo;
  - (iv) anyusele abasebenzi kwizikhundla eziphezulu;
  - (v) anike abasebenzi nayiphi na imisebenzi yesigxina ngaphandle kwemisebenzi esetyenzwa okwethutyana;
  - (vi) ngokuxhomekeke kuwo nawuphi na umthetho, izivumelwano ezihlanganisiweyo okany ingqesho engesosigxina:-
    - (aa) ukunika imvume kwanokusebenzisa nayiphi na imali evunyelweyo, kungenjalo imali evunyelweyo engunobambiso;
    - (bb) ukuqalisa ukubonelela ngonyuso mali lwemivuzo.
  - (vii) aqalise naziphi na iinguqu kwimibutho yabasebenzi okanye kwiimo zokuphatha, kananjalo
  - (viii) angene nakwisiphi isivumelwano esihlanganyelweyo, ngaphandle kwesivumelwano esihlanganyelweyo ekubonisenwe ngaso kwavunyelwana ngaso kwiKansile yoThethwano nesiya kubophelela uMasipala weNgingqi ngokubhekiselele kuwo nawuphi na umba odweliswe kweli candelwano

(c) engabujongelanga phantsi ububanzi becandelwana (1), akayi kwenza ngaphandle kokuba kokufumana imvume yoMasipala weSithili, mvume leyo ingasayi kuthintelwa ngaphandle kwesizathu esivakalayo, okanye ukuqalisa nasiphi na isigqibo esinxulumene nayo nayiphi na impahla, amatyala, iirekhodi ngokwemiqathango yecandelo 16B(1) okanyeeyabiwe okwethutyana ngokwemiqathango yecandelo 16B(3) esiya kwenza ukuba loo masipala:-

- (i) athengise okanye aqeshise ngempahla engenakususwa kwindawo ekuyo okanye enokususwa kwindawo ekuyo mpahla leyo exabiso layo lingaphezulu kwama-R20 000,00 (amawaka angamashumi amabini eerandi) ngaphandle xa oko kusenziwa ngokwemiqathango yezivumelwano ezikhoyo, nangona ke loo miqathango ingenakusebenza xa kuchithwa impahla engenakususwa kwindawo ekuyo ngokwenkqubo yolwakhiwo lwezindlu oluvunywe ngokwemiqathango yoMthetho woLwakhiwo lweZindlu, 1997 (Umthetho 107 wonyaka we-1997);
- (ii) athenge impahla engenakususwa kwindawo ekuyo okanye enokususwa kwindawo ekuyo mpahla leyo exabiso layo lingaphezulu kwama-R20 000,00 (amawaka angamashumi amabini eerandi);
- (iii) enze izivumelwano ezintsha zethuba elingaphezulu konyaka omnye;
- (iv) avuselele izivumelwano zethuba elingaphezulu kweenyanga ezintathu;
- (v) azifumanele ubuxhakaxhaka betekhnoloji obuquka oomatshini bohlobo lwekhompyuta neenkqubo abazisebenzisayo, kananjalo
- (vi) asebenzise:-
  - (aa) iimali eziqingqwe ngokomthetho, ezisebenzisela ukuthenga impahla eyikapitali okanye enye inkcitho kungenjalo ukuhlawulela inkcitho ngokuvula amatyala angaphakathi emali-mboleko oko ekwenzela iinjongo ezingezizo ezeeprojekthi zolwakhiwo lwezinto ezisetyenziswa sisizwe eziqingqiweyo neziyimfuneko kwanezivunywe kuhlalo-lwabiwo mali lonyaka wama-2000/2001;
  - (bb) iimali ezigcinwe kwithrasti (ezingaquki ii-akhawunti zeKansile) ezisebenzisela naziphi na iinjongo ngaphandle kwezo ezo mali ezigcinelwe zona;
  - (cc) iimali ezibekelwey, ikapitali ebekelweyo okanye izibonelelo ezibekelweyo ngenjongo engeyiyo yokulolonga izinto ezakhelwe isizwe nezifakwe kuhlalo-lwabiwo mali, ulolongo lwezinto zonxunguphalo ezakhelwe isizwe nezingafakwanga kuhlalo-lwabiwo mali, lolongo olo olungenakuhlawulelwa ngemali ecwangciselwe ukwenza umsebenzi okanye ngokuthi kucinywe amatyala angasenakuhlawulwa; kananjalo

- (dd) nayiphi na ithrasti esekwe ngokomthetho, nasiphi na isibekelelo okanye isibonelelo esingeyo mali izinkozo exhaswa ngemali engeyiyo esisiphumo sokucinywa kwamatyala angasenakuhlulwa.

Nangona ke eli candelwana lingenakusebenza kwiimeko zonzunguphalo; kwaye

- (d) akayi kwenza okanye kuqalisa nasiphi na isigqibo esiya kwenza ukuba uMasipala weNgingqi agqithise kwikapitali yakhet evunyiweyo okanye kwimali yonyaka-mali wama-2000/2001 ecwangciselwe ukwenza umsebenzi.
- (2) Xa kunokuvela impikiswano ngokubhekiselele kwimiqathango yecandelwana (1) phakathi koMasipala weNgingqi noMasipala weSithili, loo mpikiswano kuya kufuneka ibhekiswe kuMphathiswa wePhondo ukuze ibe nguMphathiswa wePhondo okanye umtyunjwa wakhe owenza isigqibo ngayo ngokweenkqubo ezimiselwe nguMphathiswa wePhondo, kwaye isigqibo so Mphathiswa wePhondo okanye umtyunjwa wakhe owenza isigqibo ngayo ngokweenkqubo ezimiselwe nguMphathiswa wePhondo, kwaye isigqibo soMphathiswa wePhondo okanye umtyunjwa wakhe akuyi kugqithwa kuso kwaye siya kuba sesibophelelayo.
- (3) Nasiphi na isivumelwano esenziweyo nesiphikisana nemiqathango yecandelwana (1) okanye (2) asiyi kusebenza kwaphela.

*(section 19 amended by PN.666/2000)*

*Ukubekwa koMphathi weThutyana kaMasipala*

20. Phambi komhla wokuqala wokuyulo uMphathiswa uya kuthi emva kokuba eqwalasele iziphakamiso zeQonga leNgulqulelo leSithili amisele umphanthi wethutyana kamasipala oya kuqalisa kwesi isikhundla ahlale kuso de uMasipala anyule owakhe umphathi okanye umphathi wethutyana obambeleyo:-
- (a) uya kubiza indibano yokuqala yeKansile kaMasipala weSithili ngokwenigaqo yesakluko sama- 29(2) soMthetho wamaSebe ooMasipala;
- (b) uya kongamela indibano yokuqala yeKansile kaMasipala weSithili de kube kunyulwe isithethi;
- (c) emva komhla wonyulo, esebenza njengentloko yecandelo lolawulo kwananjengegosa eliyintloko loMasipala weSithili de abe uMasipala onyule owakhe umphathi okanye umphathi obambeleyo;
- (d) emva komhla wonyulo, uya kuzizalisekisa zonke iimfuno ezifanele ukuzalisekiswa yiCEO kamasipala ngokwemigaqo yemithetho esetyenziswayo;
- (e) uya kujongana noxanduva lweenkqubo ezichaphazela ukutshintshwa kwabasebenzi, izixhobo zokusebenza, ingensio kwanawo onke amanye amaxwebhu kuMasipala weSithili;
- (f) Anyule aba bantu kubhekiselelwe kubo ukuzalisekisa iimfanelo zakhe ngokwemigaqo yolu ludwe lweenkqubo;
- (g) athabathe amanyathelo afanelekileyo ukuqinisekisa ukuba inkonza eqhutywayo isahamba ngendlela nasemva komhla wokuqala wonyulo;

- (h) aseke inkqubo yethutyana yolawulo-mali kaMasipala weSithili;
- (i) aseke iindawo zethuyana zokunika ingxelo zikaMasipala weSithili;
- (j) ukunika izimvo neziphakamiso ezimalunga nenkqubo yezivumelwano, amalungiselelo nenkonzo yeekqubo yezivumelwano;
- (k) Ukufezekiswa kwenkqubo yamalungiselelo enkonzo yethutyana phakathi kooMasipala beeNgingqi noMasipala weSithili naphakathi koMasipala weNgingqi nabanye ooMasipala abakummandla kaMasipala weSithili;
- (l) anikeze naliphi na kumagunya akhe okanye imisebenza yakhe kuye nawuphi na umqeshwa haMasipal weNgingqi, kwakhana arhoxise, abuyisele kuye loo magunya, kwakunye.
- (m) Ngaphambi komhla wokuqala wonyulo, enze amalungiselelo eenkqubo ezihankanyiweyo ku (a) no(1).

*(section 20 amended by PN.666/2000)*

*Abancedisi baBaphathi beThutyana bakaMasipala*

- 20A. Ukususela ngomhla wokusebenza kwesi Saziso, amalungu embumba yabaphathi abakwizikhundla eziphezulu abekwa njengabancedisi bomphathi wethutyana kamasipala, nabazakuqalisa ukuthabatha ezo zikhundla bakubekwa baze bahlale kwezo zikhundla de uMasipala weSithili abe ukuqinisele okanye ukuphelisile ukubekwa kwabo.

*(section 20A inserted by PN.666/2000)*

*Imbumba yaBaphathi abakwiziKhundla eziPhezulu*

- 20B. Umphathi wethutyana kamasipala nabancedisi bakhe ngabo abaya kuba yimbumba yabaphathi abakwizikhundla eziphezulu kuMasipala weSithili nabaya kubeka iliso kuqaliso lokusekwa koMasipala weSithili.

*(section 20B inserted by PN.666/2000)*

*Indibano yokuqala yeKansile kaMasipala weSithili*

- 21.(1) umphathi wethutyana kamasipala uya kuthi, kwiintsuku ezintathu phambi kokuhlalelwa kwendibano yokuqala yeKansile kaMasipala weSithili, athumele kuceba ngamnye kwindawo ahlala kuyo nokuba kukwindawo ekhethwe nguceba lowo kubhekiselelwe kiye, isaziso esimalunga nendawo, umhla, ixesha lendibano yokuqala kwane-agenda; kuxhomekeke kuye ukubiza indibano yokuqala yesikhawu.
- (2) Ngokungayigatyanga imithetho imithetho yeengingqi esebenzayo, kodwa ngokuxhomekeke kwizibonelelo zoMthetho wamaSebe kaMasipala, imiqathango nemimiselo yentlanganiso yokuqala yeKansile yoMasipala weSithili yimimiselo nemimiselo ekhankanyiweyo kwiSaziso sePhondo esingu-411/1998 njengongoko sichaziweyo kwiGazethi yePhondo enguNombolo 4532 yomhla wama-20 kuMeyi 1998 eneenguqulelo exifunekayo kwezinye iziqendu, loo mimiselo iya kuhlal iyesebenzayo de kusetyenziswe imiqathango nemimiselo nguMasipala weSithili.

*(section 2(2) amended by PN.666/2000)*

- (3) Indawo eya kubanjelwa kuyo indibano yokuqala yeKansile kaMasipala weSithili iya kuba yiNdlu yeKansile etshitshisiweyo leKansile yeSithili saseWest Coast eMoorreesburg.

- (4) I-agenda yendibano yokuqala iya kuba yile ilandelayo:-
- (a) ukunyulwa kwesithethi;
  - (b) xa ngaba uMasipala weSithili ekufuna ukuseka ikomiti elawulayo, ukuba kunjalo, kuya kumiselwa umgaqo-nkqubo womelo lonyulo lwekomiti elawulayo;
  - (c) ukunyulwa kooceba abaya kusebenzela ikomiti elawulayo;
  - (d) ukunyulwa kukasodolophu kumalungu ekomiti elawulayo;
  - (e) ukunyulwa kosekela-sodolophu, kumalungu ekomiti elawulayo nothi amiselwe ngokwemvume nguMphathiswa wePhondo, kwakunye
  - (f) yiyo nayiphi na eminye imisebenzi esekwe ngumphathi wethutyana kamasipala ne-agenda emiselweyo.

*(section 21 amended by PN.666/2000)*

*Ukusetyenziswa kwesi Saziso*

- 21A. Xa kunokubela ukungavisisani, malunga nokufezekiswa kwemiba ekwesi Saziso, phakathi kwesi Saziso nemiqathango yaso nasiphi na isaziso secandelo 84(3) esabhengezwa nguMphathiswa wePhondo okanye nasiphi isaziso secandelo zwa nguMphathiswa wePhondo, nokuba sisiphi kwezo zaziso, imiqathango yesaziso secandelo 84(3) yiyo eya kusebenza.

*(section 21A inserted by PN.666/2000)*

*USekela Sodolophu weSigqeba*

- 21B. Kunikezwe imvume ngokwemiqathango yecandelo 55 lomthetho, iMunicipal Structures Act, njengoko silungisiwe, kusenzelwa unyulo losekela sodolophu wesigqeba.

*(section 21B inserted by PN.175/2003)*

*ISihloko esifutshane nokuqalisa*

22. Esi Saziso sibizwa ngokuba siSaziso esiSekiweyo soMasipala weSithili saseWest Coast (DC1) nesiqalise ukusebenza ngomhla esipapashwe ngawo.



**WET OP PLAASLIKE REGERING: MUNISIPALE STRUKTURE, 1998  
(WET 117 VAN 1998)**

*Gewysig deur:*

*Provinsiale Kennisgewing 666 van 4 Desember 2000  
Provinsiale Kennisgewing 447 van 19 Desember 2002  
Provinsiale Kennisgewing 175 van 28 Mei 2003  
Provinsiale Kennisgewing 2 van 3 Januarie 2006  
Provinsiale Kennisgewing 90 van 28 Februarie 2006  
Provinsiale Kennisgewing 108 van 28 Maart 2008*

**INSTELLING VAN DIE WESKUS DISTRIKSMUNISIPALITEIT (DC1)**

Uit hoofde van die gesag aan my verleen by artikels 12 en 14 van die Wet op Plaaslike Regering: Munisipale Strukture, 1998 (Wet 117 van 1998), gee ek hiermee kennis van die instelling van die Weskus Distriksmunisipaliteit op die voorwaardes wat in die Bylaag hiervan uiteengesit is.

Gedateer op hierdie 22ste dag van September 2000.

P UYS, PROVINSIALE MINISTER VAN PLAASLIKE REGERING

**BYLAAG**

*Woordomsrywings en Uitleg*

1. In hierdie Bylaag, tensy uit die samehang anders blyk, omvat die enkelvoud die meervoud en omgekeerd, word voorkeur verleen aan die Engelse teks ingeval die verskillende tekste teenstrydig is, en het 'n woord of uitdrukking waaraan die Munisipale Strukturewet 'n betekenis geheg het, dieselfde betekenis, en beteken –
  - (1) “**afgeskafte munisipaliteite**” daardie bestaande munisipaliteite afgeskaf ingevolge artikel 3 van hierdie Bylaag;
  - (1A) “**artikel 18-kennisgewing**” 'n kennisgewing ingevolge artikel 18 van die Munisipale Strukture Wysigingswet uitgevaardig;  
*(subartikel (1A) ingevoeg deur PK.666/2000)*
  - (1B) “**artikel 84(3)-kennisgewing**” 'n kennisgewing ingevolge artikel 84(3) van die Munisipale Strukturewet uitgevaardig;  
*(subartikel (1B) ingevoeg deur PK.666/2000)*
  - (2) “**Bedingingsraad**” die Wes-Kaapse afdeling van die Suid-Afrikaanse Bedingingsraad vir Plaaslike Bestuur wat aansoek gedoen het om registrasie as 'n bedingingsraad ingevolge Algemene Kennisgewing 1513/1999, soos gepubliseer in Staatskoerant No. 20282 van 16 Julie 1999;
  - (2A) “**burgemeesters-uitvoerende stelsel**” 'n stelsel wat voorsiening maak vir die uitoefening van uitvoerende gesag deur 'n uitvoerende

burgemeester in wie die uitvoerende leierskap van die munisipaliteit berus en wie deur 'n burgemeesterskomitee bygestaan word;

*(subartikel (2A) ingevoeg deur PK.175/2003)*

- (3) “**Distriksbestuurgebied**” daardie deel van die gebied van die Distriksmunisipaliteit wat tot distriksbestuurgebied verklaar is deur die Munisipale Afbakeningsraad, handelend ingevolge artikel 6 van die Munisipale Strukturewet, soos aangedui op kaart no. 2 wat voorkom in die Bylaag van Algemene Kennisgewing 1139/2000, gepubliseer in Staatskoerant No. 20972 van 10 Maart 2000;
- (4) “**Distriksmunisipaliteit**” die Weskus Distriksmunisipaliteit ingestel ingevolge artikel 4 van die Bylaag;
- (5) “**Distrikstransformasieforum**” die Weskus Distrikstransformasieforum wat ingevolge die DTF-Kennisgewing ingestel is;
- (6) “**DTF-Kennisgewing**” Provinsiale Kennisgewing 78/2000 gepubliseer in Buitengewone Provinsiale Koerant No. 5435 van 10 Maart 2000;
- (7) “**effektiewe datum**” die datum waarop die verkiesing 'n aanvang neem;
- (8) *(subartikel (8) geskrap deur PK.175/2003)*
- (9) “**Grondwet**” die Grondwet van die Republiek van Suid-Afrika, 1996 (Wet 108 van 1996);
- (10) “**HUB**” die hoof uitvoerende beampte van die Weskus Distriksraad;
- (11) “**intermunisipale begrotingsoorplasinge**” die oordrag van fondse tussen munisipaliteite om inkomste stabiliteit te verkry tydens die periode van transformasie;
- (12) “**Munisipale Afbakeningsraad**” die Munisipale Afbakeningsraad wat by artikel 2 van die Munisipale Afbakeningswet ingestel is;
- (13) “**Munisipale Afbakeningswet**” die Wet op Plaaslike Regering: Munisipale Afbakenings, 1998 (Wet 27 van 1998);
- (14) “**Munisipale Strukturewet**” die Wet op Plaaslike Regering: Munisipale Strukture, 1998 (Wet 117 van 1998);
- (14A) “**Munisipale Strukture Wysigingswet**” die Wysigingswet op Plaaslike Regering: Munisipale Strukture, 2000 (Wet 33 van 2000);
- (subartikel (14A) ingevoeg deur PK.666/2000)*
- (14B) “**Nasionale Minister**” die nasionale Minister verantwoordelik vir plaaslike regering;
- (subartikel (14B) ingevoeg deur PK.666/2000)*
- (14C) “**oordragproses**” die proses soos in hierdie Bylaag uiteengesit om effek te gee aan die oordrag van alle personeel, bates, laste en rekords van die afgeskafte munisipaliteite na die Distriksmunisipaliteit of die Plaaslike Munisipaliteite en die proses insluit in:-
  - (a) die identifisering van alle personeel, bates, laste en rekords wat oorgedra moet word;
  - (b) die toepassing van die beginsels ter bewerkstelling van die oordrag soos in hierdie Bylaag uiteengesit;

- (c) die toewysing van elke personeellid, bate, las en rekord aan óf die Distriksmunisipaliteit óf 'n Plaaslike Munisipaliteit, en  
 (d) die inwerkingstelling van die oordrag;

*(subartikel (14C) ingevoeg deur PK.666/2000)*

- (14D) “**personeel**” alle personeel, insluitende funksionele, bestuurs- en steunpersoneel, en sluit dit in vakante poste waarvoor begroot is, maar nie vakante poste waarvoor nie begroot is nie;

*(subartikel (14D) ingevoeg deur PK.666/2000)*

- (15) “**Plaaslike Munisipaliteite**”:

- (a) die Munisipaliteit Matzikama (WCO11);  
 (b) die Munisipaliteit Cederberg (WCO12);  
 (c) die Munisipaliteit Bergrivier (WCO13);  
 (d) die Munisipaliteit Saldanhaai (WCO14), en  
 (e) die Munisipaliteit Swartland (WCO15),

wat met ingang van die effektiewe datum in die gebied van die Distriksmunisipaliteit ingestel word;

*(subartikel (15) gewysig deur PK.666/2000)*

- (15A) “**Plaaslike Munisipaliteitskennisgewings**” Provinsiale Kennisgewings 481/2000, 482/2000, 483/2000, 484/2000 en 485/2000 gepubliseer in Buitengewone Provinsiale Koerant No. 5589 van 22 September 2000;

*(subartikel (15A) ingevoeg deur PK.666/2000)*

- (15B) “**Plaaslike Munisipaliteit se TMB**” die tussentydse munisipale bestuurder van 'n Plaaslike Munisipaliteit;

*(subartikel (15B) ingevoeg deur PK.666/2000)*

- (16) “**Provinsiale Minister**” die lid van die Kabinet van die Provinsie Wes-Kaap verantwoordelik vir plaaslike regering;

- (17) “**Provinsie**” die Provinsie Wes-Kaap;

- (17A) “**senior bestuurspan**” die senior bestuurspan of departementshoofde van die Weskus Distriksraad;

*(subartikel (17A) ingevoeg deur PK.666/2000)*

- (18) “**Statutêre plan**” 'n plan wat ingevolge enige wetgewing vereis word, insluitende, sonder om beperk te wees tot, enige strukturplan, grondgebruikplan, soneringskema, geïntegreerde ontwikkelingsplan, waterdiensteplan, vaardigheidsontwikkelingsplan en diensbillikheidsplan;

- (19) “**Streeksdiensteraadheffings**” “streeksdiensteheffings” en “streeksinstellingsheffings”, soos omskryf in artikel 1 van die Wet op Streeksdiensterade, 1985 (Wet 109 van 1985);

- (19A) “**tussentydse munisipale bestuurder**” die tussentydse munisipale bestuurder van die Distriksmunisipaliteit wat ingevolge artikel 21(1) aangestel is en wie vanaf die effektiewe datum die waarnemende munisipale bestuurder van die Distriksmunisipaliteit sal wees, of die waarnemende munisipale bestuurder of munisipale bestuurder van die

Distriksmunisipaliteit wat na die effektiewe datum deur die Munisipale Raad van die Distriksmunisipaliteit aangestel is;

*(subartikel (19A) ingevoeg deur PK.666/2000)*

- (20) “**vakbonde**” die Onafhanklike Munisipale en Verwante Vakbond en die Suid-Afrikaanse Munisipale Werkersvereniging;
- (21) “**verkiesing**” die eerste algemene verkiesing van Munisipale Rade na die inwerkingtreding van die Grondwet;
- (22) “**WEKPRO**” die Wes-Kaapse Plaaslike Regeringsorganisasie, wat die provinsiale organisasie vir die Wes-Kaap waaraan erkenning verleen word ingevolge artikel 2(1)(b) van die Wet op Georganiseerde Plaaslike Regering, 1997 (Wet 52 van 1997) is;
- (23) “**Wet op Landelike Gebiede**” die Wet op Landelike Gebiede (Raad van Verteenwoordigers), 1987 (Wet 9 van 1987);
- (24) “**Wet op Transformasie van Sekere Landelike Gebiede**” die Wet op Transformasie van Sekere Landelike Gebiede, 1998 (Wet 94 van 1998).

#### *Aanhef*

- 2.(1) Op 3 Maart 2000 het die Munisipale Afbakeningsraad, wat ingevolge artikel 21 van die Munisipale Afbakeningswet handel, die grense van die munisipaliteit bepaal, soos aangetoon op die kaart wat voorkom in Provinsiale Kennisgewing 69/2000 gepubliseer in Buitengewone Provinsiale Koerant Nr. 5431 van 3 Maart 2000 en gewysig deur Provinsiale Kennisgewing 478/2000 gepubliseer in Buitengewone Provinsiale Koerant Nr. 5587 van 19 September 2000. ‘n Kopie van die kaart word in Aanhangsel “1” by hierdie Bylaag herpubliseer.

*(artikel 2(1) gewysig deur PK.2/2006)*

- (2) Op 10 Maart 2000 het die Munisipale Afbakeningsraad, wat ingevolge artikel 6 van die Munisipale Strukturewet handel, die gebied aangetoon op kaart no. 2, gepubliseer in Staatskoerant No. 21617 van 29 September 2000, verklaar tot ‘n distriksbestuursgebied. ‘n Kopie van die kaart word in Aanhangsel “2A” van hierdie Bylaag herpubliseer.

*(artikel 2(2) gewysig deur PK.666/2000)*

- (3) Die Provinsiale Minister, wat ingevolge artikel 12(4) van die Munisipale Strukturewet handel, het:-
  - (a) skriftelike kennis van die voorgenome instelling van die Distriksmunisipaliteit aan WEKPRO en aan die afgeskafte munisipaliteite gegee by wyse van ‘n omsendbrief gedateer 12 Julie 2000 en met verwysing AAO 509/1/4;
  - (b) oorleg gepleeg met WEKPRO en die afgeskafte munisipaliteite;
  - (c) besonderhede van hierdie Kennisgewing gepubliseer in Provinsiale Kennisgewing 385/2000, wat in Buitengewone Provinsiale Koerant No. 5571 van 28 Augustus 2000 gepubliseer is, en
  - (d) die kommentaar wat na die publikasie van die voorgestelde Kennisgewing ontvang is, oorweeg.
- (4) Die Provinsiale Minister het ook die advies van die Distrikstransformasieforum oorweeg wat ingevolge artikel 11(2) van die DTF-Kennisgewing aan hom gegee is.

- (5) Die Provinsiale Minister, wat handel ingevolge artikels 12 en 14 van die Munisipale Strukturewet, soos saamgelees met die Wes-Kaapse Wet op Bepaling van Soorte Munisipaliteite, 2000 (Wet 9 van 2000), gee hiermee kennis van die instelling van die Distriksmunisipaliteit ingevolge die voorwaardes soos hierin uiteengesit.
- (6) Die Provinsiale Minister, wat ingevolge Hoofstuk 2 van die Munisipale Strukture Wysigingswet, soos gelees met artikel 14(2)(b) van die Munisipale Strukturewet, handel, gee hiermee kennis van die reëling van die wetlike, praktiese en ander gevolge van die afskaffing van die afgeskafte munisipaliteite, insluitende:-
- (a) die beginsels wat die oordrag van personeel na die Distriksmunisipaliteit bepaal, en die proses daarvan, welke proses op die datum van publikasie van hierdie kennisgewing begin en op 'n datum wat die Provinsiale Minister bepaal sal eindig;
  - (b) die beginsels wat die oordrag van bates, laste, regte en verpligtinge en administratiewe en ander rekords na die Distriksmunisipaliteit bepaal, en die proses daarvan, welke proses op die datum van publikasie van hierdie kennisgewing begin en op 'n datum wat die Provinsiale Minister bepaal sal eindig;
  - (c) die verskaffing van administratiewe oorgangsmatreëls vir die tydperk vanaf die effektiewe datum tot op 'n datum wat die Provinsiale Minister sal bepaal, om voortgesette dienslewering te verseker en om die integriteit en finansiële lewensvatbaarheid van die Distriksmunisipaliteit te verseker.

*(subartikel (6) ingevoeg deur PK. 666/2000)*

#### *Afskaffing van Bestaande Munisipaliteite*

- 3.(1) Met ingang van middernag van die dag voor die effektiewe datum, sal die volgende munisipaliteite afgeskaf word:-
- (a) Bitterfontein/Nuwerus Plaaslike Oorgangsraad, ingestel ingevolge Proklamasie No. 19/1995 gedateer 31 Januarie 1995;
  - (b) Clanwilliam Verteenwoordigende Oorgangsraad, ingestel ingevolge Proklamasie No. 18/1996 gedateer 26 April 1996, in die mate wat die gebied daarvan ingesluit is binne die grense van die distriksbestuursgebied, soos deur die Munisipale Afbakeningsraad bepaal is en in artikel 2(2) genoem word;
  - (c) Malmesbury Verteenwoordigende Oorgangsraad, ingestel ingevolge Proklamasie No.18/1996 gedateer 26 April 1996, in die mate wat die gebied daarvan ingesluit is binne die grense van die distriksbestuursgebied, soos deur die Munisipale Afbakeningsraad bepaal is en in artikel 2(2) genoem word;
  - (d) Rietpoort Oorgangsraad, ingestel ingevolge Proklamasie No. 88/1995 gedateer 26 Mei 1995, in die mate wat die gebied daarvan ingesluit is binne die grense van die distriksbestuursgebied, soos deur die Munisipale Afbakeningsraad bepaal is en in artikel 2(2) genoem word;
  - (e) Vanrhynsdorp Verteenwoordigende Oorgangsraad, ingestel ingevolge Proklamasie No. 18/1996 gedateer 26 April 1996, in die mate wat die gebied daarvan ingesluit is binne die grense van die

distriksbestuursgebied, soos deur die Munisipale Afbakeningsraad bepaal is en in artikel 2(2) genoem word;

- (f) Vredendal Verteenwoordigende Oorgangsraad, ingestel ingevolge Proklamasie No. 18/1996 gedateer 29 April 1996, in die mate wat die gebied daarvan ingesluit is binne die grense van die distriksbestuursgebied, soos deur die Munisipale Afbakeningsraad bepaal is en in artikel 2(2) genoem word, en
  - (g) Weskus Distrikraad, ingestel ingevolge Proklamasie No. 152/1995 gedateer 15 Desember 1995.
- (2) Die raadslede van die afgeskafte munisipaliteite moet hul ampte ontruim wanneer die pas verkose Raad van die Distriksmunisipaliteit verkose verklaar is en moet teen middernag van dié dag enige eiendom in hul besit wat aan 'n afgeskafte munisipaliteit behoort, aan die HUB van die betrokke afgeskafte munisipaliteit of sy benoemde terugbesorg.

#### *Instelling en Naam*

4. Met ingang van die effektiewe datum sal 'n munisipaliteit ingestel word wat in Afrikaans as "Weskus Distriksmunisipaliteit", in Engels as "West Coast District Municipality", en in isiXhosa as "U Masipala weSithili saseWest Coast" bekend sal staan.

#### *Kategorie*

5. Die Distriksmunisipaliteit is 'n distriksmunisipaliteit soos omskryf in artikel 1 van die Munisipale Strukturewet, naamlik 'n munisipaliteit wat munisipale uitvoerende en wetgewende gesag het in 'n gebied wat meer as een munisipaliteit insluit, en wat in artikel 155(1) van die Grondwet as 'n kategorie C-munisipaliteit bedryf word.

#### *Soort*

6. Die Distriksmunisipaliteit is 'n munisipaliteit met 'n burgemeesters-uitvoerende stelsel soos uiteengesit in die Wes-Kaapse Wet op Bepaling van Soorte Munisipaliteite, 2000 (Wet 9 van 2000), soos gewysig deur die Wes-Kaapse Wysigingswet op Bepaling van Soorte Munisipaliteite, 2002 (Wet 4 van 2002).

*(artikel 6 gewysig deur PK.175/2003)*

#### *Grense*

7. Die grense van die Distriksmunisipaliteit sal die grense wees wat deur die Munisipale Afbakeningsraad bepaal is en in artikel 2(1) genoem word.

#### *Getal Raadslede*

8. Die Munisipale Raad van die Distriksmunisipaliteit het 23 (drie-en-twintig) raadslede, soos bepaal deur die Provinsiale Minister in Provinsiale Kennisgewing 100/2004, gepubliseer in Provinsiale Koerant 6137 van 8 Junie 2004, van wie:-
- (a) 10 (tien) die partye wat ingevolge artikel 23(1)(a) van die Munisipale Strukturewet aan die verkiesing in die Distriksmunisipaliteit deelneem, proporsioneel verteenwoordig;
  - (b) 12 (twaalf) die Plaaslike Munisipaliteite ingevolge artikel 23(1)(b) van die Munisipale Strukturewet regstreeks verteenwoordig, van wie:-

- (i) 2 (twee) die Munisipaliteit Matzikama (WCO11) regstreeks verteenwoordig;
  - (ii) 2 (twee) die Munisipaliteit Cederberg (WCO12) regstreeks verteenwoordig;
  - (iii) 2 (twee) die Munisipaliteit Bergrivier (WCO13) regstreeks verteenwoordig;
  - (iv) 3 (drie) die Munisipaliteit Saldanhaai (WCO14) regstreeks verteenwoordig, en
  - (v) 3 (drie) die Munisipaliteit Swartland (WCO15) regstreeks verteenwoordig, en
- (c) 1 (een) die partye wat ingevolge artikel 23(1)(c) van die Munisipale Strukturewet aan die verkiesing in die Distriksbestuursgebied deelneem, proporsioneel verteenwoordig.

*(artikel 8 gewysig deur PK.666/2000 en PK.90/2006)*

#### *Voltydse Raadslede*

9. Die Distriksmunisipaliteit mag die volgende raadslede as voltydse raadslede aanwys:-
- (a) die uitvoerende burgemeester;
  - (b) lede van die burgemeesterskomitee, en
  - (c) die speaker.

*(artikel 9 gewysig deur PK.447/2002 en PK.175/2003)*

#### *Funksies en Bevoegdhede*

10. Daar sal geen aanpassing van die funksies en bevoegdhede van die Distriksmunisipaliteit ingevolge artikel 85 van die Munisipale Strukturewet wees nie.

#### *Vrystellings*

11. Die Distriksmunisipaliteit is nie van enige van die bepalings van die Munisipale Strukturewet vrygestel nie.

#### *Beginnels wat die Oorplasing van Personeel bepaal*

- 12.(1) Met ingang van die effektiewe datum en ooreenkomstig die bepalings van artikel 197 van die Wet op Arbeidsverhoudinge, 1995 (Wet 66 van 1995), sal:-
- (a) alle personeel van die afgeskafte munisipaliteite wat uitsluitlik betrokke is by funksies wat deur die Distriksmunisipaliteit verrig moet word (insluitende funksies wat deur die Distriksmunisipaliteit in 'n Distriksbestuursgebied verrig moet word), na die Distriksmunisipaliteit oorgeplaas word;
  - (b) alle personeel van die afgeskafte munisipaliteit wat uitsluitlik betrokke is by funksies wat deur enige van die Plaaslike Munisipaliteite verrig moet word, na die betrokke Plaaslike Munisipaliteit oorgeplaas word;
  - (c) enige personeellid van 'n afgeskafte munisipaliteit wat betrokke is by een of meer funksies wat met ingang van die effektiewe datum deur die Distriksmunisipaliteit en een of meer Plaaslike Munisipaliteite of deur meer as een Plaaslike Munisipaliteit verrig word, oorgeplaas word ooreenkomstig die funksie wat die grootste deel van die personeellid se tyd in beslag neem;

- (d) alle personeel van die afgeskafte munisipaliteite wat nie betrokke is by 'n bepaalde funksie of funksies wat deur die Plaaslike Munisipaliteite of die Distriksmunisipaliteit verrig word nie, oorgeplaas word na óf die Distriksmunisipaliteit óf 'n Plaaslike Munisipaliteit in verhoudings wat gebaseer is op die totale getal poste wat ingevolge paragrawe (a), (b) en (c) oorgeplaas word;
- (e) alle vakante poste van die afgeskafte munisipaliteite waarvoor nie begroot is nie, afgeskaf word.
- (2) Behoudens enige kollektiewe ooreenkoms, moet alle regte en verpligtinge tussen die afgeskafte munisipaliteite en elkeen van hul onderskeie werknemers ten tyde van die oorplasing voortgaan om van krag te bly asof dit regte en verpligtinge tussen 'n Plaaslike Munisipaliteit of die Distriksmunisipaliteit, na gelang van die geval, en elkeen van sy werknemers is, en enigiets wat voor die oorplasing deur of met betrekking tot die betrokke afgeskafte munisipaliteit gedoen is, sal geag word deur of met betrekking tot die Plaaslike Munisipaliteit of Distriksmunisipaliteit, na gelang van die geval, gedoen te gewees het.
- (3) Die oorplasing onderbreek nie die kontinuïteit van 'n werknemer se indiensneming nie en dit gaan voort met die Plaaslike Munisipaliteit of Distriksmunisipaliteit, na gelang van die geval, asof dit met die betrokke afgeskafte munisipaliteit is.
- (4) Behoudens die menslikehulpbronbeleid en –prosedures genoem in artikel 14(a) van hierdie Bylaag, kan daar van enige werknemer wat na die Distriksmunisipaliteit oorgeplaas word, vereis word om by enige van die kantore van die Distriksmunisipaliteit aan te meld, en tensy anders ooreengekom, sal so 'n werknemer nie, as gevolg daarvan, nie op enige bykomende vergoeding geregtig wees nie.

*(artikel 12 gewysig deur PK. 666/2000)*

*Proses om Oorplasing van Personeel te bewerkstellig*

12A.(1) Ondanks die bepalings van artikels 12 en 16C, en hangende die voltooiing van die oorplaasproses ingevolge hierdie artikel, moet alle personeel van die afgeskafte munisipaliteite, in soverre dit nodig is, tydelik in diens van die Distriksmunisipaliteit geplaas word en moet alle personeel wat na die Plaaslike Munisipaliteit oorgeplaas staan te word ingevolge die bepalings van artikel 12 of 16C van hierdie Bylaag, dienooreenkomstig geag word na die Distriksmunisipaliteit gesekondeer te wees ingevolge 'n agentskapsreëling tussen die Distriksmunisipaliteit en die Plaaslike Munisipaliteit ten effekte dat die Distriksmunisipaliteit die funksie of funksies waarby die spesifieke personeel betrokke is, namens die Plaaslike Munisipaliteit sal verrig.

(2) Ten einde:-

- (a) enige oorgangsbepalings ingevolge die Munisipale Strukture Wysigingswet te akkommodeer, of
- (b) die Distriksmunisipaliteit en die Plaaslike Munisipaliteite toe te laat om ooreenkomste te sluit, met inbegrip van bedryfsooreenkomste,

wat die oordrag van personeel ingevolge hierdie Bylaag kan beïnvloed, sal geen personeellid finaal toegewys word, soos waarvoor voorsiening gemaak word in subartikel (4) voor 30 Junie 2001 nie, of sodanige alternatiewe datum as wat die Provinsiale Minister bepaal.



- (3) Voor of op 'n datum wat deur die Provinsiale Minister bepaal word, moet elke HUB 'n skedule van alle personeel van sy of haar afgeskafte munisipaliteit opstel in ooreenstemming met 'n formaat deur die Provinsiale Minister voorgeskryf, moet elke personeellid en 'n vakante pos van sy of haar afgeskafte munisipaliteit waarvoor begroot is in ooreenstemming met die beginsels uiteengesit in artikels 12 en 16C voorlopig toewys, en moet kopieë van die volle skedule aan die tussentydse munisipale bestuurder en die Plaaslike Munisipaliteite se TMB's voorlê.
- (4) Voor of op 'n datum wat deur die Provinsiale Minister bepaal word, maar behoudens subartikel (2), moet die tussentydse munisipale bestuurder, in oorleg met die Plaaslike Munisipaliteite se TMB's:-
- (a) die skedules genoem in subartikel (1) konsolideer tot 'n enkele skedule en moet hy of sy na goëddunke elke personeellid en vakante pos waarvoor begroot is en wat in die gekonsolideerde skedule gelys is, finaal aan óf in Plaaslike Munisipaliteit óf die Distriksmunisipaliteit toewys vir oorplasing op die effektiewe datum in ooreenstemming met die beginsels in artikels 12 en 16C uiteengesit of enige ooreenkoms in subartikel (2) bedoel;
  - (b) 'n kopie van die skedule aan elke Plaaslike Munisipaliteit se TMB voorlê en van die Plaaslike Munisipaliteit se TMB die kopie van die skedule deur daardie Plaaslike Munisipaliteit se TMB opgestel, verkry, en
  - (c) die skedule genoem in paragraaf (a) met die skedules wat ontvang is van die Plaaslike Munisipaliteite se TMB's genoem in paragraaf (b), konsolideer tot 'n enkele skedule wat alle personeel wat na die Distriksmunisipaliteit oorgeplaas moet word, aantoon.
- (5) Ondanks die beginsels wat in artikels 12 en 16C uiteengesit is, kan die tussentydse munisipale bestuurder, volgens ooreenkoms met die Plaaslike Munisipaliteite se TMB's, die toewysing van personeel ingevolge subartikel (3) aanpas om voorsiening te maak vir 'n meer doeltreffende algemene toewysing van personeel tussen die Distriksmunisipaliteit en die Plaaslike Munisipaliteite, of tussen die Plaaslike Munisipaliteite; met dien verstande dat geen aanpassing gedoen mag word nadat 'n personeellid ingevolge subartikel (8) in kennis gestel is nie.
- (6) Indien enige geskil met betrekking tot die toewysing van personeel tussen die tussentydse munisipale bestuurder en die TMB van een of meer Plaaslike Munisipaliteit ontstaan, moet sodanige geskil na die Provinsiale Minister verwys word vir beslissing deur die Provinsiale Minister of sy benoemde in ooreenstemming met prosedures wat deur die Provinsiale Minister bepaal word, en die besluit van die Provinsiale Minister of sy benoemde is finaal en bindend.
- (7) Die tussentydse munisipale bestuurder moet die gekonsolideerde skedule in subartikel (4)(c) genoem, skriftelik verifieer en moet die skedule aan die Provinsiale Minister voorlê voor of op 'n datum wat deur die Provinsiale Minister bepaal moet word.
- (8) Na die opstelling van die enkele gekonsolideerde skedule genoem in subartikel (4)(c), moet die tussentydse munisipale bestuurder elke toekomstige personeellid van die Distriksmunisipaliteit voorsien van 'n

skriftelike kennisgewing wat sodanige personeellid meedeel dat hy of sy met ingang van die effektiewe datum in diens van die Distriksmunisipaliteit is.

- (9) Die nie-ontvangs van die skriftelike kennisgewing genoem in subartikel (8) maak nie enige oorplasing ongeldig nie.
- (10) Indien enige personeellid (“die beswaarmaker”) aanvoer dat sy of haar oorplasing nie in ooreenstemming met die beginsels uiteengesit in artikels 12 en 16C, ‘n ooreenkoms in subartikel (2) bedoel of die proses uiteengesit in hierdie artikel bewerkstellig is nie, kan die beswaarmaker binne 14 dae van inkennisstelling ingevolge subartikel (5) skriftelike beswaar aanteken by die tussentydse munisipale bestuurder van die munisipaliteit na wie hy of sy oorgeplaas is. Die tussentydse munisipale bestuurder moet die beswaar na die Provinsiale Minister verwys vir beslissing deur die Provinsiale Minister of sy of haar benoemde in ooreenstemming met prosedures wat deur die Provinsiale Minister bepaal word, en die besluit van die Provinsiale Minister of sy benoemde is finaal en bindend.

*(subartikel (10) gewysig deur PK 108 /2008)*

- (11) Hangende ‘n beslissing deur die Provinsiale Minister of sy benoemde ingevolge subartikel (10) moet die beswaarmaker oorgeplaas word na die munisipaliteit, soos in ooreenstemming met hierdie artikel beslis. Indien die Provinsiale Minister of sy benoemde beslis dat die beswaarmaker na ‘n ander munisipaliteit oorgeplaas moes geword het, moet die beswaarmaker na daardie munisipaliteit oorgeplaas word, en word sy of haar oorplasing geag in ooreenstemming met artikels 12 en 16C op die effektiewe datum bewerkstellig te gewees het.
- (12) Indien enige personeellid nie aangetoon word in die skedule in subartikel (4)(a) genoem nie, of indien enige personeellid met ingang van die effektiewe datum aan meer as een munisipaliteit toegewys word, moet daardie personeellid onmiddellik nadat hy of sy van enige van hierdie feite bewus word, dit aanmeld by die tussentydse munisipale bestuurder of die Plaaslike Munisipaliteit se TMB, wat die aangeleentheid in ooreenstemming met prosedures deur die Provinsiale Minister bepaal, na die Provinsiale Minister vir beslissing deur die Provinsiale Minister of sy benoemde moet verwys, en die besluit van die Provinsiale Minister of sy benoemde is finaal en bindend.
- (13) Voor of op ‘n datum wat deur die Provinsiale Minister bepaal word, moet die Distriksmunisipaliteit ‘n diensstaat vir die Distriksmunisipaliteit goedkeur ingevolge relevante wetgewing en ‘n afskrif van die dokument waarin die diensstaat uiteengesit word, aan die Transformasiesubkamer van die Bedingingsraad voorlê; met dien verstande dat die Distriksmunisipaliteit nie ‘n diensstaat vir die Distriksmunisipaliteit finaal sal goedkeur, voordat die tussentydse munisipale bestuurder die gekonsolideerde skedule ingevolge subartikel (7) geverifieer het nie.
- (14) Voor of op ‘n datum wat deur die Provinsiale Minister bepaal word, in soverre daar nie voor die effektiewe datum ingevolge artikel 13(2) van hierdie skedule ‘n ooreenkoms bereik is nie, moet die Distriksmunisipaliteit, as ‘n lid van die Transformasiesubkamer van die Bedingingsraad, poog om kollektiewe ooreenkoms met die vakbonde in die Transformasiesubkamer van die Bedingingsraad te bereik, betreffende die beginsels, prosedures en maatstawwe wat gevolg moet word om aanstellings te doen in die poste wat uit die skepping van ‘n nuwe organisasiestruktuur vir die Distriksmunisipaliteit voortspruit.

- (15) Voor of op 'n datum wat deur die Provinsiale Minister bepaal word, moet die Distriksmunisipaliteit aanstellings doen in die poste op die diensstaat in ooreenstemming met die beginsels, prosedures en maatstawwe waarop daar in die Transformasiesubkamer van die Bedingingsraad ooreengekom is.

*(artikel 12A ingevoeg deur PK.666/2000)*

*Kollektiewe Ooreenkomste*

- 13(1). Enige kollektiewe ooreenkoms aangegaan:-

- (a) op 'n nasionale vlak, of
- (b) by die Bedingingsraad, of
- (c) op 'n plaaslike vlak;

voor die datum van publikasie van hierdie Bylaag, sal ten volle van krag bly totdat dit ooreenkomstig die bepalings van die betrokke ooreenkoms gewysig of beëindig word.

- (2) Voor die effektiewe datum moet die afgeskafte munisipaliteite, as lede van die Transformasiesubkamer van die Bedingingsraad, daarna streef om ooreen te kom met die vakbonde ten aansien van:-

- (a) die proses en kriteria vir die plasing van personeel in die nuwe organisatoriese strukture na die effektiewe datum;
- (b) die proses wat gevolg sal word vir die vul van nuwe poste voortvloeiend uit die skep van 'n nuwe organisatoriese struktuur vir die Distriksmunisipaliteit;
- (c) die aanneem van bepalings en voorwaardes van indiensneming vir die Distriksmunisipaliteit na die effektiewe datum, en
- (d) enige ander arbeidsaangeleentheid in verband met die instelling van die Distriksmunisipaliteit.

*Menslikehulpbronaangeleenthede*

14. Behoudens enige kollektiewe ooreenkoms:-

- (a) is die menslikehulpbronbeleid en -prosedures van die Distriksmunisipaliteit die menslikehulpbronbeleid en -prosedures wat voor die effektiewe datum bestaan het, en dit bly op alle werknemers van toepassing op dieselfde wyse as wat dit voor die effektiewe datum die geval was, behoudens enige wysiging of herroeping deur die Distriksmunisipaliteit;
- (b) is die bepalings en voorwaardes van indiensneming van alle werknemers van die Distriksmunisipaliteit, die bepalings en voorwaardes van indiensneming wat voor die effektiewe datum op elke werknemer van toepassing was; met dien verstande dat enige werknemer wat na die effektiewe datum aangestel word, aangestel sal word op die bepalings en voorwaardes van indiensneming soos vasgestel deur die Distriksmunisipaliteit.

*Gevolge van Oorplasing ten opsigte van Sekere Personeelkwessies*

- 15.(1) Behoudens enige kollektiewe ooreenkoms, word 'n werknemer wie se pos as gevolg van die oorplasing verander word, nie geag oortollig te wees vir die doel van enige bepaling of voorwaarde van indiensneming of enige

pensioenfondsreël wat aan die werknemer die keuse bied om sy of haar indiensneming met voordele te beëindig nie.

- (2) Die bepalings van hierdie artikel is slegs van toepassing indien die werknemer onredelikerwys weier om die Distriksmunisipaliteit se aanbod van alternatiewe indiensneming te aanvaar.
- (3) Vir die doeleindes van hierdie artikel sluit 'n verandering van 'n pos een of meer van die volgende in:-
  - (a) die pos bestaan nie meer nie;
  - (b) die pos is afgeskaf;
  - (c) die werknemer moet om die pos aansoek doen;
  - (d) die funksies en bevoegdhede van die pos het verander;
  - (e) daar is 'n verandering in die werkgewer se identiteit;
  - (f) die pos word aan ander verslagdoeningskanale onderwerp;
  - (g) die pos word anders beskryf.

#### *Regsopvolging*

16. Met ingang van die effektiewe datum:-
  - (1) Sal die Distriksmunisipaliteit die regsopvolger van die afgeskafte munisipaliteite wees, en die munisipaliteite wat ingevolge die Plaaslike Munisipaliteitskennisgewings afgeskaf moet word, ten opsigte van die spesifieke bates en laste wat ingevolge hierdie Bylaag aan die Distriksmunisipaliteit toegewys word.
  - (2) Behoudens subartikel (1) en artikel 16D van hierdie Bylaag, word alle regte en verpligtinge van die afgeskafte munisipaliteite wat nie ingevolge hierdie Bylaag toegewys word nie, toegewys aan die Distriksmunisipaliteit, en die Distriksmunisipaliteit is die regsopvolger van die afgeskafte munisipaliteite ten opsigte van sulke regte en verpligtinge.
  - (3) Sal alle belasting, inkomste en ander gelde betaalbaar aan enige afgeskafte munisipaliteit of deur die afgeskafte munisipaliteit verhaalbaar is, betaalbaar wees aan en verhaalbaar wees deur die regsopvolger van so 'n afgeskafte munisipaliteit in ooreenstemming met die bepalings van hierdie Bylaag.
  - (4) Ondanks subartikel (1):-
    - (a) sal die Distriksmunisipaliteit die regsopvolger van die afgeskafte munisipaliteite met betrekking tot die sake wat uiteengesit word in die Wet op Transformasie van Sekere Landelike Gebiede en die Wet op Landelike Gebiede wees en, in dié mate, totdat dit oorgedra is na 'n entiteit wat in artikel 3 van die Wet op Transformasie van Sekere Landelike Gebiede beoog word:-
      - (i) sal grond wat deur die Minister vir Landbou en Grondsake ingevolge artikel 7 van die Wet op Landelike Gebiede in trust gehou word en wat onderworpe is aan die bepalings van artikel 3 van die Wet op Transformasie van Sekere Landelike Gebiede, steeds berus by die Minister vir Landbou en Grondsake, en

- (ii) sal grond wat ingevolge die Wet op Landelike Gebiede deur die afgeskafte munisipaliteite verkry is en wat onderworpe is aan die bepalings van artikel 3 van die Wet op Transformasie van Sekere Landelike Gebiede, met ingang van die effektiewe datum by die Distriksmunisipaliteit berus;
- (b) grond in subartikel (2)(a) genoem sal, hangende oordrag ingevolge artikel 3 van die Wet op Transformasie van Sekere Landelike Gebiede, deur die Distriksmunisipaliteit ingevolge die Wet op Landelike Gebiede en die regulasies ingevolge die Wet op Landelike Gebiede gemaak, bestuur word.

*(artikel 16 gewysig deur PK. 666/2000)*

*Beginsels wat Oorplasing van Bates, Laste en Rekords bepaal*

16A. Met ingang van die effektiewe datum:-

- (1) Alle bates, laste en rekords van die afgeskafte munisipaliteite wat uitsluitlik verband hou met funksies wat deur die Distriksmunisipaliteit verrig moet word (insluitende funksies wat deur die Distriksmunisipaliteit in 'n Distrikbestuursgebied verrig moet word), moet na die Distriksmunisipaliteit oorgeplaas word.
- (2) Alle bates, laste en rekords van die afgeskafte munisipaliteite wat uitsluitlik verband hou met funksies wat deur enige van die Plaaslike Munisipaliteite verrig moet word, moet na die betrokke Plaaslike Munisipaliteit oorgeplaas word.
- (3) Enige roerende bate van een van die afgeskafte munisipaliteite wat in verband hou met een of meer funksies wat met ingang van die effektiewe datum deur die Distriksmunisipaliteit en een of meer Plaaslike Munisipaliteit of deur meer as een Plaaslike Munisipaliteite verrig sal word en wat tussen hulle verdeel kan word, moet tussen hulle verdeel word:-
  - (a) ooreenkomstig die persentasie werklike tyd wat die betrokke bate in elke gebied vir die funksie gebruik word;
  - (b) ooreenkomstig die persentasie werklike tyd wat die betrokke bate vir die funksie tot voordeel van elke party gebruik word, of
  - (c) op enige ander grondslag deur die Provinsiale Minister goedgekeur.
- (4) Alle onroerende bates van die afgeskafte munisipaliteite wat verband hou met 'n funksie of funksies wat deur die Distriksmunisipaliteit en een of meer van die Plaaslike Munisipaliteite, of deur meer as een van die Plaaslike Munisipaliteite verrig moet word, en alle roerende bates wat verband hou met 'n funksie of funksies wat deur die Distriksmunisipaliteit en een of meer van die Plaaslike Munisipaliteite of deur meer as een van die Plaaslike Munisipaliteite verrig moet word en wat nie tussen hulle verdeel kan word nie, indien die Distriksmunisipaliteit die hoofgebruiker van daardie bate sal wees, moet na die Distriksmunisipaliteit oorgeplaas word, en moet in alle ander gevalle oorgeplaas word na die Plaaslike Munisipaliteit wat die hoofgebruiker van daardie bate sal wees; met dien verstande dat enige munisipaliteit wat 'n belang by daardie bate het, geregtig is om voort te gaan om daardie bate te gebruik teen betaling van 'n proporsionele deel van die koste en totdat sy gebruiksreg volgens ooreenkoms beëindig word.

- (5) Ondanks die bepalings van subartikel (4), kan die Plaaslike Munisipaliteite en die Distriksmunisipaliteit ooreenkom om enige onroerende bate genoem in subartikel (4) wat verdeelbaar is, te onderverdeel of om enige groep bates genoem in subartikel (3) en (4) op 'n billike grondslag te verdeel, met inagneming van die aard van en die doel wat gedien word deur so 'n bate of bates, soos tussen hulle ooreengekom, en om elke deel daarvan in ooreenstemming met daardie ooreenkoms toe te wys.
- (6) Alle finansiële bates van die afgeskafte munisipaliteite wat verband hou met 'n funksie of funksies wat deur die Distriksmunisipaliteit en een of meer van die Plaaslike Munisipaliteite of deur meer as een van die Plaaslike Munisipaliteite verrig moet word, moet billik verdeel word tussen die betrokke munisipaliteite, met inagneming van aard van en die doel wat gedien word deur daardie bate.
- (7) Alle finansiële bates en laste van die afgeskafte munisipaliteite wat nie in verband staan met 'n bepaalde funksie nie, moet tussen die Plaaslike Munisipaliteit en die Distriksmunisipaliteit op die volgende grondslag verdeel word:-
- (a) opgehoopte voorsienings vir werknemersvoordele, soos opgehoopte verlofondse, moet oorgeplaas word, indien die voorsiening gekoppel kan word aan 'n spesifieke werknemer in ooreenstemming met die oordrag van daardie werknemer ingevolge hierdie Bylaag, en in ander gevalle in verhouding tot die totale salaris- en loonvoorsiening wat na die Plaaslike Munisipaliteite en die Distriksmunisipaliteit oorgeplaas moet word;
  - (b) reserwes en voorsienings wat vir 'n spesifieke doel opgehoop is, moet op 'n billike grondslag oorgeplaas word, met inagneming van die aard van en die doel wat gedien word deur elke bepaalde reserwe of voorsiening;
  - (c) reserwes en opgehoopte surplusse van 'n algemene aard moet tussen die Plaaslike Munisipaliteite en die Distriksmunisipaliteit verdeel word op die volgende grondslag:-
    - (i) in verhouding tot die mees onlangse gekonsolideerde finansiële state van die Distriksmunisipaliteit en Plaaslike Munisipaliteite;
    - (ii) enige ander grondslag deur die Provinsiale Minister goedgekeur.
- (8) Alle ontasbare bates van die afgeskafte munisipaliteite wat verband hou met 'n funksie of funksies wat deur die Distriksmunisipaliteit en een of meer van die Plaaslike Munisipaliteite of deur meer as een van die Plaaslike Munisipaliteite verrig moet word, moet aan een munisipaliteit toegewys word; met dien verstande dat enige ander munisipaliteit met 'n belang by daardie ontasbare bate geregtig is:-
- (a) op billike kompensasie, insluitende finansiële, ruil- of ander kompensasie, soos ooreengekom, en
  - (b) om voort te gaan om daardie bate te gebruik teen betaling van 'n proporsionele deel van die koste totdat sy gebruiksreg volgens ooreenkoms beëindig word.
- (9) Alle rekords van die afgeskafte munisipaliteite wat in verband hou met 'n funksie of funksies wat deur die Distriksmunisipaliteit en een of meer van die Plaaslike Munisipaliteite of deur meer as een van die Plaaslike

Munisipaliteite verrig moet word en wat nie tussen genoemde munisipaliteite verdeel kan word nie, moet toegewys word aan een munisipaliteit ooreenkomstig die funksie waarop die rekords die nouste betrekking het; met dien verstande dat die ander munisipaliteite die reg van toegang tot daardie rekords het en die reg om kopieë daarvan te verkry.

(10) Alle laste van die afgeskafte munisipaliteite wat verband hou met 'n funksie of funksies wat deur die Distriksmunisipaliteit en een of meer van die Plaaslike Munisipaliteite of deur meer as een van die Plaaslike Munisipaliteite verrig moet word, moet op billike wyse gedeel word tussen die Distriksmunisipaliteit en die betrokke Plaaslike Munisipaliteite, met inagneming van die aard en doel van die las.

(11) Alle bates en laste van die afgeskafte munisipaliteite, uitgesonderd dié genoem in subklousule (7) wat nie in verband staan met 'n bepaalde funksie nie, moet oorgeplaas word na die Plaaslike Munisipaliteit waarmee dit die nouste betrekking het, en in die geval van onroerende bates, insluitende roerende bates wat betrokke is, moet dit oorgeplaas word na die Plaaslike Munisipaliteit in wie se gebied dit geleë is.

*(artikel 16A ingevoeg deur PK. 666/2000)*

*Proses om Oorplasing van Bates, Laste en Rekords te bewerkstellig*

16B.(1) Ondanks die bepalings van artikels 16A en 16C, en hangende die voltooiing van die oorplasproses ingevolge hierdie artikel, moet alle bates, laste en rekords van die afgeskafte munisipaliteite, in soverre dit nodig is, tydelik na die Distriksmunisipaliteit oorgeplaas word en moet alle bates, laste en rekords wat na die Plaaslike Munisipaliteit oorgeplaas moet word ingevolge die bepalings van artikels 16A of 16C van hierdie Bylaag, dienooreenkomstig geag word na die Distriksmunisipaliteit oorgeplaas te wees ingevolge 'n agentskapsreëling tussen die Distriksmunisipaliteit en die betrokke Plaaslike Munisipaliteit ten effekte dat die Distriksmunisipaliteit die funksie of funksies waarby die spesifieke bates, laste en rekords betrokke is, namens die Plaaslike Munisipaliteit sal verrig.

(2) Ten einde:-

(a) enige oorgangsbepalings ingevolge die Munisipale Strukture Wysigingswet te akkommodeer, of

(b) die Distriksmunisipaliteit en die Plaaslike Munisipaliteit toe te laat om ooreenkomste te sluit, met inbegrip van bedryfsooreenkomste,

wat die oordrag van bates, laste en rekords ingevolge hierdie Bylaag kan beïnvloed, sal geen bates, las of rekord finaal toegewys word, soos daarvoor voorsiening gemaak word in subartikel (4) voor 30 Junie 2001 nie, of sodanige alternatiewe datum as wat die Provinsiale Minister bepaal.

(3) Voor of op 'n datum wat deur die Provinsiale Minister bepaal word, moet elke HUB 'n skedule van alle bates, laste en rekords van sy of haar afgeskafte munisipaliteit opstel in ooreenstemming met 'n formaat deur die Provinsiale Minister voorgeskryf, moet alle bates, laste en rekords van sy of haar afgeskafte munisipaliteit waarvoor begroot is in ooreenstemming met die beginsels uiteengesit in artikels 16A en 16C voorlopig toewys, en moet kopieë van die volle skedule aan die tussentydse munisipale bestuurder en Plaaslike Munisipaliteite se TMB's voorlê.

- (4) Voor of op 'n datum wat deur die Provinsiale Minister bepaal word, maar behoudens subartikel (2), moet die tussentydse munisipale bestuurder, in ooreleg met die Plaaslike Munisipaliteit se TMB's:-
- (a) die skedules genoem in subartikel (1) konsolideer tot 'n enkele skedule en moet finaal alle bates, laste en rekords gelys in die gekonsolideerde skedule toewys aan óf die Plaaslike Munisipaliteit óf die Distriksmunisipaliteit vir oordrag op die effektiewe datum in ooreenstemming met die beginsels uiteengesit in artikels 16A en 16C of enige ooreenkoms na verwys in subartikel (2);
  - (b) 'n kopie van die skedule aan elke Plaaslike Munisipaliteit se TMB voorlê en van elke Plaaslike Munisipaliteit se TMB die kopie van die skedule deur daardie Plaaslike Munisipaliteit se TMB opgestel, verkry, en
  - (c) die skedule genoem in paragraaf (a) en die skedules wat van die Plaaslike Munisipaliteite se TMB's ontvang is, genoem in paragraaf (b), konsolideer tot 'n enkele skedule wat alle bates, laste en rekords wat na die Distriksmunisipaliteit oorgeplaas moet word, weergee.
- (5) Ondanks die beginsels in artikels 16A en 16C uiteengesit, kan die tussentydse munisipale bestuurder volgens ooreenkoms met die Plaaslike Munisipaliteite se TMB's die toewysing van bates, laste en rekords ingevolge subartikel (4) aanpas om voorsiening te maak vir 'n effektiewer algemene toewysing tussen die Distriksmunisipaliteit en die Plaaslike Munisipaliteite of tussen die Plaaslike Munisipaliteite.
- (6) Indien enige geskil met betrekking tot die toewysing van enige bates, laste of rekords tussen die tussentydse munisipale bestuurder en die TMB van een of meer Plaaslike Munisipaliteite ontstaan, moet sodanige geskil na die Provinsiale Minister verwys word vir beslissing deur die Provinsiale Minister of sy benoemde in ooreenstemming met prosedures wat deur die Provinsiale Minister bepaal word, en die besluit van die Provinsiale Minister of sy benoemde is finaal en bindend.
- (7) Die tussentydse munisipale bestuurder moet die gekonsolideerde skedule genoem in subartikel (4)(c) skriftelik verifieer en dit aan die Provinsiale Minister voorlê voor of op 'n datum wat deur die Provinsiale Minister bepaal word.
- (8) So gou moontlik nadat die gekonsolideerde skedule ingevolge subartikel (7) geverifieer is, maar nie later nie as 'n datum wat deur die Provinsiale Minister bepaal word, moet die tussentydse munisipale bestuurder die oorplasing van alle bates, laste en rekords van die afgeskafte munisipaliteite in werking stel.
- (9) Die Distriksmunisipaliteit moet die oorplasing van bates, laste en rekords nie later nie as 12 maande na die effektiewe datum audit, of sodanige latere datum as wat deur die Provinsiale Minister bepaal word.

*(artikel 16B ingevoeg deur PK. 666/2000)*

*Oorplasing van personeel, bates en laste met betrekking tot funksies uitgesonderd dié gelys in artikel 84 van die Munisipale Strukturewet*

- 16C. Ondanks die bepalings van artikels 12(1) en 16A van hierdie Bylaag en met ingang van die effektiewe datum, moet:-
- (a) alle personeel, bates, laste en rekords van die afgeskafte munisipaliteite wat uitsluitlik verband hou met:-



- (i) paaie, behalwe munisipale paaie;
- (ii) ambulansdienste;
- (iii) gesondheidsdienste, behalwe munisipale gesondheidsdienste;
- (iv) behuising;
- (v) biblioteke;
- (vi) museums;
- (vii) rampbestuur;
- (viii) watertoevoerstelsels, behalwe drinkbare watertoevoerstelsels;
- (ix) natuur- en omgewingsbewaring, insluitende kusbeheer, omgewingsopvoeding, dierebeheer en beheer oor binnelandse waters, en
- (x) verkeer en wetstoepassing,

na die Distriksmunisipaliteit oorgeplaas word ingevolge artikels 12(2), (3) en (4) en die proses uiteengesit in artikels 12A en 16B van hierdie Bylaag uiteengesit;

- (b) enige personeellid, bate, las en rekord van die afgeskafte munisipaliteite wat nie verband hou met 'n funksie genoem in artikel 84(1) van die Munisipale Strukturewet of paragraaf (a) nie, sal met inagneming van die effektiewe datum oorgedra word, ingevolge die beginsels en proses in artikels 12, 12A, 16A en 16B van hierdie Bylaag uiteengesit, na die Plaaslike Munisipaliteit wat die funksie waarby dit betrokke is sal verrig.

*(artikel 16C ingevoeg by PK.666/2000)*

*Oorplasing van personeel, bates, laste en rekords met betrekking tot munisipale diensleweringsooreenkomste*

- 16D.(1) Ondanks enige andersluidende bepaling van enige munisipale diensleweringsooreenkoms wat deur 'n afgeskafte munisipaliteit aangegaan is en ingevolge waarvan daardie afgeskafte munisipaliteit die diensverskaffer is, moet alle personeel, bates, laste en rekords van die afgeskafte munisipaliteite in ooreenstemming met die bepaling van hierdie Bylaag oorgeplaas word.
- (2) Die Provinsiale Minister moet bepaal watter munisipaliteit ingevolge enige munisipale diensleweringsooreenkoms wat 'n afgeskafte munisipaliteit aangegaan het ingevolge waarvan daardie afgeskafte munisipaliteit die diensverskaffer is, die regsopvolger van die afgeskafde munisipaliteit sal wees, en kan die Distriksmunisipaliteit of enige Plaaslike Munisipaliteit gelas om enige tussentydse diensleweringsooreenkomste ingevolge artikel 19 van hierdie Bylae te implementeer en te administreer ten einde deurlopende dienslewering ingevolge so 'n ooreenkoms te verseker.
- (3) Vir die tydperk vanaf die effektiewe datum tot die datum waarop die Provinsiale Minister 'n beslissing ingevolge subartikel (3) doen, is die Distriksmunisipaliteit die regsopvolger van die afgeskafte munisipaliteite met betrekking tot enige munisipale diensleweringsooreenkoms in subartikel (1) bedoel in ooreenstemming met die bepaling van artikel 19.

*(artikel 16D ingevoeg deur PK. 666/2000)*

*Versuim om sekere bepalinge van hierdie Bylaag te implementeer*

- 16E. Indien die tussentydse munisipale bestuurder of enige ander persoon wat 'n taak moet verrig soos in artikel 12A of artikel 16B uiteengesit, versuim of weier om dit te doen binne die tydperke in daardie artikels bepaal, kan die Provinsiale Minister enige persoon benoem om sodanige take te verrig, in welke geval die Distriksmunisipaliteit of die Plaaslike Munisipaliteit verplig is om ten volle met sodanige persoon saam te werk.

*(artikel 16E ingevoeg deur PK. 666/2000)*

*Oorgangsbepalings met betrekking tot Verordeninge en Besluite*

- 17.(1) Enige verordening wat onmiddellik voor die effektiewe datum in die gebied van 'n afgeskafte munisipaliteit van krag is, sal met ingang van die effektiewe datum en hangende die hersiening en rasionalisering daarvan ingevolge artikel 15 van die Munisipale Strukturewet ten volle van krag bly in die gebied waarvoor dit afgekondig is, behoudens enige wysiging of herroeping deur die Distriksmunisipaliteit.
- (2) Tensy onbestaanbaar met die sinsverband of duidelik ontoepaslik, moet 'n verwysing in so 'n verordening na:-
- (a) 'n afgeskafte munisipaliteit of sy voorganger uitgelê word as sou dit 'n verwysing na die Distriksmunisipaliteit wees, en
  - (b) 'n struktuur of funksionaris van 'n afgeskafte munisipaliteit uitgelê word as sou dit 'n verwysing na die ooreenstemmende struktuur of funksionaris van die Distriksmunisipaliteit wees.
- (3) Behoudens die bepalinge van hierdie Bylaag en nieteenstaande die afskaffing van die afgeskafte munisipaliteite, sal enige:-
- (a) besluit geneem;
  - (b) kennisgewing, sertifikaat of ander dokument uitgereik;
  - (c) opdrag, goedkeuring, verlof of magtiging gegee of verleen;
  - (d) vrystelling, lisensie of permit verleen of uitgereik;
  - (e) aanstelling gedoen;
  - (f) werknemer benoem;
  - (g) ooreenkoms of kontrak aangegaan;
  - (h) delegasie van bevoegdheid aan 'n werknemer verleen;
  - (i) belastinge, tariewe of heffings gehef of opgelê;
  - (j) reservering van grond gedoen; en
  - (k) ander handeling verrig of ding gedoen,
- deur 'n afgeskafte munisipaliteit, behoudens die bepalinge van hierdie Bylaag geag word deur die Distriksmunisipaliteit geneem, uitgereik, gegee, gedoen, benoem, aangegaan, verleen, geheg, opgelê of verrig te gewees het, hangende die hersiening en rasionalisering daarvan, ingevolge artikel 15 van die Munisipale Strukturewet.
- (4) Behoudens artikel 20 van hierdie Bylaag, sal enige persoon wat op die effektiewe datum 'n bevoegdheid uitoefen of 'n plig of funksie verrig uit hoofde van die amp wat hy of sy beklee of uit hoofde van 'n delegasie van bevoegdheid waarmee die afgeskafte munisipaliteit hom of haar beklee het,

voortgaan om daardie bevoegdheid uit te oefen of daardie plig of funksie te verrig totdat die Distriksmunisipaliteit die teendeel besluit.

- (5) Vir die toepassing van die Bylaag van die Regulasie aangaande die Verklaring van Vredesbeamptes wat ingevolge artikel 334 van die Strafproseswet, 1977 (Wet 51 van 1977) gemaak is, sal enige wetstoepassingsbeampte wat deur 'n afgeskafte munisipaliteit aangestel is, na die effektiewe datum geag word deur die Distriksmunisipaliteit aangestel te gewees het vir die regsgebied van die Distriksmunisipaliteit.
- (6) Enige statutêre plan wat in die regsgebied van die afgeskafte munisipaliteite van krag of in werking is, sal van krag of in werking bly ten opsigte van die gebied waarop dit bedoel was om van toepassing te wees, totdat dit deur die Distriksmunisipaliteit gewysig, verander of herroep word.

#### *Finansiële Aangeleenthede*

- 18.(1) Met ingang van die effektiewe datum sal die bestaande begrotings van die afgeskafte munisipaliteite tot 30 Junie 2001 die begroting van die Distriksmunisipaliteit uitmaak, en intermunisipale begrotingsoorplasinge sal voortduur vir die 2000/2001 finansiële jaar.
- (2) Ondanks die bepalings van subartikel (1) mag die Distriksmunisipaliteit:-
  - (a) die bestaande begrotings aanpas, of
  - (b) besluit om sy rekeninge te sluit en opnuut vir die res van die finansiële jaar te begroot;

mits enige so 'n begroting ooreenkomstig tersaaklike wetgewing aangepas of opgestel en goedgekeur word, na gelang van die geval.
- (3) In die belang van finansiële stabiliteit moet, vanaf die effektiewe datum tot 30 Junie 2001, enige begrotings wat verband hou met 'n funksie wat deur 'n Plaaslike Munisipaliteit verrig sal word, en sal vir daardie Plaaslike Munisipaliteit beskikbaar wees, ongeag of daar deur 'n afgeskafte munisipaliteit vir die voorsiening begroot is of nie, tensy die Distriksmunisipaliteit en die betrokke Plaaslike Munisipaliteit anders ooreenkom.
- (4) Voor die aanvang van die 2001/2002 finansiële jaar moet die Distriksmunisipaliteit oorweeg om finansiële bestuursplanne en –beleide aan te neem betreffende:-
  - (a) maatreëls, insluitende intermunisipale begrotingsoorplasinge, om inkomste stabiliteit vir die periode na die 2000/2001 finansiële jaar te verseker;
  - (b) mediumtermynuitgawe;
  - (c) gelykmaking van tariefstrukture vir die Distriksbestuursgebied;
  - (d) die opstel van 'n nuwe algemene waardasierol vir die Distriksbestuursgebied en die ingebruikneming van billike eiendomsbelatings vir die Distriksbestuursgebied;
  - (e) die ingebruikneming van gekonsolideerde rekeninglieweringskemas;
  - (f) die konsolidasie van finansiële rekeningkundige stelsels en begrotingstelsels;
  - (g) kredietbeheer, en

- (h) verkryging.
- (5) Enige verpligte kapitaalprojek wat deur 'n Plaaslike Munisipaliteit geadministreer moet word en wat uit Streeksraadheffings op 'n kontantbasis befonds word, sal na die effektiewe datum voortgaan om so befonds te word tot die voltooiing van so 'n projek, ten einde te voorkom dat die Plaaslike Munisipaliteit bykomende leenfinansiering moet verkry.

*Administratiewe oorgangsreëlings*

- 19.(1) Met ingang van die effektiewe datum tot die datum waarop alle personeel, bates, laste en rekords finaal toegewys is ingevolge die bepalings van hierdie Bylaag, of sodanige alternatiewe datum as wat die Provinsiale Minister bepaal, is die Distriksmunisipaliteit:-
- (a) verplig om met alle personeel, bates, laste en rekords:-
- (i) wat tydelik geplaas is ingevolge artikel 12A(1);
  - (ii) wat tydelik oorgedra is ingevolge artikel 16B(1), en
  - (iii) wat voorlopig toegewys is ingevolge artikels 12A(3) en 16B(3),
- in die uiterste goeie trou te behandel met inagneming van die belange van die Plaaslike Munisipaliteite;
- (b) sonder om afbreuk te maak aan die algemene aard van subartikel (1) en behoudens artikel 12(2), mag nie, met verwysing na paragrawe (i) en (vii) hieronder sonder die vooraf skriftelike goedkeuring van die Provinsiale Minister welke goedkeuring voorwaardelik mag wees, en met verwysing na paragrawe (ii), (iii), (iv), (v), (vi) en (viii) hieronder sonder die vooraf skriftelike goedkeuring van die Plaaslike Munisipaliteit, welke goedkeuring nie onredelik geweier mag word nie, geen verandering aan die diensstaat wat tydelik ingevolge artikel 12A(1) geplaas is, of voorlopig toegewys is ingevolge artikel 12A(3), maak of teweeg bring nie deur:-
- (i) enige nuwe poste te skep of te vul;
  - (ii) enige vakatures te vul;
  - (iii) die hergradering of opskaling van enige poste te inisieer of te implementeer;
  - (iv) enige personeellid te bevorder;
  - (v) enige permanente funksies of pligte aan personeel op te dra, uitgesonderd op 'n tydelike grondslag;
  - (vi) behoudens enige wet, bestaande kollektiewe ooreenkoms of dienskontrak:-
    - (aa) die goedkeuring en implementering van enige toelae of waarnemingstoelae;
    - (bb) die implementering van enige verhoging van salarisse of lone;
  - (vii) enige permanente verandering aan personeelstrukture en organisasiestrukture te implementeer, en
  - (viii) enige kollektiewe ooreenkoms aan te gaan, uitgesonderd 'n kollektiewe ooreenkoms wat in die Bedingingsraad onderhandel

en aangegaan is, wat die Distriksmunisipaliteit sal bind ten opsigte van enige aangeleentheid wat in hierdie subartikel genoem word;

- (c) sonder om afbreuk te maak aan die algemene aard van subartikel (1), mag, sonder die vooraf skriftelike goedkeuring van die Plaaslike Munisipaliteite, welke goedkeuring nie onredelik geweier mag word nie, geen besluit neem of implementeer nie met betrekking tot enige bates, laste of rekords oorgedra ingevolge artikel 16B(1) of wat tydelik toegewys is ingevolge artikel 16B(3), wat daartoe sal lei dat sodanige munisipaliteit:-
- (i) roerende of onroerende bates verkoop of verhuur ter waarde van meer as R20 000 (twintig duisend rand), uitgesonderd as ingevolge bestaande kontraktuele reëlings; met dien verstande dat hierdie bepaling nie van toepassing is nie op die beskikking oor onroerende eiendom ooreenkomstig 'n goedgekeurde behuisingskema ingevolge die Behuisingswet, 1997 (Wet 107 van 1997);
  - (ii) roerende of onroerende bates koop ter waarde van meer as R20 000 (twintig duisend rand), uitgesonderd as ingevolge bestaande kontraktuele reëlings;
  - (iii) nuwe kontrakte met 'n termyn van langer as een jaar sluit;
  - (iv) kontrakte vir 'n termyn van langer as drie maande hernu;
  - (v) inligtingstegnologiesestelsels, insluitende programmatuur en apparatuur, verkry, en
  - (vi) gebruik maak van:-
    - (aa) statutêre fondse, hetsy vir regstreekse kapitaal- of ander besteding of om besteding te finansier deur interne lenings aan te gaan vir ander doeleindes as vir verbonde en noodsaaklike infrastruktuurprojekte wat in die 2000/2001-begroting goedgekeur is;
    - (bb) trustfondse (wat nie 'n raad se eie rekenings insluit nie) vir enige ander doel as dié waarvoor die fondse gehou word;
    - (cc) reserwefondse, reserwekapitaal of reserwevoorsienings vir 'n ander doel as vir noodsaaklike begrote instandhouding van infrastruktuur, nie-begrote noodinstandhouding van infrastruktuur wat nie uit die bedryfsbegroting gefinansier kan word nie of vir die afskryf van slegte skulde, en
    - (dd) enige statutêre trust, reserwe of voorsiening wat nie kontant befonds word nie, uitgesonderd vir die afskryf van slegte skulde;

met dien verstande dat hierdie subartikel nie in 'n noodgeval van toepassing is nie, en
- (d) mag geen besluit neem of implementeer nie wat daartoe sal lei dat die Distriksmunisipaliteit sy goedgekeurde kapitaal- of bedryfsbegroting vir die 2000/2001 finansiële jaar sal oorskry.

- (2) Indien enige geskil met betrekking tot die bepalings van subartikel (1) tussen die Distriksmunisipaliteit en een of meer Plaaslike Munisipaliteit ontstaan, moet sodanige geskil na die Provinsiale Minister verwys word vir beslissing deur die Provinsiale Minister of sy benoemde in ooreenstemming met prosedures wat deur die Provinsiale Minister bepaal word, en die besluit van die Provinsiale Minister of sy benoemde is finaal en bindend.
- (3) Enige kontrak wat aangegaan word in stryd met die bepalings van subartikel (1) of (2) is van nul en gener waarde.

*(artikel 19 is vervang deur PK.666/2000)*

#### *Aanstelling van Tussentydse Munisipale Bestuurder*

20. Voor die aanvang van die effektiewe datum, moet die Provinsiale Minister na die oorweging van enige aanbevelings deur die Distrikstransformasieforum, 'n tussentydse munisipale bestuurder aanstel wat die amp by aanstelling aanvaar en dit beklee totdat die Distriksmunisipaliteit sy eie munisipale bestuurder of waarnemende munisipale bestuurder aangestel het en wie se pligte, behoudens voorskrifte of besluite tot die teendeel wat deur die Distriksmunisipaliteit aangeneem word, soos volg is:-
  - (a) om die eerste vergadering van die Raad van die Distriksmunisipaliteit ingevolge artikel 29(2) van die Munisipale Strukturewet byeen te roep;
  - (b) om op die eerste vergadering van die Raad van die Distriksmunisipaliteit voor te sit totdat die speaker verkies word;
  - (c) om na die effektiewe datum, as die hoof van administrasie en hoofrekenpligte beampte van die Distriksmunisipaliteit op te tree, totdat die Distriksmunisipaliteit sy eie munisipale bestuurder of waarnemende munisipale bestuurder aangestel het;
  - (d) om na die effektiewe datum, alle pligte wat deur die HUB van 'n munisipaliteit ingevolge betrokke wetgewing verrig moet word, te verrig;
  - (e) om verantwoordelikheid te aanvaar vir die bewerkstelling van die oorpasing van alle personeel, bates, laste en administratiewe en ander rekords na die Distriksmunisipaliteit;
  - (f) om sodanige persone aan te stel wat nodig is om sy of haar verpligtinge ingevolge hierdie Bylaag na te kom;
  - (g) om alle redelike stappe te doen om te verseker dat diensleweringkontinuiteit na die effektiewe datum gehandhaaf word;
  - (h) om tussentydse finansiële beheermeganismes vir die Distriksmunisipaliteit in te stel;
  - (i) om tussentydse verslagdoeningskanale en delegasies vir die Distriksmunisipaliteit in te stel;
  - (j) om dienskontrakte, agentskapsreëlings en diensleweringsooreenkomste te hersien en aan te beveel;
  - (k) om tussentydse diensleweringsooreenkomste tussen die Plaaslike Munisipaliteite en die Distriksmunisipaliteit toe te pas;
  - (l) deleger enige van sy of haar magte of pligte aan enige werknemer van die Distriksmunisipaliteit en wysig of herroep enige sodanige delegasie, en

- (m) om in die periode voor die effektiewe datum, voor te berei vir die uitvoering van die pligte uiteengesit in paragrawe (a) tot (l).

*(artikel 20 gewysig deur PK.666/2000)*

*Tussentydse Munisipale Assistentbestuurders*

- 20A. Met ingang van die datum van inwerkingtreding van hierdie Kennisgewing word die lede van die senior bestuurspan as tussentydse assistente van die tussentydse munisipale bestuurder aangestel en hulle moet die amp by aanstelling aanvaar en die amp beklee totdat die Distriksmunisipaliteit die aanstelling bekragtig of beëindig het.

*(artikel 20A ingevoeg deur PK.666/2000)*

*Senior Bestuurspan*

- 20B. Die tussentydse munisipale bestuurder en sy of haar assistente vorm die senior bestuurspan van die Distriksmunisipaliteit om toesig te hou oor die implementering van die instelling van die Distriksmunisipaliteit.

*(artikel 20B ingevoeg deur PK.666/2000)*

*Eerste Vergadering van die Raad van die Distriksmunisipaliteit*

- 21.(1) Die tussentydse munisipale bestuurder moet minstens drie dae voor die eerste vergadering van die Raad van die Distriksmunisipaliteit, 'n kennisgewing aan elke raadslid by sy of haar woonplek of 'n ander plek wat deur die betrokke raadslid bepaal is, stuur waarin die plek, datum en tyd van die eerste vergadering gespesifiseer word en wat die agenda bevat; met dien verstande dat die tussentydse munisipale bestuurder, as dit in sy of haar opinie nodig is, die eerste vergadering met 'n korter kennisgewing mag belê.

- (2) Behoudens enige verordening wat van krag is, maar onderhewig aan die bepalings van die Munisipale Strukturewet, is die reëls en orders vir die eerste vergadering van die Raad van die Distriksmunisipaliteit die reëls en orders soos uiteengesit in Provinsiale Kennisgewing 411/1988, soos afgekondig in Provinsiale Koerant No. 4532 van 20 Mei 1988, met die nodige wysigings soos vereis deur die konteks, welke reëls van krag sal bly totdat reëls en orders aangeneem word deur die Raad van die Distriksmunisipaliteit.

*(subartikel (2) gewysig deur PK.666/2000)*

- (3) Die vergaderplek vir die eerste vergadering van die Raad van die Distriksmunisipaliteit sal die Raadsaal van die afgeskafde Weskus Distriksraad, in Moorreesburg wees.
- (4) Die agenda van die eerste vergadering sal soos volg wees:-
- (a) die verkiesing van die speaker;
  - (b) of die Distriksmunisipaliteit die instelling van 'n uitvoerende komitee verlang, en indien wel, die bepaling van 'n stelsel van verteenwoordiging vir die verkiesing van die uitvoerende komitee;
  - (c) die verkiesing van raadslede om op die uitvoerende komitee te dien;
  - (d) die verkiesing van die burgemeester vanuit die geledere van die uitvoerende komitee;
  - (e) die verkiesing van die onderburgemeester, waarvoor goedkeuring deur die Provinsiale Minister verleen word, vanuit die geledere van die uitvoerende komitee, en

- (f) enige ander sake deur die tussentydse munisipale bestuurder bepaal en in die agenda uiteengesit.

*(artikel 21 gewysig deur PK.666/2000)*

*Toepassing van hierdie Kennisgewing*

- 21A. Indien enige konflik rakende die aangeleenthede wat in hierdie Kennisgewing hanteer word sou ontstaan tussen hierdie kennisgewing en die bepalings van enige artikel 84(3)-kennisgewing afgekondig deur die Nasionale Minister of enige artikel 18-kennisgewing afgekondig deur die Provinsiale Minister, geniet die bepalings van die artikel 84(3)-kennisgewing of artikel 18-kennisgewing, na gelang van die geval, voorrang.

*(artikel 21A ingevoeg deur PK.666/2000)*

*Uitvoerende Onderburgemeester*

- 21B. Goedkeuring word verleen ingevolge artikel 55 van die Munisipale Strukture Wet, soos gewysig, vir die verkiesing van 'n uitvoerende onderburgemeester.

*(artikel 21B ingevoeg deur PK.175/2003)*

*Kort titel en Inwerkingstreding*

22. Hierdie Kennisgewing heet die Weskus Distriksmunisipaliteit (DC1) Instellingskennisgewing en tree in werking op die datum van publikasie.