

REPUBLIC OF SOUTH AFRICA

**PROPOSED SELECT COMMITTEE
AMENDMENTS
TO**

**LOCAL GOVERNMENT:
MUNICIPAL STRUCTURES
AMENDMENT BILL**

[B 19B—2018]

*(As proposed by the Select Committee on Cooperative Governance and Traditional
Affairs (National Council of Provinces))*

[B 19C—2018]

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PROPOSED AMENDMENTS

LOCAL GOVERNMENT: MUNICIPAL STRUCTURES AMENDMENT BILL [B 19B—2018]

CLAUSE 1

1. On page 2, after line 6, to insert the following paragraphs:
 - “(a) by the insertion before the definition by-election of the following definition:

‘authorised representative’ in relation to a party, means a natural person duly authorised by the party in accordance with its constitution to act on the party’s behalf for purposes of performing the duties contemplated in sections 27(2) and 43(2)(d) and (e); and
 - (b) by the insertion before the definition “councillor” of the following definition:

‘Code of Conduct’ means the Code of Conduct for councillors set out in Schedule 7;”.
2. On page 3, in line 2, to insert the words “by the Electoral Commission” after the word “election”.
3. On page 3, before line 7, to insert the following paragraph:

“(d) by the insertion after the definition of “local council” of the following definition:
‘Local Government: Municipal Finance Management Act’ means the Local Government: Municipal Finance Management Act, 2003 (Act No. 56 of 2003);”
4. On page 3, in line 8, omit “Municipal Publics Account Committee” and substitute “municipal public accounts committee”.
5. On page 3, in line 8, omit “a” and substitute “the”.

CLAUSE 7

1. On page 4, line 7, to omit “and” after the word “and”;”.
2. On page 4, after line 7 to insert the following paragraphs:
 - (a) by the substitution in subsection (4) for paragraph (a) of the following paragraph:

“(a) three of the number determined for the municipality in accordance with the subsection (1) (a) formula, if 30 or fewer councillors have been determined for the municipality in terms of the formula, provided that a council of fewer than **[seven]** 10 may not be decreased; **[or]**”;
 - (b) by the substitution in subsection (4) for paragraph (b) of the following paragraphs:
 - (b) 10 per cent of the number determined for the municipality in accordance with the subsection (1) (a) formula, if more than 30 councillors have been determined for the municipality in terms of the formula **[.]** or;

3. On page 4, in line 10, to omit “size” and substitute “area”.

CLAUSE 8

1. On page 4, in line 20 and 21, omit “for Councillors contained in Schedule 7,”
2. On page 4, after line 24 to insert a new paragraph:

“Insertion of section 21A in Act 117 of 1998

The following section is hereby inserted in the principal Act, after section 21:

“Code of Conduct for Councillors

21A. The Code of Conduct applies to every member of a municipal council.”

3. On page 4, in line 30, to insert the words “by the Electoral Commission” after the word “election”.

CLAUSE 9

1. On page 4, in line 45, to insert the words “by the Electoral Commission” after the word “election”.

CLAUSE 12

1. On page 5, after line 33, to insert a new paragraph:

“(a)by the substitution of the words preceding paragraph (a) of the following words:

“(1) A councillor vacates office during a terms of office if that councillor—”

2. On page 5, in lines 35–37, to omit “for councillors set out in Schedule 7,”
3. On page 5, in line 45 and 46, to omit “, as defined in the Local Government: Municipal Electoral Act, 2000 (Act No. 27 of 2000),” after the word “representative”.

CLAUSE 13

1. On page 5, in line 54, to omit “of the municipality or,” and substitute “, or”.
2. On page 5, in line 56, to insert a comma after the word “province”.
3. On page 5, in lines 56 and 57, to omit “on good cause shown designate a person to”.

CLAUSE 17

1. On page 6, in line 36–38, to omit “set out in Schedule 7”.

CLAUSE 19

1. On page 8, in line 9, omit “elected” and substitute “determined”.
2. On page 8, in line 23, to insert “,through an authorised representative,” after the word “must”.
3. On page 8, in line 27, to insert “,through an authorised representative,” after the word “will”.

CLAUSE 23

1. On page 9, in line 9, omit “Municipal Public Accounts Committee” and substitute “municipal public accounts committee”.
2. On page 9, in line 11, omit “Municipal Publics Account Committee” and substitute “municipal public accounts committee”.
3. On page 9, in line 15, omit “Committee” and substitute “municipal public accounts committee”.
4. On page 9, in line 17, to insert “municipal public accounts”, before the word “committee”.
5. On page 9, in line 18, to omit “Auditor-General” and substitute “Auditor-General’s”.
6. On page 9, in line 22, to omit “Management” and substitute “management committee”.
7. On page 9, in line 22, to omit “Audit Committee” and substitute “the audit committee”.
8. On page 9, from line 24, to omit subsection (c) and to substitute:

“(c) initiate and develop the oversight report [**contemplated in section 129 of the**] on annual [**report**] reports contemplated [**as required**] in [**terms of**] section 129 of the Local Government: Municipal Finance Management Act, 2003 (Act No. 56 of 2003);”
9. On page 9, in line 26 and 27, to omit “, 2003 (Act No. 56 of 2003)”.
10. On page 9, in line 32, to insert a comma after the word “initiative”.
11. On page 9, in line 32, to omit “but”.
12. On page 9, in line 35, to omit “Committee” and substitute “municipal public accounts committee”.
13. On page 9, in line 37, omit “Audit Committee” and substitute “audit committee”.
14. On page 9, in line 39, omit “,2003”

CLAUSE 27

1. On page 10, in line 18, to omit, “seats” and to substitute “votes”.

CLAUSE 30

1. On page 16, in line 17, to omit the comma after the word “may” and insert a comma after the word “not”.
2. On page 17, in line 10, to omit, “chairperson” and to substitute “speaker”.
3. On page 17, in line 40, to insert the words “by the MEC” after the word “council”.
4. On page 18, in line 2, to omit “(6)” and substitute “(7)”.

5. On page 18 in line 2, to omit “the rules of natural justice” and substitute “section 3 of the Promotion of Administrative Justice Act, 2000 (Act No. 3 of 2000)”.

CLAUSE 31

1. On page 18, in line 36, to insert the words “, section 54” after “19”.

NEW CLAUSES

1. That the following be new clauses to follow clause 20:

“Amendment of section 45 of Act 117 of 1998 as substituted by section 1 of Act. No 1 of 2003

- 21.** Section 45 of the principal Act is hereby amended:
- (a) by the substitution for the heading of the following heading:
“[Election] Determination of members of executive committees”
 - (b) by the substitution in section 45 for the words preceding paragraph (a) of the following words:
 “A municipal council must **[elect] determine** the members of its executive committee from among its members at a meeting that must be held—”

“Amendment of section 46 of Act 117 of 1998 as substituted by section 1 of Act. No 1 of 2003

- 22.** Section 46 of the principal Act is hereby amended by the substitution in section 46 for the words preceding paragraph (a) of the following words:
 “The members of an executive committee are [elected] determined for a term ending, subject to section 47, when—”.

“Amendment of section 48 of Act 117 of 1998 as amended by Act. No 1 of 2003

- 23.** Section 48 of the principal Act is hereby amended by the substitution for subsection (2) of the following subsection:
 “(2) The election of a mayor and deputy mayor takes place when the executive committee is [elected] determined or when it is necessary to fill a vacancy.”

“Amendment of section 53 of Act 117 of 1998

- 24.** Section 53 of the principal Act is hereby amended by the substitution for subsection (2) of the following subsection:
 “(2) If all the members of an executive committee are removed, a new [election] determination of members must take place, and a new election of [and] the mayor and, if the municipality has a deputy mayor, the deputy mayor, must be held in terms of sections 45 and 48, respectively.”.

NEW CLAUSE

1. That the following new clause be inserted to follow clause 21:

Amendment of section 63 of Act 117 of 1998

25. Section 63 of the principal Act is hereby amended by the substitution for subsection (3) of the following subsection:

“(3) Item 3 of the Code of Conduct [for Councillors set out in Schedule 1 to the Local Government Municipal Systems Act, 2000] does not apply to the speaker, executive mayor, a member of the mayoral committee or a member of the executive committee, as the case may be, in respect of meetings of a metropolitan subcouncil of which such an office bearer is a member.”.

NEW CLAUSE

1. That the following be a new clause to follow clause 31:

“Transitional arrangements

32. A municipality with a plenary executive system immediately before the commencement of this Act, will continue to exist as a municipality with a plenary executive system until the date of the first local government election after commencement of this Act.”

CLAUSE 32

1. On page 18, in line 40, to omit 2018, and to substitute 2020.

LONG TITLE

1. On page 2, in the last line of the long title, to insert after “Councillors;” the words “to provide for transitional arrangements in respect of municipalities with a plenary executive system;”.

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