P.N. 483/2000 22 September 2000

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

Amended by:
Provincial Notice 669 dated 4 December 2000
Provincial Notice 450 dated 19 December 2002
Provincial Notice 178 dated 28 May 2003
Provincial Notice 5 dated 3 January 2006
Provincial Notice 111 dated 28 March 2008

ESTABLISHMENT OF THE BERGRIVIER MUNICIPALITY (WCO13)

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 Bergrivier Municipality on the terms set out in the Schedule hereto.

Dated this 22nd 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 a disestablished municipality;

(3) *(subsection 3 deleted by PN.178/2003)*

(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 Municipality"** means the West Coast District Municipality, established with effect from the effective date;

(6A) **"District Municipality IMM"** Means the interim municipal manager of the District Municipality;

(subsection (6A) inserted by PN.669/2000)

(6B) **"District Municipality Notice"** means Provincial Notice 480/2000 published in Provincial Gazette Extraordinary No. 5589 dated 22 September 2000;

(subsection (6B) inserted by PN.669/2000)

(7) **"District Transformation forum"** means the West Coast District Transformation Forum established in terms of the DTF Notice;

(8) **"DTF Notice"** means Provincial Notice 78/2000 published in Provincial Gazette Extraordinary No 5435 dated 10 March 2000;

(9) **"effective date"** means the commencement date of the election;

(10) **"election"** means the first general election of Municipal Councils after the commencement of the Constitution;

(11) **"inter-municipal budgetary transfers"** means the transfer of funds between municipalities to achieve revenue stability during the period of transition;

(12) **"interim municipal manager"** means the interim municipal manager of the Local Municipality appointed in terms of section 21(1) who from the effective date shall be the acting municipal manager of the Local Municipality, or the acting municipal manager or municipal manager of the Local Municipality appointed by the Municipal Council of the Local Municipality after the effective date;

(subsection (12) amended by PN.669/2000)

(13) **"Local Municipality"** means the Bergrivier Municipality established in terms of section 4 of this Schedule;

(13A) **"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 (13A) inserted by PN.178/2003)

(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.669/2000)

(16B) **"National Minister"** means the national Minister responsible for local government;

(subsection (16B) inserted by PN.669/2000)

(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) **“Rural Areas Act”** means the Rural Areas Act (House of Representatives), 1987 (Act 9 of 1987);

(19A) **“section 18 notice”** means a notice promulgated in terms of section 18 of the Municipal Structures Amendment Act;

(subsection (19A) inserted by PN.669/2000)

(19B) **“section 84(3) notice”** means a notice promulgated in terms of section 84(3) of the Municipal Structures Act;

(subsection (19B) inserted by PN.669/2000)

(19C) **“staff”** means all staff, including operational, managerial and support staff, and includes budgeted vacant posts but not unbudgeted vacant posts;

(subsection (19C) inserted by PN.669/2000)

(20) **“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;

(21) **“trade unions”** means the Independent Municipal and Allied Trade Union and the South African Municipal Workers Union;

(21A) **“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 (21A) inserted by PN.669/2000)

(22) **“Transformation of Certain Rural Areas Act”** means the Transformation of Certain Rural Areas Act, 1998 (Act 94 of 1998);

(22A) **“ward participatory system”** means a system which allows for matters of local concern to wards to be dealt with by committees established for wards;

(subsection (22A) inserted by PN.178/2003)

(23) **“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 165 published in Provincial Gazette Extraordinary No. 5469 of 5 May 2000 and Provincial Notice 54/2003 published in Provincial Gazette Extraordinary No. 5985 of 19 February 2003. A copy of the map is republished in Annexure "1" to this Schedule.

(section 2(1) amended by PN.5/2006)

(2) 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 Local 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 388/2000 published in Provincial Gazette Extraordinary No. 5571 dated 28 August 2000, and

(d) considered the comments received following the publication of the proposed Notice.

(3) 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.

(4) 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 Local Municipality on the terms set out herein.

(5) 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 Local 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 Local 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 Local Municipality.

(subsection (5) inserted by PN.669/2000)

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) Aurora Transitional Local Council, declared in terms of Proclamation No. 132/1995 dated 27 October 1995;

(b) Piketberg Municipality, established in terms of Proclamation No. 85/1994 dated 30 November 1995;

(c) Piketberg 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 Local Municipality as determined by the Municipal Demarcation Board and referred to in section 2(1);

(d) Municipality Porterville, established in terms of Proclamation No. 62/1994 dated 30 September 1994;

(e) Redelinghuys Transitional Local Council, established in terms of Proclamation No. 124/1994 dated 30 December 1994, and

(f) Velddrif Municipality, established in terms of Proclamation No. 112/1994 dated 30 December 1994.

(2) The councillors of the disestablished municipalities must vacate their offices when the newly elected Council of the Local 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 "Bergrivier Municipality", in Afrikaans as "Munisipaliteit Bergrivier" and in isiXhosa as "U Masipala waseBergrivier".

Category

5. The Local Municipality is a local municipality as defined in section 1 of the Municipal Structures Act, being a municipality that shares municipal executive and legislative authority in its area with the District Municipality, and which is described in section 155(1) of the Constitution as a category B municipality.

Type

6. The Local Municipality is a municipality with a mayoral executive system combined with a ward participatory 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.178/2003)

Boundaries

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

Number of Councillors and Wards

8.(1) The Municipal Council of the Local Municipality has 13 (thirteen) councillors, as determined by the Provincial Minister in Provincial Notice 164/2000 published in Provincial Gazette Extraordinary No. 5468 of 4 May 2000, of which 7 (seven) are ward councillors and 6 (six) are proportionally elected councillors.

(2) The Local Municipality has 7 (seven) wards.

Full-time Councillors

9. The Local 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.450/2002 and PN.178/2003)

Functions and Powers

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

Exemptions

11. The Local 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 Local Municipality shall be transferred to the Local Municipality;

(b) 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;

(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 Local Municipality and the District 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 and the District Municipality shall be transferred to either the Local Municipality or the District 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 the 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 Local Municipality may be required to report to any of the offices of the Local Municipality and, unless otherwise agreed, will not be entitled to any additional remuneration as a result thereof.

(section 12 amended by PN.669/2000)

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 Local Municipality, and accordingly all staff to be transferred to the District Municipality in terms of the provisions of sections 12 or 16C of this Schedule shall be deemed to be seconded to the Local Municipality in terms of an agency arrangement between the Local Municipality and the District Municipality to the effect that the Local Municipality will fulfill the function or functions with which the specific staff are associated on behalf of the District Municipality.

(2) In order to:-

(a) accommodate any transitional arrangements in terms of the Municipal Structures Amendment Act, or

(b) allow the Local Municipality and the District Municipality 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 District Municipality IMM.

(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 District Municipality IMM, must:-

(a) consolidate the schedule(s) referred to in subsection (1) 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 the 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 the District Municipality IMM and obtain from the District Municipality IMM the copy of the schedule prepared by the District Municipality IMM, and

(c) consolidate the schedule referred to in paragraph (a) with the schedule received from the District Municipality IMM referred to in paragraph (b) into a single schedule reflecting all staff to be transferred to the Local Municipality.

(5) Notwithstanding the principles set out in section 12 and 16C, the interim municipal manager may, by agreement with the District Municipality IMM, adjust the allocation of staff in terms of subsection (2) to provide for a more effective overall allocation of staff between the Local Municipality and the District Municipality; 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 the District 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 member of staff of the Local Municipality with a written notice informing such staff member that he or she is employed by the Local 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.

(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 the District 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 Local Municipality must approve a staff establishment for the Local 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 Local Municipality shall not finally approve a staff establishment for the Local 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 Local 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 Local Municipality.

(15) On or before a date to be determined by the Provincial Minister the Local 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.669/2000)

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 replacement 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 Local Municipality;

(c) the adoption of terms and conditions of employment for the Local Municipality after the effective date, and

(d) any other labour matter relating to the establishment of the Local Municipality.

Human Resource Matters

14. Subject to any collective agreement:-

(a) the human resource policies and procedures of the Local 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 Local Municipality;

(b) the terms and conditions of employment of all employees of the Local 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 Local 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 Local 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 Local Municipality shall be the successor in law of the disestablished municipalities and the municipalities to be disestablished in terms of the District Municipality Notice in relation to the specific assets and liabilities allocated to the Local 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 Local Municipality, and

the Local 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 the provisions of any applicable law, any valuation rolls in force or arising from the introduction of interim or additional valuations, as the case may be, within the area of the Local Municipality shall, subject otherwise to the provisions of such law, remain of force and effect until the introduction of a general valuation roll for the area of the Local Municipality.

(5) Notwithstanding subsection (1):-

(a) the Local 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 Local 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 Local Municipality in terms of the Rural Areas Act and the regulations made in terms of the Rural Areas Act.

(section 16 amended by PN.669/2000)

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 Local Municipality shall be transferred to the Local Municipality.

(2) 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.

(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 Local Municipality and the District Municipality, 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 Local Municipality and the District Municipality, and all movable assets associated with a function or functions to be carried out by the Local Municipality and the District Municipality and which cannot be divided between them shall be transferred to the municipality that will be the major user of such asset, provided that any other 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 Municipality 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 Local Municipality and the District Municipality shall be equitably divided between them, 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 Municipality 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 Municipality 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 Municipality and the District Municipality on one of the following bases:-

(i) in proportion to the most recent consolidated financial statements of the Local Municipality and the District Municipality;

(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 Local Municipality and the District Municipality shall be allocated to one municipality, provided that the other municipality 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 Local Municipality and the District Municipality 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 municipality 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 Local Municipality and the District Municipality shall be shared equitably between the Local Municipality and the District Municipality, taking account of the nature and purpose of the liability.

(11) All assets and liabilities of the disestablished municipalities, other than those referred to in subsection (7) not associated with a particular function, shall be transferred to the Local Municipality.

(section 16A. inserted by PN.669/2000)

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 Local Municipality, and accordingly all assets, liabilities and records to be transferred to the District Municipality in terms of the provisions of sections 16A or 16C of this Schedule shall be deemed to be transferred to the Local Municipality in terms of an agency arrangement between the Local Municipality and the District Municipality to the effect that the Local Municipality will fulfill the function or functions with which the specific assets, liabilities and records are associated on behalf of the District Municipality.

(2) In order to:-

(a) accommodate any transitional arrangements in terms of the Municipal Structures Amendment Act, or

(b) allow the Local Municipality and the District Municipality 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 District Municipality IMM.

(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 District Municipality IMM, 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 Municipality 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 District Municipality IMM and obtain from the District Municipality IMM the copy of the schedule prepared by the District Municipality IMM, and

(c) consolidate the schedule referred to in paragraph (a) with the schedules received from the District Municipality IMM referred to in paragraph (b) into a single schedule reflecting all assets, liabilities and records to be transferred to the Local Municipality.

(5) Notwithstanding the principles set out in sections 16A and 16C, the interim municipal manager may, by agreement with the District Municipality IMM, adjust the allocation of assets, liabilities and records in terms of subsection (4) to provide for a more effective overall allocation between the Local Municipality and the District Municipality.

(6) Should any dispute with regard to the allocation of any assets, liabilities or records arise between the interim municipal manager and the District 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 Local 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.669/2000)

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) disaster management;

(v) housing;

(vi) libraries;

(vii) museums;

(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 Local 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.669/2000)

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 Local Municipality or the District 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 Local 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.669/2000)

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 Local Municipality or District Municipality shall be obliged to co-operate fully with such person.

(section 16E inserted by PN.669/2000)

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 Local Municipality.

(2) Unless inconsistent with the context or clearly inappropriate, a reference in any such by-law to:-

(a) a disestablished municipality must be construed as a reference to the Local Municipality, and

(b) a structure or functionary of a disestablished municipality or its predecessor, must be construed as a reference to the corresponding structure or functionary of the Local Municipality.

(3) Subject to the provisions of this Schedule, and notwithstanding the disestablishment of the disestablished local 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 this Schedule, be deemed to have been taken, issued, given, made, nominated, entered into, granted, levied, imposed or done by the Local Municipality, pending the review and rationalisation thereof in terms of section 15 of the Municipal Structures Act.

(4) Subject to section 20, 21, 22 and 23 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 Local 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 Local Municipality for the area of jurisdiction of the Local 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 Local Municipality.

Financial Matters

18.(1) With effect from the effective date the existing budgets of the disestablished municipalities shall constitute the budget of the Local 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 Local Municipality may:-

(a) adjust the existing budgets, or

(b) resolve to close its accounts and rebudget 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) Before the commencement of the 2001/2002 financial year the Local 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;

(d) the preparation of a new general valuation roll for the Local Municipality's area of jurisdiction and the introduction of equitable property taxes;

(e) the introduction of consolidated billing system;

(f) the consolidation of financial accounting systems and budgetary systems;

(g) credit control, and

(h) procurement.

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 Local 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 District Municipality;

(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 District Municipality, 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 Local 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 Local Municipality and the District Municipality, 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.669/2000)

Appointment of Acting Officers

20. Before the effective date the Provincial Minister, after considering any recommendations of the District Transformation Forum, shall where relevant to

the Local Municipality appoint any person to any position that may be required in terms of relevant legislation, which appointment shall be in an acting capacity, and who shall assume office on the effective date and remain in office until the Local Municipality has made its own appointments in terms of the relevant legislation.

Appointment of Interim Municipal Manager

21.(1) 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 Local Municipality has appointed its own municipal manager or acting municipal manager.

(2) The duties of the interim municipal manager shall, subject to directions or resolutions to the contrary adopted by the Local Municipality, be the following:-

(a) call the first meeting of the Council of the Local Municipality in terms of section 29(2) of the Municipal Structures Act;

(b) preside over the first meeting of the Council of the Local Municipality until the election of the speaker;

(c) after the effective date, act as the head of administration and chief accounting officer of the Local Municipality until the appointment by the Local 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 Local 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 Local Municipality;

(i) establish interim reporting lines and delegations for the Local Municipality;

(j) review and recommend service contracts, agency arrangements and service delivery agreements;

(k) implement any interim service delivery arrangements between the Local Municipality and the District Municipality as well as between the Local Municipality and other local municipalities within the area of the District Municipality;

(l) delegate any of his or her powers or duties to any employee of the Local 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).

(3) Prior to the effective date, the CEOs shall co-operate with the interim municipal manager in relation to all matters pertaining to the establishment of the Local Municipality.

(4) From the effective date, the CEOs shall act under the direction of, and be responsible to the interim municipal manager, and the interim municipal manager shall have all the powers of the CEOs.

Interim Assistant Municipal Managers

22. The Provincial Minister may, after considering any recommendation of the District Transformation Forum, appoint any number of interim assistants to the interim municipal manager who assume office upon appointment and remain in office until the Local Municipality has confirmed or terminated the appointment.

Senior Management Team

23. Any interim assistants appointed to the interim municipal manager, together with the interim municipal manager, shall form the senior management team of the Local Municipality to oversee the implementation of the establishment of the Local Municipality.

Appointments

24. Any person appointed in terms of section 21 or 22 shall, subject to the provisions of section 12 of this Schedule, be an employee of a disestablished municipality and shall fulfill his or her duties on a seconded basis.

First meeting of the Council of the Local Municipality

25.(1) The interim municipal manager shall, at least three days before the first meeting of the Council of the Local 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 Local 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 Local Municipality.

(subsection (2) amended by PN.669/2000)

(3) The venue for the first meeting of the Council of the Local Municipality shall be the Council Chamber of the disestablished Piketberg Municipality, in Piketberg.

(4) The agenda of the first meeting shall be as follows:-

(a) the election of the speaker;

(b) whether the Local 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.

Application of this Notice

25A. 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 25A. inserted by PN.669/2000)

Executive Deputy Mayor

25B. Approval is granted in terms of section 55 of the Municipal Structures Act, as amended, for the election of an executive deputy mayor.

(section 25B inserted by PN.178/2003)

Short title and Commencement

26. This Notice is called the Bergrivier Municipality (WCO13) Establishment Notice and comes into operation on the date of publication.

P.N. 483/2000 22 uSeptemba 2000

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

UKUSEKWA KOMASIPALA WASEBERGRIVIER (WCO13)

Amended by:
neSaziso sePhondo 669 dated we-4 kuDisemba 2000
neSaziso sePhondo 450 dated we-19 kuDisemba 2002
neSaziso sePhondo 178 dated we-28 kuMeyi 2003
neSaziso sePhondo 5 dated we-3 uJanuwari 2006
neSaziso sePhondo 111 dated we-28 kuMatshi 2008

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 kukaMasipala waseBergrivier ngokwemiqathango edweliswe kolu ludwe lweenkqubo.

Ngomhla wama-22 uSeptemba 2000.

P UYS, UMPHATHISWA WEPHONDO WORHULUMENTE WENGINGQI

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 iCandelo leQumrhu leeNgxoxo loRhulumente weeNqila loMzantsi Afrika 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 igosa eliyintloko yesigqeba solawulo lomasipala otshitshisiweyo;

(3) *(subsection (3) deleted by PN.178/2003)*

(4) **"uMgaqo-siseko"** uthetha uMgaqo-siseko weRiphabliki yoMzantsi Afrika, we-1996 (uMthetho we- 108 we- 1996);

(5) **"ukutshitshiswa koomasipala"** kuthetha aba masipala bakhoyo nabaza kutshitshiswa ngokwemigaqo yecandelo-3 lolu ludwe lweenkqubo;

(6) **"uMasipala weSithili"** uthetha uMasipala weSithili saseWest Coast, oyakumiselwa ukususela kumhla osebenzayo;

(6A) **"i-MM yoMasipala weSithili"** ithetha umphathi wethutyana kaMasipala weSithili;

(subsection (6A) inserted by PN.669/2000)

(6B) **"iSaziso sikaMasipala weSithili"** Sithetha iSaziso sePhondo 480/2000, esapapashwa kwiGazethi yePhondo eyoNgezelelweyo nenguNombolo 5589 yomhla wama-22 kuSeptemba 2000;

(subsection (6B) inserted by PN.669/2000)

(7) **"iQonga leNguqulelo leSithili"** lithetha iQonga leNguqulelo leSithili saseWest Coast elamiselwa ngokweSaziso seDTF;

(8) **"iSaziso seDTF"** sithetha iSaziso sePhondo esingunombolo 78/2000 esapapashwa kwiGazethi yePhondo Eyongeselelweyo engunombolo 5435 yomhla we-10 kuMatshi 2000;

(9) **"umhla wokuqala wonyulo"** uthetha umhla wokuqalisa unyulo;

(10) **"unyulo"** luthetha unyulo lokuqala jikelele lwamaBhunga ooMasipala onyulwa emva kokusebenza koMgaqo-siseko;

(11) **"inkqubo yoomasipala yokutshintshwa kohlahlo-lwabiwo-mali"** ithetha ukutshintshwa kwezibonelelo zemali phakathi koomasipala ukufezekisa uzinzo kwingeniso ngexesha lenguqu;

(12) **"uMphathi weThutyana kaMasipala"** uthetha umphathi wethutyana kamasipala kuMasipala weNgingqi obekwe ngokwemiqathango yecandelo- 21(1) nozakuba ngumphathi obambeleyo kamasipala kuMasipala weNgingqi ukususela ngomhla wokuqalisa, okanye umphathi wethutyana obambeleyo okanye umphathi kamasipala kuMasipala weNgingqi nobekwe yiKansile yoMasipala weNgingqi emva komhla wokuqalisa;

(subsection (12) amended by PN.669/2000)

(13) **"uMasipala weNgingqi"** uthetha uMasipala waseBergrivier, owasekwa ngokwemigaqo yocandelo le-4 elikolu ludwe lweenkqubo;

(13A) **"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 yikomiti yecandelo losodolophu;

(subsection (13A) inserted by PN.178/2003)

(14) **"UMthetho wokuCandwa kooMasipala"** uthetha uMthetho woRhulumente waeNgingqi we- 1998 (uMthetho 27 we-1998);

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

(16) **"uMthetho wamaSebe ooMasipala"** ithetha uMthetho kaMasipala woRhulumente waseKhaya we-1998 (uMthetho we-117 we-1998);

(16A) **"uMthetho-sihlomelo wamaSebe ooMasipala"** uthetha uMthetho-sihlomelo wooMasipala beeNgingqi, 2000 (uMthetho 33 wonyaka wama-2000);

(subsection (16A) inserted by PN.669/2000)

(16B) **"Umphathiswa weSizwe"** uthetha uMphathiswa wesizwe osingethe imicimbi yoorhulumente beengingqi;

(subsection (16B) inserted by PN.669/2000)

(17) **"iPhondo"** lithetha iPhondo leNtshona-Koloni;

(18) **"uMphathiswa wePhondo"** uthetha ilungu lesiGqeba soWiso-mthetho wePhondo leNtshona-Koloni elinoxanduva lokujongana norhulumente wengingqi;

(19) **"uMthetho weeNginqi zasemaPhandleni"** uthetha uMthetho weeNgingqi zasemaPhandleni (iNdlu yabaMeli), we-1987 (uMthetho we-1987);

(19A) **"Isaziso secandelo 18"** sithetha isaziso esibhengezwe ngokwemiqathango yecandelo 18 loMthetho wamaSebe ooMasipala;

(subsection (19A) inserted by PN.669/2000)

(19B) **"Isaziso secandelo 84(3)"** sithetha isaziso esibhengezwe ngokwemiqathango yecandelo 84(3) loMthetho wamaSebe ooMasipala;

(subsection (19B) inserted by PN.669/2000)

(19C) **"abasebenzi"** kuthethwa bonke abasebenzi, kuqukwa abo benza umsebenzi, abakwizikhundla zokuphatha nezincedisayo, kananjalo kubandakanywa nezikhundla ezingenamntu nezifakwe kwizicwangciso zovalo-zikhewu, kodwa zingabandakanywanga izikhundla ezingenamntu ezingafakwanga kwizicwangciso zovalo-zikhewu;

(subsection (19C) inserted by PN.669/2000)

(20) **"uYilo oluseMththweni"** uthetha uyilo oluyimfuneko ngokwemigaqo yowiso-mthetho kubandakanya, kodwa kungaphelelanga 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;

(21) **"imanyano zabasebenzi"** zithetha ooMasipala abazimeleyo neemanyano zabasebenzi kunye nemanyano yabasebenzi bakaMasipala yoMzantsi Afrika;

(21A) **"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 (21A) inserted by PN.669/2000)

(22) **"ukuGuqulwa kwemiThetho ethile yamaPhandle"** kuthetha ukuGuqulwa kweMithetho ethile yamaPhandle, we-1998 (uMthetho wama-94 we-1998);

(22A) **"inkqubo yothatho-nxaxheba yewadi"** ithetha inkqubo evumela imicimbi yezinto ezinxulumene neenqila ekuza kujonganwa nazo ziikomiti ezisekelwe ezi wadi;

(subsection (22A) inserted by PN.178/2003)

(23) **"uWECLOGO"** ligama elithetha uMbutho weNtshona-Koloni wooRhulumente 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, 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-165 esapapashwa kwiGazethi yePhondo eyoNgezelelweyo enguNombolo 5469 yomhla wesi-5 kuMeyi ka-2000 nakwiSaziso sePhondo esingu-54/2003 esapapashwa kwiGazethi yePhondo eyoNgezelelweyo enguNombolo 5985 yomhla we-19 kuFebhruwari ka-2003. Ikopi yaloo maphu ipapashwe kwiSongezelelo "1" solu ludwe lweNkqubo.

(section 2(1) amended by PN.5/2006)

(2) 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 388/2000 esapapashwa kwiGazethi yePhondo eyoNgezelelweyo engunombolo 5571, yomhla wama-28 kuAgasti 2000, kwakunye

(d) uziqwalasele izimvo ezithe zamkelwa emva kopapasho lweSaziso ekulindeleke ukuba samkelwe.

(3) UMphathiswa uthe waziqwalasela iingcebiso zeQonga leNguqulelo leSithili athe wazinikwa ngokwesahluko se- 11(2) seSaziso seDTF.

(4) UMphathiswa wePhondo, esebenza ngokwesahluko se- 12 nese- 14 loMthetho wamaSebe ooMasipala, njengoko ufundwa kunye noMthetho ka2000 wokuMiselwa kweeNdidi zooMasipala eNtshona-Koloni (uMthetho we-9 ka2000), ngoku nje ukhupha isaziso sokusekwa koMasipala waseKhaya ngokwemigaqo edweliswe kolu xwebhu.

(5) 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 ngeenkonza nokuqinisekisa ukuthembeka nokuma kakuhle koMasipala weNgingqi ngokwezimali.

(subsection (5) inserted by PN.669/2000)

Ukutshitshiswa kooMasipala abakhoyo

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

(a) iNguqulelo yeKansile yase-Aurora, eyasekwa ngokwemigaqo yoPapasho olungunombolo 132/1995 ngomhla we-27 ku-Oktoba 1995;

(b) uMasipala wommandla wasePiketberg, owasekwa ngokwemigaqo yoPapasho olungunombolo 85/1994 lomhla wama-30 kuNovemba 1995;

(c) uTshintsho lwabaMeli beKansile yasePiketberg, olwasekwa ngokwemigaqo yoPapasho olungunombolo 18/1996 ngomhla wama-26 ku-Epreli 1996, ukuya kummandla ososahlulo ophantsi kolawulo lukaMasipala, njengoko kusekiwe yiBhodi yokuCandwa kwemida yooMasipala ekubhekiselelwe kuyo kwicandelo 2(1);

(d) uMasipala wasePorterville, eyasekwa ngokwemigaqo yoPapasho olungunombolo 62/1994 ngomhla we-30 kuSeptemba 1994;

(e) iNguqulelo yeKansile yaseRedelinghuys, eyasekwa ngokwemigaqo yoPapasho olungunombolo 124/1994 ngomhla we-30 kuDisemba 1994, kwakunye

(f) uMasipala waseVelddrif, eyasekwa ngokwemigaqo yoPapasho lungunombolo 112/1994 ngomhla we-30 kuDisemba 1994.

(2) OoCeba boomasipala abathitshiswayo kufuneka xa ibhunga lomaipala wesithili elitsha linyuliwe ze lachazwa njengelimiselweyo ezinzulwini zobusuku zalo mhla bazishiye ii-ofisi zabo babuyisele kwigosa eliyintloko elilawulayo 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 njengo “U Masipala waseBergrivier”, ze negisiNgesi aziwe njenge “Bergrivier Municipality” ze ngesiBhulu aziwe njenge “Munisipaliteit Bergrivier”.

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) loMgaqo-siseko njengecandelo B lomasipala.

uDidi

6. UMasipala weSithili ngumasipala oneenkqubo zesigqeba secandelo losodolophu onazo zombini ezi nkqubo zothatho-nxaxheba, idandelwana blebunga kunye nelewadi njengoko zimiselwe ngumthetho, iWestern Cape Determinantion of Types of Municipalities Act, 2000 (Act 9 of 2000), njengokuba zilungisiwe ngomthetho, iWestern Cape Determination of Types of Municipalities Amendment Act, 2002 (Act 4 of 2002).

(section 6 amended by PN.178/2003)

Imida

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

INani looCeba

8.(1) Bangamalungu alishumi elinesithathu (13) ooCeba bakaMasipala weNqila, njengoko kusekiwe nguMphathiswa wePhondo kwiSaziso sePhondo esingunombolo 164/2000 esapapashwa kwiGazethi yePhondo eyoNgezelelweyo engunombolo 5468 ngomhla we-4 kuMeyi 2000, ishumi isixhenxe (7) kubo ngooceba beewadi ze isithandathu (6) ibe ngooceba abanyulwe ngokokuphumelela kwabo.

(2) uMasipala weNqila uneewadi ezisixhenxe (7).

OoCeba abasebenza isigxina

9. UMasipala weSithili angamisela aba ceba balandelayo njengooceba besigxina:

(a) Usodolophu wesigqeba solawulo;

(b) Amalungu ecandelo lekomiti yosodolophu, ndawonye

(c) nosomlomo.

(section 9 amended by PN.450/2002 and PN.178/2003)

IMisebenzi namaGunya

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

ukuNgachaphazeleki

11. Umasipala weNqila akayi 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 weNgingqi baya kugqithiselwa kuMasipala weNgingqi;

(b) bonke abasebenzi boomasipala abatshitshisiweyo nabamsebenzi wabo wayanyaniswa ngokukodwa nemisebenzi efanele ukwenziwa nguMasipala weSithili (misebenzi leyo ibandakanya imisebenzi efanele ukwenziwa nguMasipala weSithili kuMmandla woLawulo lweSithili) siya kugqithiselwa kuMasipala weSithili;

(c) nawuphi na umntu ongomnye wabasebenzi bomasipala otshitshisiweyo owayanyaniswa nomnye okanye neminye imisebenzi eza kwenziwa nguMasipala weNgingqi noMasipala weSithili, ukususela ngomhla wokuqalisa, uya kugqithiselwa komnye wabo masipala, oko kusenziwa ngokobuninzi bexesha elidliwa ngumsebenzi lowo wenziwa nguloo mntu xa uthelekiswa nexesha elidliwa yeminye imisebenzi eyenziwa nguloo mntu;

(d) bonke abasebenzi boomasipala abatshitshisiweyo nabamsebenzi wabo ungayanyaniswayo nomsebenzi othile okanye nemisebenzi ethile efanele ukwenziwa nguMasipala weNgingqi noMasipala weSithili siya kugqithiselwa kuMasipala weNgingqi kungenjalo kuMasipala weSithili oko kusenziwa ngokwemilinganiselo esekelwe kwinani lezikhundla sezizonke ezigqithiselwe kwabo masipala ngokwemiqathango yemihlathi (a), (b) no-(c);

(e) zonke izikhundla koomasipala abatshitshisweyo 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 kogqithiselo olo ngumasipala otshitshisiweyo 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 weNgingqi asebenzele nayiphi na i-ofisi kaMasipala weNgingqi kwaye, ngaphandle kokuba kuvunyelenwe ngenye indlela, akayi kuba nalungelo lakongezelwa umvuzo ngenxa yaloo nto.

(section 12 amended by PN.669/2000)

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 okwethutyana uMasipala weNgingqi, kwaye ke ngoko bonke abasebenzi abafanele ukugqithiselwa kuMasipala weSithili ngokwemiqathango yecandelo 12 okanye eyecandelo 16C bona baya kuthatyathwa njengabasancedisayo kuMasipala weNgingqi oko kusenziwa ngokwamalungiselelo aphakathi koMasipala weNgingqi naloo Masipala weSithili, malungiselelo lawo achaza ukuba uMasipala weNgingqi uya kufezekisa umsebenzi okanye imisebenzi eyayamene nabo basebenzi oko ekwenza egameni 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 kunikezewa 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 otshitshiweyo 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 yoMasipala weSithili kuye kufuneka ukuba:-

(a) ahlanganise amazwebhu ekudweliswe kuwo amagama nekubhekiswe kuwo phaya kwicandelwana (1) 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 weSithili ngamnye ikopi yolo zwebhu kananjalo afumane kwi-IMM yoMasipala weSithili nganye ikopi yoxwebhu oluqulunqwe yiloo IMM kaMasipala 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

amagama abo bonke abasebenzi abaza kugqithiselwa kuMasipala weNgingqi.

(5) Ingatyeshelwanga imimiselo echazwe kwicandelo 12 nele 16C, umphathi wethutyana kamasipala unokuthi evumelene ne-IMM yoMasipala weSithili, akuhlengahlengise ukwabiwa kwabasebenzi ngokwecandelwana (2) oko ekwenzela ukulungiselela ukwabelana ngabasebenzi, okufaneleke nangaphezulu, phakathi koMasipala weNgingqi noMasipala weSithili, kodwa olo hlengahlengiso aluyo kwenziwa emva ukuba umsebenzi azisiwe ngokwemiqathango yecandelwana (8).

(6) Xa kunokuvela nayiphi na impikiswano, emalunga nokwabelana ngabasebenzi, phakathi komphathi wethutyana kamasipala ne-IMM yoMasipala weSithili loo mpikiswano kuya kufuneka ukuba ibhekiswe kuMphathiswa wePhondo okanye kumtyunjwa wakhe ngokweenkqubo ezimiselwe nguMphathiswa wePhondo, kwaye isigqibo soMphathiswa wePhondo okanye esomtyunjwa wakhe 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), kodwa ngapambi komhla wokuqalisa, umphathi wethutyana kamasipala kuya kufuneka ukuba anike umntu ngamnye oza kuba ngumsebenzi kaMasipala weNgingqi isaziso esibhaliweyo esichazela loo msebenzi ukuba uqeshwe nguMasipala aweSithili ukususela ngomhla wokuqalisa.

(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 ngokwenkqubo 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 kuMpathiswa 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 111/2008)

(11) Ngeli lixa lusalindelwe 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 ekubhekisiwe kulo phaya kwicandelwana (4)(a), okanye xa kunokwenzeka ukuthi kanti umsebenzi wabelwe oomasipala abangaphezulu kwesinye ukususela ngomhla wokuqalisa, loo msebenzi kuya kufuneka, ngokukhawuleza emvane kokuva ngayo nokuba yiyiphi kwezo zinto, loo nto ayichaze kumphathi wethutyana kamasipala okanye kwi-IMM yoMisipala weSithili yena ke ekuya kufuneka ukuba loo mcimbi awugqithisele kuMphathiswa wePhondo ukuse ibe nguMphathiswa wePhondo okanye umtyunjwa wakhe oweneza isigqibo ngokweenkqubo ezimiselwe nguMphathiswa wePhondo kwaye isigqibo soMphathiswa wePhondo okanye umtyunjwaa 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 ishedyuli eqinisekisiweyo ngokwemigaqo yecandelwana (7).

(14)Ngomhla okanye ngaphambi komhla oya kumiselwa nguMphathiswa wePhondo, xa kungekafikelelwa kwisivumelwano phambi 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.669/2000)

Izivumelwano zokusebenza ezithatyathwa kunye

13.(1) Nasiphi na isivumelwano 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 ngokokungqinelana kwi miqathango yesi sirumelwano.

(2) Phambi komhla wokuqala wonyulo oomasipala abatshutshisiweyo, njengamalungu eQonga lezokusebenza kufuneka bazame befikele esigq ibeni kunye nemanyano zaba sebenzi ngo kuphathelene nale miba ilandelayo:-

(a) inkqubo eya kulandelwa xa kumiselwa abasebenzi ezikhundleni ngokwendlela entsha emva komhla wokuqala wonyulo;

(b) inkqubo eya kulandelwa ekuzalisweni kwezikhundla ezitsha eziya kuba zikho emva kokusekwa ngokutsha kubume bezikhundla kuMasipala weNqila;

(c) ukwamkelwa kwemimiselo nemiqathango yengqesho yoMasipala weNqila emva komhla wokuqala wonyulo, kwakunye

(d) nawuphi na umcimbi obhekiselele kumiselo loMasipala weNqila.

Imicimbi yabasebenzi

14. Ngokuxhomekeke kuso naziphi na isivumelwano esiqukanisweyo:-

(a) imigaqo-nkqubo kunye namanyathelo emicimbi yabasebenzi yoMasipala weNqila iya kuba yimigaqo-nkqubo namanyathelo emicimbi eyayisetyenziswa ngenx' engaphambi komhla wokuqala wonyulo kwaye iya kuhlala iyesetyenziswayo ngabo bonke abasebenzi ngokufanayo naleyo yayisetyenziswa yayingaphambi komhla wokuqala wonyulo, kwanegahlolwa okanye ekutshitshiswe nguMasipala weNqila;

(b) imimiselo nemiqathango yengqesho yabasenzi bonke bakaMasipala iya kuba yimimiselo nemiqathango yengqesho eya kusebenza ngapbambi komhla wokuqala wonyulo isebenza kumqeshwa ngamnye nokuba uqeshwe emva komhla wokuqala wonyulo eqeshwa ngokwemimiselo nemiqathango yengqesho egqitywe nguMasipala.

IZiphumo zeNguqu ezibhekiselele kweminye imiba emalunga nabasebenzi

15.(1) Ngokwesivumelwano esiqukanisiweyo, umsebenzi osikhundla sakhe sitshintshwe ngenxa yenguqu akayi kuthathwa njengongafunekiyo ngokweenjongo zayo nayiphi na imimiselo okanye imiqathango yengqesho kungenjalo nawuphi na umgaqo wengxowa-mali yomhlala phantsi enika umsebenzi ithuba lokuba azinyulele ngokwakhe ukuwuyeka umsebenzi neemfanelo zakhe.

(2) Imiqathango yeli candelo isebenza kuphela xa umsebenzi athe wasikhaba ngaphandle kwesizathu asinikwayo nguMasipala.

(3) Ngokwenjongo yeli candelo, utshintsho lwezikhundla lungaquka okunye koku kulandekayo:-

(a) isithuba eso somsebenzi asisekho;

(b) isithuba eso somsebenzi sithe satshitshiswa;

(c) umsebenzi kufuneka enze isicelo sesithuba somsebenzi ngokutsha;

(d) inkqubo kunye namagunya esithuba eso athe atshitshiswa;

(e) kuthe kwatshintshwa umqeshi;

(f) xa isithuba eso sithe sanaphathi abaninzi ekufuneka umsebenzi enze ingxelo kubo;

(g) 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 kuhlawulwa okanye ziqokelelwe ongunmasipala onthabathe isikhundla ngokwasemthethweni somasipala otshitshisiweyo ngokwemiqathango yale Shedyuli.

(4) Ingatyeshelwanga imiqathango yawo nawuphina umthetho onxulumene noku, nawaphina amaxwebhu othelekelelo-maxabiso asasebenzayo okanye abekho ngenxa yokuqulunqwa kothelekelelo-maxabiso lwethutyana okanye olongeziweyo, nokuba yiyiphi kwezo zinto, kummandla woMasipala weNgingqi aya kuhlala esebenza, ngaphandle kokuba imiqathango yaloo mthetho itsho nto yimbi, de ummandla lowo woMasipala weNgingqi uqulunqelwe uxwebhu jikelele lothelekelo-maxabiso.

(5) Lingatyeshelwanga icandelwana (1):-

(a) uMasipala uya kuthabatha iintambo ngokusemthethweni koomasipala abatshitshisisweyo 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 equlathwe licandelo le- 3 loMthetho wokuGuqulwa kweMimandla ethile yasemaPhandleni uya kuhlala phantsi kwegunya loMphathiswa wezoLimo neMicimbi yoMhlaba, kwakunye

(ii) umhlaba obuphantsi kwegunya loomasipala abatshitshisiweyo ngokwemimiselo equlathwe 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 woluGuqulwa kweMimandla ethile yasemaPhandleni, ube phantsi kolawulo loMasipala njengoko uMthetho weeNgingqi zasemaPhandleni uchaza.

(section 16 amended by PN.669/2000)

Imimiselo yoGaithiselo lweMpahla, amaTyala neeRekhodi

16A. Ukususela ngomhla wokuqalisa:

(1) yonke impahla, amatyala neerekhodi zoomasipala abatshitshisiweyo neyayanyaniswa ngokukodwa nemisebenzi ekufanele yenziwe nguMasipala weSithili iya kugqithiselwa kuMasipala weSithili.

(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) ye nawuphina omnye wooMasipala beeNgingqi iya kugqithiselwa 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) ingatyeshelwanga imiqathango yecandelwana (4), uMasipala weNgingqi noMasipala weSithili banokuvumelana ngokuyahlula phakathi, nayiphi na impahla engenakususwa kwindawo ekuyo nekubhekiswe kuyo phaya kwincandelwana (4), nenokwahluleka 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 kwiimeko apho izibonelelo zinokunxulumaniswa nomqeshwa othile ngokuhambelanayo nenkqubo yogqithiselo lwaloo mqeshwa ngokwemiqathango yale Shedyuli kwanenezinye iimeko ngokomlinganiselo oya kuthelekiswa nezibonelelo ezilungiselelwe imivuzo seyiphelele neziza kugqithiselwa 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) ngokuthelekanisekayo kweengxelo-mali ezihlanganisiweyo zakutsha nje zoMasipala 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 ingaphathekiyo uya kuba nelungelo:-

(a) lokuzuza imbuyekezo eyanelisayo, oko kuquka imali, ukutshintshiselwa okanye naluphi na olunye uhlobo lwembuyekezo ekunokuvunyelwana ngayo; kananjalo

(b) aqhubeke ngokuyisebenzisa loo mphahla 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 kwahlulelwa 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.669/2000)

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 egameni 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 iCEO nganye kuya kufuneka qulunqe uxwebhu olunoludwe layo yonke impahla, amatyala neerekhodi zomasipala wayo otshitshisiweyo ngokwendlela eyalelwe nguMphathiswa wePhondo, kufuneka abe okwethutyana zonke iimpahla, amatyala, neerekhodi zomasipala otshitshisiweyo wakhe ngokuhambelanayo nemithetho-ssiseko echaziweyo kwicandelo 16A nele 16C, kwaye kuya kufuneka ukuba inike umphathi wethutyana kamasipala ne-IMM yoMasipala weSithili iikopi ezipheleleyo zoxwebhu olunolo ludwe.

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

(a) ahlanganise amaxwbehu ekubhekiswe kuwo phaya kwicandelwana (1) awenze abe luxwebhu olunye ze ekugqibeleni abe ngokwahlukeneyo impahla, amatyala neerekhodi eziza kugqithiselwa kuMasipala weSithili okanye kooMasipala beeNgingqi ngokwemiqathango yecandelo 16A nele 16C kanti nezo ekuya kufuneka ukuba zigqithiselwe ngokwesivumelwano ekubhekiswe kuso kwicandelwana (2);

(b) anike i-IMM yoMasipala weSithili ikipi 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 nguMphathiswa wePhondo, kwaye isigqibo soMphathiswa 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 uMphathiswa wePhondo ngomhla okanye ngaphambi komhla oya kumiselwa nguMphathiswa wePhondo.

(8) Nje ngokukhawuleza kangangoko emva kokuqinisekiswa koxwebhu loludwe oluhlanganisiweyo ngokwecandelwana (7), kodwa kungagqithanga umhla oya kumiselwa nguMphathiswa 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 nguMphathiswa wePhondo.

(section 16B. inserted by PN.669/2000)

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) Iindlela ezingezizo ezomasipala

(ii) neenkonzo zeenqwelo-zigulane;

(iii) Iinkonzo zempilo ezingezizo ezomasipala

(iv) ulawulo lweentlekelele;

(v) ulwakhiwo lwezindlu;

(vi) amathala eencwadi;

(vii) umzi wocgino 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.669/2000)

Ugqithiselo lwabasebenzi, impahla, amatyala neerekhodi ezinxulumene nezivumelwano zobonelelo ngeenkonzo zikamasipala

16D.(1) Kungatyeshelwanga nantoni na ephikisana noko kuqulethwe kuso nasiphi na isivumelwano sokubonelela ngeenkonza zoomasipala, esenziwa noomasipala abatshitshisiweyo, sivumelwano eso esithi umasipala lowo utshitshisiweyo kuya kuba nguye obonelela ngeenkonza; 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 ngeenkonza esenziwa ngumasipala otshitshisiweyo sivumelwano eso esithi umasipala lowo utshitshisiweyo nguye oya kubonelela ngeenkonza, kwaye unokuyalela uMasipala weNgingqi okanye uMasipala weSithili ukuba aqalise kananjalo alawule nawaphi na amalungiselelo ethutyana obonelelo ngeenkonzo ngokwemiqathango yecandelo 19 lale Shedyuli, ukuqinisekisa ukuqhubeka kubonelelo ngeenkonzo 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 ngeenkonzo ekubhekiswe kuzo kwicandelwana (1) ngokwemiqathango yecandelo 19.

(section 16D. inserted by PN. 669/2000)

Ukusilela ekufezekiseni imiqathango ethile yale Shedyuli

16E. Xa kunokwenzeka ukuba umphathi wethutyana kamasipala okanye nabani na ongomnye akufuneka 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.669/2000)

Imithetho yeNguqu ebhekiselele kwimithetho yenqila nemimiselo

17.(1) Nayiphi na imithetho yenqila esetyenziswayo kummandla womasipala otshitshisiweyo emva nje komhla wokuqala wonyulo iya kusebenza ukususela ngalo mhla, de kube kuthe ngexesha lokuqwalaselwa ngokutsha nokwenziwa kohlenga-hlengiso ngokwemiqathango yecandelo le-15 loMthetho weeNgingqi 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, isingqinisiso kuyo nayiphi na imithetho yenqila enjengale esiya kwenza ukuba:-

(a) umasipala otshitshisiweyo okanye owayengaphambili, kufuneka achazwe njengosisingqiniso kuMasipala weNqila, kwakunye

(b) indlela ami ngayo okanye umsebenzi kamasipala otshitshisiweyo, umelwe kukuchazwa njengesingqinisiso kubume ahambelana naso okanye umsebenzi kaMasipala.

(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 igunya elithe lanikezelwa;

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

(e) ukuqeshwa 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, ngokwemiqathango yolu luhlu lweenkqubo, zithathwe ezi xinto ngokwezinto abenzenza 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, 21, 22 nese 23 ekule Shedyuli, nabani na ngomhla wokuqala wonyulo othe wasebenzisa amagunya okanye

wenza umsebenzi wakhe 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 ngandlela yimbi uMasipala omtsha.

(5) Ngokwenjongo zoludwe lweenkqubo yeMiqathango eLawula ukuMiselwa kwamaGosa oxolo njengoko kuchaziwe kwimigaqo yecandelo 334 loMthetho weNkqubo yolwaPhulo-Mthetho ka1977 (uMthetho wama-51 ka1977), naliphi 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 esisemthethweni esisetyenziswayo okanye esilandelwayo kummandla wolawulo loomasipala abatshitshisiweyo, siya kuhlala sisetyenziswa kungenjalo kulandelwa sona kummandla lowo besilungiselelwe ukusetyenziswa kuwo de sibe sihlonyelwe, siguqulwe okanye sitshitshisiwe nguMasipala.

IMicimbi yeMali

18.(1) Ukususela kumhla wokuqala wonyulo uhlahlo-lwabiwo-mali olukhoyo loomasipala abatshitshisiweyo luya kusebenza kuhlahlo-lwabiwo-mali loMasipala de ibe ngumhla wama-30 kuJuni 2001, notshintshelo lohlahlo lwabiwo-mali lwangaphakathi loomasipala luya kuqhubeka kunyaka mali we-2000/2001.

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

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

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

lungenziwa uhlenga-hlengiso okanye ulungiselelo nokwamkelwa kohlahlo-lwabiwo-mali olunjengolu, ukuba oko kuya kuhambelana nomthetho osetyenziswayo.

(3) Phambi kwesiqalo sonyaka-mali ka2001/2002 kuya kufuneka uMasipala ukuba alungiselele ekwamkela izicwangiciso zokulawula imali kwanemigaqo-nkqubo ehambelana:-

(a) imiqathango nebandakanya nenkqubo yooMasipala yokutshintshwa kohlahlo lwabiwo mali, ukuqinisekisa uzinzo kwezezimali kwithuba lasemva konyaka mali ka2000/2001;

(b) neendleko zexesha eliphakathi;

(c) ukulinganiswa kobume boluhlu lweerhafu loLawulo loMmandla weSithili;

(d) ukwenziwa kwamalungiselelo abanzi oxwebhu olutsha loqukelelo-maxabiso kwanokuphakanyiswa kweimicimbi yeerhafu ezifikeleleka nakubani kuLawulo loMmandla weSithili;

(e) ukuziswa ngaphambili kwee-akhawunti eziqukanisiweyo;

(f) ukuhlanganiswa kwenkqubo zocwangciso-mali neenkqubo zohlahlo-lwabiwo-mali;

(g) ulawulo lwamatyala; kwakunye

(h) neenkqubo zokuthenga.

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 kwimihlathi (i) no (vii) elapha ngezantsi, akayi kuthi enganikwangwa nvume ngencwadi nguMphathiswa wePhondo, mvume leyo inemiqathango ethile ekubhekiselelwe kuyo kwimihlathi (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 okanye 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 kuhlahlo-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 ezibekelelweyo, ikapitali ebekeleweyo okanye izibonelelo ezibekelelweyo ngenjongo engeyiyo yokulolonga izinto ezakhelwe isizwe nezifakwe kuhlahlo-lwabiwo mali, ulolongo lwezinto zonxunguphalo ezikhelwe isizwe nezingafakwanga kuhlahlo-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 angasenakuhlawulwa.

Nangona ke eli candelwana lingenakusebenza kwiimeko zonxunguphalo; kwaye

(d) akayi kwenza okanye kuqalisa nasiphi na isigqibo esiya kwenza ukuba uMasipala weNgingqi agqithise kwikapitali yakheto 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.669/2000)

Ukuqeshwa kwamagosa abambeleyo

20. Phambi komhla wokuqala wonyulo uMphathiswa wePhondo, emva kokuqwalasela iziphakamiso zeQonga leNguqulelo leSithili ezinxulumene noMasipala weNqila aqeshe nokuba ngubani kwisikhundla esiya kufuneka phantsi kwemiqathango yowiso-mthetho, lonyulo olo luya kuba sisikhundla sobambelo, mntu lowo uya kuthabatha eso sikhunda ngomhla obekiweyo ahlale kuloo ofisi de uMasipala weNgingqi aqeshe ngokwemiqathango enxulumene nowiso-mthetho.

Ukuqeshwa koMphathi weThutyana kaMasipala

21.(1) Ngaphambi komhla wokuqala wonyulo uMphathiswa wePhondo, emva kokuqwalasela iziphakamiso zeQonga leNguqulelo leSithili, uya kutyumba umphathi wethutyana kamasipala noya kuhlala kweso sikhundla de abe uMasipala weNqila umisa owakhe umphathi okanye umphathi olibambela.

(2) Imisebenzi yomphathi wethutyana kamasipala, ngokubhekisele kwizalathiso okanye kwizigqibo ezithathwe nguMasipala weSithili, iya kuba yile ilandelayo:-

(a) uya kubiza indibano yokuqala yeKansile kaMasipala weNqila ngokwesahluko sama- 29(2) soMthetho wamaSebe kaMasipala;

(b) ukongamela indibano yokuqala yeKansile kaMasipala de kube kunyulwe isithethi;

(c) emva komhla wokuqala wonyulo, uya kusebenza njengentloko yolawulo kwananjengegosa eli loMasipala weSithili de abe uMasipala umisela owakhe umphathi nokuba ngumphathi olibambela;

(d) emva komhla wokuqala wonyulo, uya kuyenza yonke imisebenzi efanele ukwenziwa yiCEO yomasipala ngokomthetho wolawulo osetyenziswayo;

(e) ukujongana noxanduva lwenkqubo yokutshintshwa kwabasebenzi, izixhobo zokusebenza, ingeniso, ulawulo kwanamanye amaxwebhu kuMasipala weSithili;

(f) ukumisela abantu abaya kufezekisa imfanelo azimiseleyo ngokwemigaqo ekule Shedyuli;

(g) ukuthabatha amanyathelo afanelekileyo ukuqinisekisa ukuba inkonzo eqhutywayo isahamba ngendlela nasemva komhla wokuqala wonyulo;

(h) ukusela inkqubo enobuchule yethutyana yolawulo lwemali kaMasipala weSithili;

(i) ukumisela iindawo zethutyana zeenkqubo zokwenza imigxelo;

(j) ukunika izimvo neziphakamiso ezimalunga nenkqubo yezivumelwano, amalungiselelo eenkqubo kwanezivumelwano ngenkqubo yeenkonzo ezenziwayo;

(k) ukufezekiswa kwenkqubo yamalungiselelo enkonzo yethutyana phakathi kooMasipala beeNgingqi noMasipala weSithili;

(l) anikeze naliphi na kumagunya akhe okanye imisebenzi yakhe kuye nawuphi na umqeshwa kaMasipala weNgingqi, kwakhona arhoxise, abuyisele kuye loo magunya, kwakunye

(m) kwisithuba esiphambi komhla wokuqala wonyulo uya kwenza amalungiselelo eenkqubo ezikankanyiweyo ku (a) ukuya ku (l).

(3) phambi komhla wokuqala wonyulo, iiCEOs ziya kubambisana nomphathi komasipala weThutyana kuyo yonke imibandela enokwenza noku sekwa komasipala omtsha wengingqi.

(4) ukusuka kumhla wonyulo, iiCEO ziya kusebenza phantsi kwemigaqo, bathembeke kumphathi wethutyana kamasipala, umphathi wethutyana kamasipala uya kuba namandla apheleleyo eCEO.

Abaphathi abancedisayo bethutyana bakamasipala

22. UMphathiswa wePhondo unokuthi, emva kokuba ezinike ingqalelo naziphi na iziphakamiso zeQonga leNguqulelo leSithili, aqeshe nokuba bangaphi abancedisi bethutyana babe ngababaphathi betyhutyana bakamasipala, nabaya kuqalisa emsebenzini emva nje kokuba beqeshiwe kwaye baya kuhlala kwezo zikhundla de uMasipala abe usiqinisekisile okanye usiphelisile isikhundla eso.

IQela loLawulo elikiSikhundla esiPhezulu

23. Nabaphi na abancedisi abamiselwa ukuba ngababaphathi bethuyana bakamsipala, bekunye nomphathi wethutyana kamasipala, baya kuba yinxalenye yeqela lolawulo elikwisikhundla eziphezulu neliya kongamela iinkqubo zokufezikiswa ukusekwa koMasipala weNqila.

Ingqesho

24. Nawuphi na umntu oqeshwe ngokwezahluko 21 okanye 22 ngokwemimiselo yecandelo 12 lale Shedyuli, engumqeshwa kamasipala otshitshisiweyo yaye uya kusebenzisa abe ngumsebenzi womasipala otshitshisiweyo oya, kuthi ngokwemiqa-thango ekwicandelo le-12 lale shedyuli, ahlale eqeshwe ngumasipala otshitshisiweyo okanye uMasipala weNqila, eya kufezekisa iimfuno zomsebenzi njengomntu othunyelweyo.

INdibano yokuqala yeKansile kaMasipala weSithili

25.(1) uMphathi wethutyana kamasipala uya kuthi, kwiintsuku ezintathu phambi kokuhalalelwa kwendibano yeKansile kaMasipala weSithili, athumele kuceba ngamnye kwindawo ahlala kuyo nokuba kukwindawo ekhethwe nguceba lowo kubhekiselelwe kuye, isaziso esimalunga nendawo, umhla, ixesha lendibano yokuqala kwane-agenda; kuxhomekeke kumphathiswa wethutyana ukubiza indibano yokuqala ngesikhawu.

(2) Ngokungayigatyanga nje imithetho yeengingqi esebenzayo, kodwa ngokuxomekeke kwizibonelelo zaMthetho wamaSebe kaMasipala, imiqathango nemimiselo yentlanganisano yokuqala yeKansile yoMasipala weNgingqi yimimiselo nemimiselo yentlanganiso yokuqala yeKansile yoMasipala weNgingqi yimimiselo nemimiselo ekhankanyiweyo kweiSaziso sePhondo esingu- 411/1988 njengongoko sichaziweyo kwiGazethi yePhondo enguNombolo 4532 yomhla wama- 20 kuMeyi 1998 eneenguqulelo ezifunekayo kwezinye iziqendu, loo mimiselo iya kuhlala iyesebenza de kusetyenziswe imiqathango nemimiselo nguMasipala weNgingqi.

(subsection (2) amended by PN.669/2000)

(3) INdawo eya kubanjelwa kuyo indibano yokuqala yeKansile kaMasipala weNqila iya kuba yiNdlu yeKansile etshitshisiweyo ekummandla wasePiketberg, ePiketberg.

(4) I-agenda yendibano yokuqala iya kuba yile ilandelayo:

(a) Ukunyulwa kwesithethi;

(b) ukuba ngaba uMasipala weSithili uyafuna na ukuseka ikomiti elawulayo, ukuba kunjalo, kuya kumiselwa umgaqo-nkqubo womelo lonyulo lwekomiti elawulayo;

(c) Ukunyulwa kooceba abaya kusebenzela ikomiti elawulayo;

(d) ukunyulwa kosodolophu, kumalungu ekomiti elawulayo;

(e) ukunyulwa kosekela-sodolophu, kumalungu ekomiti elawulayo nothianikwe imvume nguMpahthiswa wePhondo, kwakunye

(f) nayiphi na eminye imisebenzi esekwe ngumphathi wethutyana kamasipala ne-agenda emiselweyo.

Ukusetyenziswa kwesi Saziso

25A. Xa kunokuvela ukungavisisani, malunga nokufezekiswa kwemiba ekwesi Saziso, phakathi kwesi Saziso nemiqathango yaso nasiphi na isaziso secandelo 84(3) esabhengezwa nguMphathiswa wePhondo okanye nasiphi isaziso secandelo 18 esabhengeza nguMphathiswa wePhondo, nokuba sisiphi kwezo zaziso, imiqathango yesaziso ecandeo 83(3) yiyo eya kusebenza.

(section 25A inserted by PN. 669/2000)

USekela Sodolophu weSigqeba

25B. Kunikezwe imvume ngokwemiqathango yecandelo 55 lomthetho, iMunicipal Structures Act, njengoko silungisiwe, kusenzelwa unyulo losekela sodolophu wesigqeba.

(section 25B inserted by PN.178/2003)

ISihloko esifutshane nokuqalisa

26. Esi Saziso sibizwa ngokuba nguMasipala waseBergrivier (WCO13) ukuSekwa kweSaziso nesiqalise ukusebenza ngomhla esipapashwe ngawo.

P.K. 483/2000 22 September 2000

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

Gewysig deur:
Provinsiale Kennisgewing 669 van 4 Desember 2000
Provinsiale Kennisgewing 450 van 19 Desember 2002
Provinsiale Kennisgewing 178 van 28 Mei 2003
Provinsiale Kennisgewing 5 van 3 Januarie 2006
Provinsiale Kennisgewing 111 van 28 Maart 2008

INSTELLING VAN DIE MUNISIPALITEIT BERGRIVIER (WCO13)

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 Munisipaliteit Bergrivier 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

Woordomskrywings 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 afgekondig ingevolge artikel 18 van die Munisipale Strukture Wysigingswet;

(subartikel (1A) ingevoeg deur PK 669/2000)

(1B) **"artikel 84(3)-kennisgewing"** 'n kennisgewing afgekondig ingevolge artikel 84(3) van die Munisipale Strukturewet;

(subartikel (1B) ingevoeg deur PK.669/2000)

(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.178/2003)

(3) **"Distriksmunisipaliteit"** die Weskus Distriksmunisipaliteit wat met ingang van die effektiewe datum ingestel moet word;

(3A) **"Distriksmunisipaliteit se TMB"** die tussentydse munisipale bestuurder van die Distriksmunisipaliteit;

(subartikel (3A) ingevoeg deur PK.669/2000)

(3B) **"Distriksmunisipaliteitskennisgewing"** Provinsiale Kennisgewing 480/2000, gepubliseer in Buitengewone Provinsiale Koerant No. 5589 van 22 September 2000;

(subartikel (3B) ingevoeg deur PK.669/2000)

(4) **"Distrikstransformasieforum"** die Weskus Distrikstransformasieforum wat ingevolge die DTF-Kennisgewing ingestel is;

(5) **"DTF-Kennisgewing"** Provinsiale Kennisgewing 78/2000 gepubliseer in Buitengewone Provinsiale Koerant No. 5435 van 10 Maart 2000;

(6) **"effektiewe datum"** die datum waarop die verkiesing 'n aanvang neem;

(7) *(subartikel (7) geskrap deur PK.178/2003)*

(8) "**Grondwet"** die Grondwet van die Republiek van Suid-Afrika, 1996 (Wet 108 van 1996);

(9) **"HUB"** die hoof uitvoerende beampte van 'n afgeskafte munisipaliteit;

(10) **"intermunisipale begrotingsoorplasings"** die oordrag van fondse tussen munisipaliteite om inkomste stabiliteit te verkry tydens die periode van transformasie;

(11) **"Munisipale Afbakeningsraad"** die Munisipale Afbakeningsraad wat by artikel 2 van die Munisipale Afbakeningswet ingestel is;

(12) **"Munisipale Afbakeningswet"** die Wet op Plaaslike Regering: Munisipale Afbakenings, 1998 (Wet 27 van 1998);

(13) **"Munisipale Strukturewet"** die Wet op Plaaslike Regering: Munisipale Strukture, 1998 (Wet 117 van 1998);

(13A) **"Munisipale Strukture Wysigingswet"** die Wysigingswet op Plaaslike Regering: Munisipale Strukture, 2000 (Wet 33 van 2000);

(subartikel (13A) ingevoeg deur PK.669/2000)

(13B) **"Nasionale Minister"** die nasionale Minister verantwoordelik vir plaaslike regering;

(subartikel (13B) ingevoeg deur PK.669/2000)

(13C) **"oordragproses"** die proses soos in hierdie Bylaag uiteengesit om die oordrag van alle personeel, bates, laste en rekords van die afgeskafte munisipaliteite na die Distriksmunisipaliteit of die Plaaslike Munisipaliteite teweeg te bring, welke proses insluit:-

(a) die identifisering van alle personeel, bates, laste en rekords wat oorgedra moet word;
(b) die toepassing van die beginsels vir doeltreffende 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 (13C) ingevoeg deur PK.669/2000)

(13D) **"personeel"** alle personeel, insluitende funksionele, bestuurs- en steunpersoneel, en omvat dit vakante poste waarvoor begroot is, maar nie vakante poste waarvoor nie begroot is nie;

(subartikel (13D) ingevoeg deur PK.669/2000)

(14) **"Plaaslike Munisipaliteit"** die Munisipaliteit Bergrivier wat ingevolge artikel 4 van hierdie Bylaag ingestel word;

(15) **"Provinsiale Minister"** die lid van die Kabinet van die Provinsie Wes-Kaap verantwoordelik vir plaaslike regering;

(16) **"Provinsie"** die Provinsie Wes-Kaap;

(17) **"Statutêre plan"** 'n plan wat ingevolge enige wetgewing vereis word, insluitende, sonder om beperk te wees tot, enige struktuurplan, grondgebruikplan, soneringskema, geïntegreerde ontwikkelingsplan, waterdiensteplan, vaardigheidsontwikkelingsplan en diensbillikheidsplan;

(18) **"tussentydse munisipale bestuurder"** die tussentydse munisipale bestuurder van die Plaaslike Munisipaliteit wat ingevolge artikel 21(1) aangestel is en wat vanaf die effektiewe datum die waarnemende munisipale bestuurder van die Plaaslike Munisipaliteit sal wees, of die waarnemende munisipale bestuurder of munisipale bestuurder van die Plaaslike Munisipaliteit wat na die effektiewe datum deur die Munisipale Raad van die Plaaslike Munisipaliteit aangestel is;

(subartikel (18) gewysig deur PK.669/2000)

(19) **"vakbonde"** die Onafhanklike Munisipale en Verwante Vakbond en die Suid-Afrikaanse Munisipale Werkersvereniging;

(20) **"verkiesing"** die eerste algemene verkiesing van Munisipale Rade na die inwerkingtreding van die Grondwet;

(21) **"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;

(22) **"Wet op Landelike Gebiede"** die Wet op Landelike Gebiede (Raad van Verteenwoordigers), 1987 (Wet 9 van 1987);

(23) **"Wet op Transformasie van Sekere Landelike Gebiede"** die Wet op Tranformasie van Sekere Landelike Gebiede, 1998 (Wet 94 van 1998),

(24) **"wyk deelnemende stelsel"** 'n stelsel wat voorsiening maak vir aangeleenthede van plaaslike belang vir wyke, om deur komitees mee gehandel te word wat vir wyke ingestel is.

(subartikel (24) ingevoer deur PK.178/2003)

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 165 gepubliseer in Buitengewone Provinsiale Koerant Nr. 5469 van 5 Mei 2000 en Provinsiale Kennisgewing 54/2003 gepubliseer in Buitengewone Provinsiale Koerant Nr. 5985 van 19 Februarie 2003. ‘n Kopie van die kaart word in Aanhangsel “1” by hierdie Bylaag herpubliseer.

(artikel 2(1) gewysig deur PK.5/2006)

(2) Die Provinsiale Minister, wat ingevolge artikel 12(4) van die Munisipale Strukturewet handel, het:-

(a) skriftelike kennis van die voorgenome instelling van die Plaaslike Munisipaliteit aan WEKPRO en aan die afgeskafte munisipaliteite gegee by wyse van ‘n omsendbrief gedateer 12 Julie 2000 en met verwysing AAO509/1/4;

(b) oorleg gepleeg met WEKPRO en die afgeskafte munisipaliteite;

(c) besonderhede van hierdie Kennisgewing gepubliseer in Provinsiale Kennisgewing 388/2000, 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.

(3) Die Provinsiale Minister het ook die advies van die Distrikstransformasieforum oorweeg wat ingevolge artikel 11(2) van die DTF-Kennisgewing aan hom gegee is.

(4) 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 Plaaslike Munisipaliteit ingevolge die voorwaardes soos hierin uiteengesit.

(5) 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 Plaaslike Munisipaliteit 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 Plaaslike Munisipaliteit 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 oorgangsmaatreëls 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 Plaaslike Munisipaliteit te verseker.

(subartikel (5) ingevoeg deur PK. 669/2000)

Afskaffing van Bestaande Munisipaliteite

3.(1) Met ingang van middernag van die dag voor die effektiewe datum, sal die volgende munisipaliteite afgeskaf word:-

(a) Aurora Plaaslike Oorgangsraad, verklaar ingevolge Proklamasie No. 132/1995 gedateer 27 Oktober 1995;

(b) Munisipaliteit Piketberg, ingestel ingevolge Proklamasie No. 85/1994 gedateer 30 November 1995;

(c) Piketberg 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 Plaaslike Munisipaliteit, soos deur die Munisipale Afbakeningsraad bepaal is en in artikel 2(1) genoem word;

(d) Munisipaliteit Porterville, ingestel ingevolge Proklamasie No. 62/1994 gedateer 30 September 1994;

(e) Redelinghuys Plaaslike Oorgangsraad, ingestel ingevolge Proklamasie No. 124/1994 gedateer 30 Desember 1994, en

(f) Munisipaliteit Veldrif, ingestel ingevolge Proklamasie No. 112/1994 gedateer 30 Desember 1994.

(2) Die raadslede van die afgeskafte munisipaliteite moet hul ampte ontruim wanneer die pas verkose Raad van die Plaaslike Munisipaliteit 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 "Munisipaliteit Bergrivier", in Engels as "Bergrivier Municipality", en in isiXhosa as "U Masipala waseBergrivier" bekend sal staan.

Kategorie

5. Die Plaaslike Munisipaliteit is 'n plaaslike munisipaliteit soos omskryf in artikel 1 van die Munisipale Strukturewet omskryf, naamlik 'n munisipaliteit wat munisipale uitvoerende en wetgewende gesag in sy gebied deel met die Distriksmunisipaliteit, en wat in artikel 155(1) van die Grondwet as 'n kategorie B – munisipaliteit beskryf word.

Soort

6. Die Plaaslike Munisipaliteit is 'n munisipaliteit met 'n burgemeesters-uitvoerende stelsel wat met 'n wykdeelnemende stelsel gekombineer is, 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.178/2003)

Grense

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

Getal Raadslede en Wyke

8.(1) Die Munisipale Raad van die Plaaslike Munisipaliteit het 13 (dertien) raadslede, soos deur die Provinsiale Minister bepaal in Provinsiale

Kennisgewing 164/2000 wat in Buitengewone Provinsiale Koerant No. 5468 van 4 Mei 2000 gepubliseer is, waarvan 7 (sewe) wyksraadslede is en 6 (ses) proporsioneel verkose raadslede is.

(2) Die Plaaslike Munisipaliteit het 7 (sewe) wyke.

Voltydse Raadslede

9. Die Plaaslike Munisipaliteit 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.450/2002 en PK.178/2003)

Funksies en Bevoegdhede

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

Vrystellings

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

Beginsels 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 Plaaslike Munisipaliteit verrig moet word, na die Plaaslike Munisipaliteit oorgeplaas word:

(b) alle personeel van die afgeskafte munisipaliteit 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;

(c) enige personeellid van 'n afgeskafte munisipaliteit wat betrokke is by een of meer funksies wat met ingang van die effektiewe datum deur die Plaaslike Munisipaliteit en die Distriksmunisipaliteit verrig sal word, oorgeplaas word ooreenkomstig die funksie wat die grootste deel van so 'n 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 Munisipaliteit en die Distrikmunisipaliteit verrig moet word nie, oorgeplaas word na óf die Plaaslike Munisipaliteit óf die Distriksmunisipaliteit 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 die 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 Plaaslike Munisipaliteit oorgeplaas word, vereis word om by enige van die kantore van die Plaaslike Munisipaliteit aan te meld en, tensy anders ooreengekom, sal so 'n werknemer, as gevolg daarvan, nie op enige bykomende vergoeding geregtig wees nie.

(artikel 12 gewysig deur PK. 669/2000)

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 Plaaslike Munisipaliteit geplaas word en moet alle personeel wat na die Distriksmunisipaliteit oorgeplaas staan te word ingevolge die bepalings van artikel 12 of 16C van hierdie Bylaag, dienooreenkomstig geag word na die Plaaslike Munisipaliteit gesekondeer te wees ingevolge 'n agentskapsreëling tussen die Plaaslike Munisipaliteit en die Distriksmunisipaliteit ten effekte dat die Plaaslike Munisipaliteit die funksie of funksies waarby die spesifieke personeel betrokke is, namens die Distriksmunisipaliteit sal verrig.

(2) Ten einde:-

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

(b) die Plaaslike Munisipaliteit en die Distriksmunisipaliteit 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 Distriksmunisipaliteit se TMB 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 Distriksmunisipaliteit se TMB:-

(a) die skedules genoem in subartikel (1) konsolideer tot ‘n enkele skedule en moet hy of sy na goeddunke elke personeellid en vakante pos waarvoor begroot is en wat in die gekonsolideerde skedule gelys is, finaal aan óf die 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 die Distriksmunisipaliteit se TMB voorlê en van die Distriksmunisipaliteit se TMB die kopie van die skedule deur daardie Distriksmunisipaliteit se TMB opgestel, verkry, en

(c) die skedule genoem in paragraaf (a) met die skedules wat ontvang is van die Distriksmunisipaliteit se TMB genoem in paragraaf (b), konsolideer tot ‘n enkele skedule wat alle personeel wat na die Plaaslike Munisipaliteit 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 Distriksmunisipaliteit se TMB, die toewysing van personeel ingevolge subartikel (2) aanpas om voorsiening te maak vir ‘n meer doeltreffende algemene toewysing van personeel tussen die Plaaslike Munisipaliteit en die Distriksmunisipaliteit, 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 Distriksmunisipaliteit se TMB 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 Plaaslike Munisipaliteit voorsien van ‘n skriftelike kennisgewing wat sodanige personeellid meedeel dat hy of sy met ingang van die effektiewe datum in diens van die Plaaslike Munisipaliteit 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, enige 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 waarheen 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 Provinsial Minister bepaal, word en die besluit van die Provinsiale Minister of sy benoemde is finaal en bindend.

(subartikel (10) gewysig deur PK 111/2008)

(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 word, moet die beswaarmaker na daardie munisipaliteit oorgeplaas word, en sy of haar oorplasing word 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 Distriksmunisipaliteit 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 Plaaslike Munisipaliteit 'n diensstaat vir die Plaaslike Munisipaliteit 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 Plaaslike Munisipaliteit nie 'n diensstaat vir die Plaaslike Munisipaliteit 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 Bylae 'n ooreenkoms bereik is nie, moet die Plaaslike Munisipaliteit, 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 Plaaslike Munisipaliteit voortspruit.

(15)Voor of op 'n datum wat deur die Provinsiale Minister bepaal word, moet die Plaaslike Munisipaliteit 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.669/2000)

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 Plaaslike Munisipaliteit;

(c) die aanneem van bepalings en voorwaardes van indiensneming vir die Plaaslike Munisipaliteit na die effektiewe datum, en

(d) enige ander arbeidsaangeleenheid in verband met die instelling van die Plaaslike Munisipaliteit.

Menslikehulpbronaangeleenthede

14. Behoudens enige kollektiewe ooreenkoms:-

(a) is die menslikehulpbronbeleid en –prosedures van die Plaaslike Munisipaliteit 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 Plaaslike Munisipaliteit;

(b) is die bepalings en voorwaardes van indiensneming van alle werknemers van die Plaaslike Munisipaliteit, 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 Plaaslike Munisipaliteit.

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 Plaaslike Munisipaliteit 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 Plaaslike Munisipaliteit die regsopvolger van die afgeskafte munisipaliteite wees, en die munisipaliteite wat ingevolge die Distriksmunisipaliteitkennisgewings afgeskaf moet word, ten opsigte van die spesifieke bates en laste wat ingevolge hierdie Bylaag aan die Plaaslike Munisipaliteit 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 Plaaslike Munisipaliteit, en die Plaaslike Munisipaliteit 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 die bepalings van enige toepaslike wet, bly enige waardasielyste wat van krag is, of wat as gevolg van die instelling van tussentydse of bykomende waardasies ontstaan, na gelang van die geval, in die gebied van die Plaaslike Munisipaliteit, onderhewig andersins aan die bepalings van sodanige wet, van krag totdat ‘n algemene waardasielys vir die gebied van die Plaaslike Munisipaliteit opgestel is.

(5) Ondanks subartikel (1):-

(a) sal die Plaaslike Munisipaliteit 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 Plaaslike Munisipaliteit 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 Plaaslike Munisipaliteit ingevolge die Wet op Landelike Gebiede en die regulasies ingevolge die Wet op Landelike Gebiede gemaak, bestuur word.

(artikel 16 gewysig deur PK. 669/2000)

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 Plaaslike Munisipaliteit verrig moet word, moet na die Plaaslike Munisipaliteit oorgeplaas word.

(2) 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 Distriksbestuursgebied verrig moet word), moet na die Distriksmunisipaliteit oorgeplaas word.

(3) Enige roerende bate van een van die afgeskafte munisipaliteite wat in verband staan met een of meer funksies wat met ingang van die effektiewe datum deur die Plaaslike Munisipaliteit en die Distriksmunisipaliteit 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 Plaaslike Munisipaliteit en die Distriksmunisipaliteit verrig moet word, en alle roerende bates wat verband hou met 'n funksie of funksies wat deur die Plaaslike Munisipaliteit en die Distriksmunisipaliteit verrig moet en wat nie tussen hulle verdeel kan word nie, moet oorgeplaas word na die munisipaliteit wat die hoofgebruiker van daardie bate sal wees; met dien verstande dat enige ander 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 gebruikersreg volgens ooreenkoms beëindig word.

(5) Ondanks die bepalings van subartikel (4), kan die Plaaslike Munisipaliteit en die Distriksmunispaliteit ooreenkom om enige onroerende bate genoem in subartikel (4) wat onderverdeelbaar is, te onderverdeel of om enige groep bates genoem in subartikels (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 in verband staan met 'n funksie of funksies wat deur die Plaaslike Munisipaliteit en Distriksmunisipaliteit verrig word, moet billik verdeel word tussen hulle, 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 verloffondse, 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 Munisipaliteit 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 doel wat gedien word deur elke bepaalde reserwe of voorsiening;

(c) reserwes en opgehoopte surplusse van 'n algemene aard moet tussen die Plaaslike Munisipaliteit en die Distriksmunisipaliteit verdeel word op die volgende grondslag:-

(i) in verhouding tot die mees onlangse gekonsolideerde finansiële state van die Distriksmunisipaliteit en Plaaslike Munisipaliteit;

(ii) enige ander grondslag deur die Provinsiale Minister goedgekeur.

(8) Alle ontasbare bates van die afgeskafte munisipaliteite wat in verband staan met 'n funksie of funksies wat deur die Plaaslike Munisipaliteit en die Distriksmunisipaliteit verrig moet word, moet aan een munisipaliteit toegewys word; met dien verstande dat die 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 staan met 'n funksie of funksies wat deur die Plaaslike Munisipaliteit en die Distriksmunisipaliteit 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 munisipaliteit die reg van toegang tot daardie rekords het en die reg om kopieë daarvan te verkry.

(10) Alle laste van die afgeskafte munisipaliteite wat in verband staan met 'n funksie of funksies wat deur die Plaaslike Munisipaliteit en die Distriksmunisipaliteit verrig moet word, moet op billike wyse gedeel word tussen die Plaaslike Munisipaliteit en die Distriksmunisipaliteit, 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 met 'n bepaalde funksie in verband staan nie, na die Plaaslike Munisipaliteit oorgeplaas word.

(artikel 16A ingevoeg deur PK. 669/2000)

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

(2)Ten einde:-

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

(b) die Plaaslike Munisipaliteit en die Distriksmunisipaliteit 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 bate, 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 die Distriksmunisipaliteit se TMB 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 Distriksmunisipaliteit se TMB:-

(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 die Distriksmunisipaliteit se TMB voorlê en van die Distriksmunisipaliteit se TMB die kopie van die skedule deur die Distriksmunisipaliteit se TMB opgestel, verkry, en

(c) die skedule genoem in paragraaf (a) en die skedules wat van die Distriksmunisipaliteit se TMB ontvang is, genoem in paragraaf (b), konsolideer tot 'n enkele skedule wat alle bates, laste en rekords wat na die Plaaslike Munisipaliteit oorgeplaas moet word, weergee.

(5) Ondanks die beginsels in artikels 16A en 16C uiteengesit, kan die tussentydse munisipale bestuurder volgens ooreenkoms met die Distriksmunisipaliteit se TMB die toewysing van bates, laste en rekords ingevolge subartikel (4)

aanpas om voorsiening te maak vir 'n doeltreffender algemene toewysing tussen die Distriksmunisipaliteit en die Plaaslike Munisipaliteit.

(6) Indien enige geskil met betrekking tot die toewysing van enige bates, laste of rekords tussen die tussentydse munisipale bestuurder en die Distriksmunisipaliteit se TMB 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 Plaaslike Munisipaliteit moet die oorplasing van bates, laste en rekords nie later nie as 12 maande na die effektiewe datum oudit, of sodanige latere datum as wat deur die Provinsiale Minister bepaal word.

(artikel 16B ingevoeg deur PK. 669/2000)

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 betrokke is by of verband hou met:-

(i) paaie, behalwe munisipale paaie;

(ii) ambulansdienste;

(iii) gesondheidsdienste, behalwe munisipale gesondheidsdienste;

(iv) rampbestuur;

(v) behuising;

(vi) biblioteke;

(vii) museums;

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

(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.669/2000)

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 bepalings 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 sal wees, en kan die Plaaslike Munisipaliteit of die Distriksmunisipaliteit gelas om enige tussentydse diensleweringsreëlings 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 Plaaslike Munisipaliteit die regsopvolger van die afgeskafte munisipaliteite met betrekking tot enige munisipale diensleweringsooreenkoms in subartikel (1) bedoel in ooreenstemming met die bepalings van artikel 19.

(artikel 16D ingevoeg deur PK. 669/2000)

Versuim om sekere bepalings 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 Plaaslike Munisipaliteit of die Distriksmunisipaliteit verplig is om ten volle met sodanige persoon saam te werk.

(artikel 16E ingevoeg deur PK. 669/2000)

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 Plaaslike Munisipaliteit.

(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 Plaaslike Munisipaliteit 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 Plaaslike Munisipaliteit wees.

(3) Behoudens die bepalings van hierdie Bylaag en nieteenstaande die afskaffing van die afgeskafte plaaslike 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 bevoegdhede aan ‘n werknemer verleen;

(i) belastings, 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 bepalings van hierdie Bylaag geag word deur die Plaaslike Munisipaliteit 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, 21, 22 en 23 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 Plaaslike Munisipaliteit 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 Plaaslike Munisipaliteit aangestel te gewees het vir die regsgebied van die Plaaslike Munisipaliteit.

(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 Plaaslike Munisipaliteit 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 Plaaslike Munisipaliteit uitmaak, en intermunisipale begrotingsoorplasings sal voorduur vir die 2000/2001 finansiële jaar.

(2) Ondanks die bepalings van subartikel (1) mag die Plaaslike Munisipaliteit:-

(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) Voor die aanvang van die 2001/2002 finansiële jaar moet die Plaaslike Munisipaliteit oorweeg om finansiële bestuursplanne en –beleide aan te neem betreffende:-

(a) maatreëls, insluitende intermunisipale begrotingsoorplasings, om inkomste stabiliteit vir die periode na die 2000/2001 finansiële jaar te verseker;

(b) mediumtermynuitgawe;

(c) gelykmaking van tariefstrukture;

(d) die opstel van 'n nuwe algemene waardasierol vir die Plaaslike Munisipaliteit se regsgebied en die ingebruikneming van billike eiendomsbelatings;

(e) die ingebruikneming van gekonsolideerde rekeningleweringskemas;

(f) die konsolidasie van finansiële rekeningkundige stelsels en begrotingstelsels;

(g) kredietbeheer, en

(h) verkryging.

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 Plaaslike Munisipaliteit:-

(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 Distriksmunisipaliteit;

(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 Distriksmunisipaliteit, 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) inligtingstegnologiestelsels, 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 Plaaslike Munisipaliteit 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 Plaaslike Munisipaliteit en die Distriksmunisipaliteit 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.669/2000)

Aanstelling van Waarnemende Beamptes

20. Voor die aanvang van die effektiewe datum, moet die Provinsiale Minister na die oorweging van enige aanbevelings deur die Distrikstransformasieforum, en waar toepaslik vir die Plaaslike Munisipaliteit, enige persoon in enige posisie wat ingevolge relevante wetgewing benodig word, aanstel, welke aanstelling in ‘n waarnemende hoedanigheid sal wees, en wie die amp op die effektiewe datum moet aanvaar en dit moet beklee totdat die Plaaslike Munisipaliteit sy eie aanstellings gedoen het ingevolge die relevante wetgewing.

Aanstelling van Tussentydse Munisipale Bestuurder

21.(1) 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 Plaaslike Munisipaliteit sy eie munisipale bestuurder of waarnemende munisipale bestuurder aangestel het.

(2) Die pligte van die tussentydse munisipale bestuurder sal, onderworpe aan voorskrifte of besluite tot die teendeel wat deur die Plaaslike Munisipaliteit aangeneem is, soos volg wees:-

(a) om die eerste vergadering van die Raad van die Plaaslike Munisipaliteit ingevolge artikel 29(2) van die Munisipale Strukturewet byeen te roep;

(b) om op die eerste vergadering van die Raad van die Plaaslike Munisipaliteit voor te sit totdat die speaker verkies word;

(c) om na die effektiewe datum, as die hoof van administrasie en hoofrekenpligte beampte van die Plaaslike Munisipaliteit op te tree, totdat die Plaaslike Munisipaliteit 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 bewerkstelliging van die oorplasing van alle personeel, bates, laste en administratiewe en ander rekords na die Plaaslike Munisipaliteit;

(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 diensleweringskontinuïteit na die effektiewe datum gehandhaaf word;

(h) om tussentydse finansiële beheermeganismes vir die Plaaslike Munisipaliteit in te stel;

(i) om tussentydse verslagdoeningskanale en delegasies vir die Plaaslike Munisipaliteit in te stel;

(j) om dienskontrakte, agentskapsreëlings en diensleweringsooreenkomste te hersien en aan te beveel;

(k) om enige tussentydse diensleweringsreëlings tussen die Plaaslike Munisipaliteite en die Distriksmunisipaliteit asook tussen die Plaaslike Munisipaliteit en ander plaaslike munisipaliteite binne die gebied van die Distriksmunisipaliteit in werking te stel;

(l) delegeer enige van sy of haar magte of pligte aan enige werknemer van die Plaaslike Munisipaliteit 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).

(3) Voor die effektiewe datum, moet HUB's met die tussentydse munisipale bestuurder saamwerk ten aansien van al die aangeleenthede wat verbandhou met die instel van die Plaaslike Munisipaliteit.

(4) Met ingang van die effektiewe datum, handel die HUB's onder die leiding van, en doen hulle verantwoording aan, die tussentydse munisipale bestuurder, en het die tussentydse munisipale bestuurder al die magte van die HUB's.

Tussentydse Munisipale Assistentbestuurders

22. Die Provinsiale Minister mag, na die oorweging van enige aanbeveling deur die Distrikstransformasieforum, enige aantal tussentydse assistente, vir die tussentydse munisipale bestuurder aanstel, wat hul ampte by aanstelling aanvaar en dit beklee totdat die Plaaslike Munisipaliteit die aanstellings bevestig of beëndig het.

Senior Bestuurspan

23. Enige tussentydse assistente wat vir die tussentydse munisipale bestuurder aangestel is, sal saam met die tussentydse munisipale bestuurder die senior bestuurspan van die Plaaslike Munisipaliteit uitmaak, wat toesig moet hou oor die implementering van die instelling van die Plaaslike Munisipaliteit.

Aanstellings

24. Enige persoon ingevolge artikel 21 of 22 aangestel sal, behoudens die bepalings van artikel 12 van hierdie Bylaag, ‘n werkgewer van ‘n afgeskafte munisipaliteit wees en sal sy of haar pligte op ‘n gesekondeerde grondslag verrig.

Eerste Vergadering van die Raad van die Plaaslike Munisipaliteit

25.(1) Die tussentydse munisipale bestuurder moet minstens drie dae voor die eerste vergadering van die Raad van die Plaaslike Munisipaliteit, ‘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 Plaaslike Munisipaliteit 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 Plaaslike Munisipaliteit.

(artikel 25(2) gewysig deur PK.669/2000)

(3) Die vergaderplek vir die eerste vergadering van die Raad van die Plaaslike Munisipaliteit sal die Raadsaal van die afgeskafde Munisipaliteit Piketberg, in Piketberg wees.

(4) Die agenda van die eerste vergadering sal soos volg wees:-

(a) die verkiesing van die speaker;

(b) of die Plaaslike Munisipaliteit 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.

Toepassing van hierdie Kennisgewing

25A. 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 25A ingevoeg deur PK.669/2000)

Uitvoerende Onderburgemeester

25B. Goedkeuring word verleen ingevolge artikel 55 van die Munisipale Strukture Wet, soos gewysig, vir die verkiesing van ‘n uitvoerende onderburgemeester.

(artikel 25B ingevoeg deur PK.178/2003)

Kort titel en Inwerkingstreding

26. Hierdie Kennisgewing heet die Munisipaliteit Bergrivier (WCO13) Instellingskennisgewing en tree in werking op die datum van publikasie.