

(8 June 2005 – to date)

[This is the **current** version and applies as from **8 June 2005**, i.e. the date of commencement of the Taxation Laws Amendment Act 9 of 2005 - to date]

REGIONAL SERVICES COUNCILS ACT 109 OF 1985

Government Notice 1636 in Government Gazette 9868 dated 31 July 1985. Commencement date: 31 July 1985

As amended by:

Regional Services Councils Amendment Act 78 of 1986 – Government Notice 1424 in Government Gazette 10336 dated 4 July 1986. Commencement date: 4 July 1986

Regional Services Councils Amendment Act 49 of 1988 – Government Notice 926 in Government Gazette 11296 dated 5 May 1988. Commencement date: 5 May 1988

Taxation Laws Amendment Act 69 of 1989 - Government Notice 1297 in Government Gazette 11963 dated 21 June 1989. Commencement date: 21 June 1989

Taxation Laws Amendment Act 89 of 1990 - Government Notice 1464 in Government Gazette 12588 dated 4 July 1990. Commencement date: 1 July 1990

KwaZulu and Natal Joint Services Act 84 of 1990 - Government Notice 1459 in Government Gazette 12583 dated 4 July 1990. Commencement date: 1 August 1990 [Proc. 128 in Gazette No. 12677 dated 31 July 1990]

Regional Services Councils Amendment Act 75 of 1991 – Government Notice 1156 in Government Gazette 13270 dated 29 May 1991. Commencement date: 29 May 1991

Local Authority Affairs Amendment Act 127 of 1991 - Government Notice 1521 in Government Gazette 13372 dated 12 July 1991. Commencement date: 12 July 1991

Provincial and Local Authority Affairs Amendment Act 134 of 1992 - Government Notice 1921 in Government Gazette 14137 dated 15 July 1992. Commencement date: 15 July 1992

Taxation Laws Amendment Act 136 of 1992 - Government Notice 1923 in Government Gazette 14139 dated 15 July 1992. Commencement date: 15 July 1992

Local Government Affairs Amendment Act 56 of 1993 - Government Notice 591 in Government Gazette 14720 dated 1 April 1993. Commencement date: 1 April 1993

Prepared by:

Taxation Laws Amendment Act 97 of 1993 - Government Notice 1193 in Government Gazette 14936 dated 9 July 1993. Commencement date: 9 July 1993

Proclamation R153 in Government Gazette 16049 dated 31 October 1994, as amended by Proclamation R31 in Government Gazette 16346 dated 7 April 1995, and published in terms of section 235(8) of the Constitution of the Republic of South Africa 200 of 1993. Commencement date: 31 October 1994

Taxation Laws Amendment Act 37 of 1995 - Government Notice 1052 in Government Gazette 16546 dated 19 July 1995. Commencement date: 19 July 1995

Repeal of Local Government Laws Act 42 of 1997 - Government Notice 1299 in Government Gazette 18332 dated 3 October 1997. Commencement date: 3 October 1997

Taxation Laws Amendment Act 9 of 2005 - Government Notice 743 in Government Gazette 27815 dated 19 July 2005. Commencement date: 8 June 2005, unless otherwise indicated

Note:

This Act was repealed by section 25 read with Schedule 3 of the KwaZulu and Natal Joint Services Act 84 of 1990 in so far as it applies to the Province of Natal and that part of KwaZulu which falls outside that province.

Note:

See: Proclamation R153 in Government Gazette 16049 dated 31 October 1994 as amended by Proclamation R31 in Government Gazette 16346 dated 7 April 1995, for the extent of the assignment of this Act to the Provinces.

ACT

To provide for the joint exercise and carrying out of powers and duties in relation to certain functions in certain areas by local bodies within such areas; and to that end to provide for the delimitation of regions; the establishment of regional services councils; and the constitution, functioning, functions, powers, duties, assets, rights, employees and financing of such councils; and to provide for matters connected therewith.

(Afrikaans text signed by the State President.)

(Assented to 10 July 1985.)

BE IT ENACTED by the State President and the Parliament of the Republic of South Africa, as follows:

Table of Contents

1. Definitions
- 1A. Application of Act
2. Delimitation of regions
- 2A. Preparatory steps for establishment of regional services council
3. Establishment of regional services councils
4. Powers and duties of council
5. Obligatory use of services
6. Constitution of council
7. Chairman and deputy chairman
8. Tenure of office and remuneration of chairman and members
9. Apportionment of votes in council
10. Meetings
- 10A. Committees
- 10B. Executive committee
- 10C. Powers of executive committee
11. Decisions, reconsideration and appeal
- 11A. Delegation of powers
12. Financing of council.
- 12A. Establishment of rural councils
13. Regulations
- 13A. Accounts and audit
14. Secrecy
15. Furnishing of information
- 15A. Removal of conflict and administrative problems
- 15B. Delegation
16. Act binding on State and statutory bodies, and effect of certain exemptions from taxes or levies
17. Repeal and amendment of laws
18. Short title

1. Definitions.

In this Act, unless the context otherwise indicates –

"Administrator" means –

- (a) in so far as the administration of a provision of this Act has been assigned under section 235(8) of the Constitution of the Republic of South Africa, 1993 (Act No. 200 of 1993), to a competent authority within the jurisdiction of the government of a province and a provision so assigned is applied in or with reference to that province, means that authority; or
- (b) in so far as the administration of a provision of this Act has not been so assigned, means the Minister of Provincial Affairs and Constitutional Development;

(Definition of "Administrator" substituted by Item 3 of the Schedule to Proc. R153 of 1994)

"council" means a regional services council established under section 3;

"drawings", in relation to any person carrying on an enterprise as contemplated in paragraph (b) of the definition of 'regional services levy', means –

- (a) any amount, whether in cash or otherwise, directly or indirectly withdrawn by him from the enterprise for his private use or consumption, including, in the case of any such person carrying on an enterprise in partnership, any amount withdrawn by him by way of a loan or advance against his share of the anticipated profits of the partnership; and
- (b) an appropriate portion of any expenditure incurred in the course of such enterprise in respect of any asset or service used by such person for his private or domestic use;

(Definition of "drawings" inserted by section 1(a) of Act 78 of 1986)

"employer" –

- (a) means an employer as defined in paragraph 1 of the Seventh Schedule to the Income Tax Act, 1962 (Act No. 58 of 1962); and
- (b) includes any person carrying on an enterprise as contemplated in paragraph (b) of the definition of "regional services levy";

(Definition of "employer" substituted by section 1(b) of Act 78 of 1986)

"enterprise" means any trade, business, profession or other activity of a continuing nature, whether or not carried on for the purpose of deriving a profit, but excluding any religious, charitable or educational activity carried on by any religious, charitable or educational institution of a public character;

(Definition of "enterprise" inserted by section 1(c) of Act 78 of 1986)

"executive committee" means an executive committee appointed under section 10B(1);

(Definition of "executive committee" inserted by section 1(a) of Act 49 of 1988)

"general affairs"

(Definition of "general affairs" deleted by section 6 of Act 56 of 1993)

"local authority" means any institution or body contemplated in section 84(1)(f)(i) of the Provincial Government Act, 1961 (Act No. 32 of 1961), or section 2 of the Black Local Authorities Act, 1982 (Act No. 102 of 1982), including any person or body referred to in section 29(2)(c)(ii) or 29A of that Act, any local council established under section 2 of the Local Councils Act (House of Assembly), 1987 (Act No. 94 of 1987), or a joint or single local authority contemplated in section 8(e) or (f) of the Interim Measures for Local Government Act, 1991, but does not include a management body or representative body;

(Definition of "local authority" substituted by section 1(b) of Act 49 of 1988)

(Definition of "local authority" substituted by section 1 of Act 127 of 1991)

"local body" means a local authority, management body or representative body;

"management body" means –

(a) any committee referred to in section 17 of the Promotion of Local Government Affairs Act, 1983 (Act No. 91 of 1983);

(b) a board of management or board referred to in section 1 of the Rural Areas Act (House of Representatives), 1987 (Act No.9 of 1987);

(Paragraph (b) of the definition of "management body" substituted by section 1(c) of Act 49 of 1988)

(c) any local area committee established under section 21(1) of the Transvaal Board for the Development of Peri-Urban Areas Ordinance, 1943 (Ordinance No. 20 of 1943), of the Transvaal;

(Paragraph (c) of the definition of "management body" substituted by section 1(d) of Act 49 of 1988)

(d) any local government body established by virtue of the provisions of section 30(2)(a) of the Black Administration Act, 1927 (Act No. 38 of 1927);

(Paragraph (d) of the definition of "management body" inserted by section 1(d) of Act 78 of 1986)

(e) a rural council,

(Paragraph (e) of the definition of "management body" inserted by section 1(e) of Act 49 of 1988)

one or more members of which are elected;

"Minister"

(Definition of "Minister" deleted by Item 3 of the Schedule to Proc. R153 of 1994)

"person" includes the State, the estate of a deceased person and any trust as defined in the Income Tax Act, 1962 (Act No. 58 of 1962);

(Definition of "person" substituted by section 20 of Act 97 of 1993)

"region" means a region delimited, or the delimitation of which is contemplated, as the case may be, under section 2;

"regional establishment levy" means in relation to any person carrying on or deemed to be carrying on an enterprise within a region, a levy calculated and payable in relation to such enterprise in the manner determined by the Minister of Finance under section 12(1)(b), at a rate from time to time determined by the council established for that region with the concurrence of the said Minister and which

the said Minister shall publish by notice in the *Gazette*: Provided that different rates may be so determined in respect of different categories of enterprise;

(Definition of "regional establishment levy" substituted by section 1(e) of Act 78 of 1986)

"regional function" means, in relation to a particular region or a part of a region, any function mentioned in Schedule 2 in relation to any matter which is a general affair;

"regional service" means any service provided by a council in the exercise of any power or the carrying out of any duty in relation to a regional function;

"regional services levy" means a levy calculated –

- (a) on remuneration as defined in paragraph 1 of the Fourth Schedule to the Income Tax Act, 1962 (Act No. 58 of 1962), but including the amounts referred to in paragraphs (i), (iv) and (vii) of that definition, and excluding, in the case of any farm labourer whose cash remuneration is payable at a rate not exceeding the rate contemplated in the said paragraph (i), any amount contemplated in paragraph (i) of the definition of "gross income" in section 1 of that Act, paid or payable by an employer to the employees employed or deemed to be employed by him within the region in question; and
- (b) in the case of a person (other than a company) carrying on or deemed to be carrying on an enterprise in the region for his sole account or in partnership with one or more other persons, on his drawings in relation to such enterprise,

at a rate from time to time determined by a council with the concurrence of the Minister of Finance and which the said Minister shall publish by notice in the *Gazette*: Provided that different rates may be so determined in respect of different categories of employees;

(Definition of "regional services levy" substituted by section 1(f) of Act 78 of 1986)

"representative body" means any body of which one or more members of its executive are elected by the members of that body and the members of which body consist of persons residing or communities established outside the area of jurisdiction of any local authority or management body in a region, and –

- (a) which body, in relation to certain affairs, manages the interests in the region or any part of the region of the persons or communities that elected the executive in question;
- (b) to members of which body any regional service is provided, or may be provided; and
- (c) which body is recognized by the Administrator as a representative body for the purposes of this Act provided he is satisfied that the members of the body concerned are not or cannot be adequately represented on a regional services council by means of a rural council;

(Definition of "representative body" substituted by section 1(f) of Act 49 of 1988)

"rural council" means a body established under section 12A;

(Definition of "rural council" inserted by section 1(g) of Act 49 of 1988)

"this Act" includes any regulation made under this Act;

"vendor"

(Definition of "vendor" deleted by section 1(g) of Act 78 of 1986)

1A. Application of Act

This Act shall apply in the national territory referred to in section 1 of the Constitution of the Republic of South Africa, 1993 (Act No. 200 of 1993).

(Section 1A inserted by Item 3 of the Schedule to Proc. R153 of 1994)

2. Delimitation of regions

(1) The Administrator may, subject to the provisions of subsection (2) and after consideration of a report of the Demarcation Board for Local Government Areas referred to in section 7A of the Promotion of Local Government Affairs Act, 1983 (Act No. 91 of 1983), by notice in the *Official Gazette* –

- (a) delimit a region by determining and describing and from time to time altering the boundaries of the area or areas (whether such areas are contiguous or not) comprised by it;
- (b) combine two or more regions (whether their areas are contiguous or not), and exercise any power referred to in paragraph (a) in respect of the combined region;
- (c) include any part of the area of any region in the area of another region, whether such part is contiguous to the area in which it is included or not; and
- (d) revoke the delimitation of a region.

(2) The Administrator shall exercise the powers conferred upon him in terms of subsection (1) –

(a) with the concurrence of –

(i)

(Section 2(2)(a)(i) deleted by Item 3 of the Schedule to Proc. R153 of 1994)

(ii)

(Section 2(2)(a)(ii) deleted by section 7 of Act 56 of 1993)

(iii) the Minister of Finance;

(iv)

(Section 2(2)(a)(iv) deleted by section 7 of Act 56 of 1993)

(b) after consultation with –

(i) the local bodies in the region or regions in question;

(ii) the council of every region affected by the proposed exercise of powers;

(Section 2(2)(b)(ii) substituted by section 2 of Act 78 of 1986)

(iii) any other body or person that he deems necessary; and

(c) with due regard to the matters referred to in Schedule 1.

(3) The Administrator may, subject to the provisions of subsection (2)(b), assign a name to a region and determine the seat within the region of the council which is established for the region.

(4) Subject to the provisions of subsection (2), the Administrator may amend, substitute or repeal any notice referred to in subsection (1).

2A. Preparatory steps for establishment of regional services council

(1)

(a) Subject to the provisions of subsection (2), the Administrator may, with effect from a date determined by him, empower and direct any local body to do anything which may, in the opinion of the Administrator, be necessary or expedient for or facilitate the establishment or the proper functioning of a council.

(Section 2A(1) renumbered to 2A(1)(a) by section 2 of Act 49 of 1988)

(b) If a local authority refuses or fails to comply with a directive in terms of paragraph (a), the Administrator may perform the act himself or cause it to be performed, and thereafter the act shall for all purposes be deemed to be performed by that local authority, and any costs incurred by the Administrator in that respect may be recovered from that local authority.

(Section 2A(1)(b) added by section 2 of Act 49 of 1988)

(2) The Administrator shall not empower and direct any local body in terms of subsection (1) in respect of any matter referred to in section 12, except with the concurrence of the Minister of Finance.

- (3) The council in respect of which anything has been done by virtue of subsection (1), shall be liable to reimburse the local body concerned for all expenses incurred by the body. in connection with anything done by it as contemplated in that subsection.

- (4) This section shall be deemed to have come into operation on 31 July 1985.

(Section 2A inserted by section 3 of Act 78 of 1986)

3. Establishment of regional services councils.

(1)

- (a) The Administrator may, subject to the provisions of section 2(2)(b) and (c) by notice in the *Official Gazette* and with effect from a date specified in such notice, establish a regional services council for any region and from time to time announce which local bodies are represented thereon.

(Section 3(1)(a) substituted by section 8(a) of Act 56 of 1993)

- (b) A council shall be a juristic person and shall in respect of its region be charged with such functions or any part of a function mentioned in Schedule 2 as may from time to time, subject to the provisions of section 2(2)(b) and (c) of this Act and section 3(2)(a) of the Public Service Act, 1984 (Act No. 111 of 1984), by notice in the *Official Gazette* be identified as a regional function and be entrusted to that council.

(Section 3(1)(b) substituted by section 8(a) of Act 56 of 1993)

- (c) The Administrator may, subject to the provisions of paragraph (b), also identify and so entrust as a regional function the retail supply of electricity and water which at the commencement of this Act is undertaken by a local authority or other institution or body in the region in question or in any part thereof.

(2)

- (a) If –

- (i) a local body referred to in subsection (1);
- (ii) the Transvaal Board for the Development of Peri-Urban Areas established by section 2 of the Transvaal Board for the Development of Peri-Urban Areas Ordinance, 1943 (Ordinance No. 20 of 1943), of the Transvaal;
- (iii) the Development and Services Board mentioned in section 1 of the Development and Services Board Ordinance, 1941 (Ordinance No. 20 of 1941), of Natal;

- (iv)

(Section 3(2)(a)(iv) deleted by section 3(a) of Act 49 of 1988)

- (v) a regional water services corporation established by section 7 of the Water Services Ordinance, 1963 (Ordinance No. 27 of 1963), of Natal,

is at a date on which a function or any part of a function is in terms of subsection (1) identified as a regional function and entrusted to a council, charged with that function or any part thereof, that body, board or corporation shall be relieved of its duties in relation to that function or part thereof in the region concerned, with effect from that date or such other date as is mentioned in the notice, and different dates may be determined in respect of different regional functions which have been so identified.

(Words following section 3(2)(a)(v) substituted by section 3(b) of Act 49 of 1988)

- (b) The Administrator may, subject to the provisions of section 4(2) of this Act and section 14 of the Public Service Act, 1984, as the case may be, transfer or second to, or place his services at the disposal of, a council, any officer or employee in the employment of any body, board or corporation referred to in paragraph (a), a province or the State.
- (3) The Administrator may, subject to the provisions of section 2(2)(b) and (c) of this Act and section 3(2)(a) of the Public Service Act, 1984, amend, substitute or repeal any notice in terms of this section.

(Section 3(3) substituted by section 8(b) of Act 56 of 1993)

- (4) The Minister of Provincial Affairs and Constitutional Development shall as soon as possible after the assignment of the administration of this Act under section 235(8) of the Constitution of the Republic of South Africa, 1993 (Act No. 200 of 1993), to a competent authority within the government of the respective provinces, rationalise by notice in the *Gazette* the councils for the regions Pretoria, Kamdeboo, Klein Karoo, Sentrale Karoo, Lowveld/Platorand, Oosvaal, West Rand and North West with a view to the establishment of councils the areas of jurisdiction of which fall within the boundaries of a single province.

(Section 3(4) added by Item 3 of the Schedule to Proc. R153 of 1994)

(Section 3(4) substituted by paragraph (b) of Proc. R31 of 1995)

4. Powers and duties of council.

- (1) Subject to the provisions of –
- (a) this Act and any other law, a council shall have all the powers and duties of a local authority or an officer in the employment of any local authority in terms of the laws which apply in the province where the seat of the council is situated in relation to such functions or any part of a function which the Administrator entrusts to it by notice referred to in section 3(1), but a council shall not have the power to levy any rates on immovable property;

(Section 4(1)(a) substituted by section 4(a) of Act 49 of 1988)

- (b) paragraph (a), all other laws applicable to or in respect of a local authority in the province where the seat of a council is situated, shall mutatis mutandis apply to or in respect of the council in its region with regard to any of the regional functions of that council.

(1A)

- (a) When a function of *[sic]* any part of a function has in terms of section 3(1)(b) been identified as a regional function and entrusted to a council, the Administrator may by notice in the *Official Gazette* declare that any law relating to such function or any part thereof and which has been enacted by the local body within the area of jurisdiction of which the seat of that council is situated, shall be deemed to be a law made by the council in terms of subsection (1)(a) in respect of the region of that council.
- (b) A council may by notice in the *Official Gazette* of the province where the seat of the council is situated, amend any law referred to in paragraph (a) in order to give effect to the provisions of that paragraph.

(Section 4(1A) inserted by section 4(b) of Act 49 of 1988)

- (2) Subject to the provisions of this Act, the provisions of laws relating to the transfer of employees and the transfer or devolution of assets, powers, duties, rights and obligations in the case of the combining of local authorities in the province where the seat of a council is situated, shall mutatis mutandis apply in any case where officers or employees are transferred or seconded to or their services are placed at the disposal of a council under section 3(2)(b) and in the case where a body, board or corporation is relieved from a duty in terms of section 3(2)(a): Provided that the Administrator may, subject to the provisions of section 2(2)(a) and (b), make any other arrangement in regard to such transfer or devolution –

- (a) in order to provide for matters for which no provision has been made by the provisions of such laws;
- (b) in order to obtain a result which in the opinion of the Administrator is fair to all concerned; and
- (c) in order to solve administrative difficulties caused by such transfer or devolution:

Provided further that in the event of the transfer of an employee to the employment of a council, such employee shall be employed on such terms and enjoy such rights and privileges as are not less favourable than those applicable to him at the time of such transfer.

- (2A) Any arrangement referred to in the first proviso to subsection (2) may provide that the assets, powers, duties, rights and obligations in question shall only in part be transferred or devolve.

(Section 4(2A) inserted by section 4(c) of Act 49 of 1988)

(3)

- (a) A council may, subject to the provisions of paragraph (b), enter into an agreement with a local body or any other person or institution irrespective of whether the area of jurisdiction of that body, person or institution is situated within or outside the region of that council, or within or outside the Republic, in terms of which –

(Words in section 4(3)(a) preceding subparagraph (i) substituted by section 4(d) of Act 49 of 1988)

- (i) that council undertakes on behalf of that local body, person or institution to exercise a power or perform a duty which that local body, person or institution may exercise or is obliged to perform;
- (ii) that local body, person or institution undertakes to exercise or perform any regional function or part thereof on behalf of the council, and may claim a levy contemplated in section 12(1)(a) on behalf of the council; and

(Section 4(3)(a)(ii) substituted by section 4(a) of Act 78 of 1986)

- (iii) that council undertakes on behalf of such local body, person or institution, if the area of jurisdiction of that local body, person or institution is situated outside the Republic or within the area of a legislative assembly or a self-governing territory referred to in section 38 of the National States Constitution Act, 1971 (Act No. 21 of 1971), to perform –

(aa) any regional function; or

(bb) any other function of the council in terms of this Act,

within the area of jurisdiction of such local body, person or institution, in which event such area shall on the conditions specified in the agreement be deemed to form part of the region and such local body, person or institution may be represented on the council.

(Section 4(3)(a)(iii) substituted by section 4(e) of Act 49 of 1988)

- (b) Any agreement referred to in paragraph (a) which is entered into with a local body, person or institution whose area of jurisdiction is situated outside the Republic, shall only be concluded with the approval of the Administrator and the Minister of Foreign Affairs.

- (4) No compensation shall be payable in respect of any asset or right which in terms of this section is transferred to or devolves upon a council: Provided that the Administrator may, in order to obtain a result which in his opinion is fair to all parties concerned, subject to the provisions of section 2(2)(a) and (b) direct otherwise.
- (5) For the purposes of the Labour Relations Act, 1956 (Act No. 28 of 1956), a council shall be deemed to be a local authority.

- (6) The Administrator may by notice in the *Official Gazette* declare that a reference to a local authority in a law, excluding the Eskom Act, 1987 (Act No. 40 of 1987) and the Electricity Act, 1987 (Act No. 41 of 1987) specified in the notice shall be construed as a reference also to a council.

(Section 4(6) added by section 4(b) of Act 78 of 1986)

(Section 4(6) substituted by section 4(f) of Act 49 of 1988)

5. Obligatory use of services.

Every local body the area of jurisdiction of which is situated in a region and which is represented on the council of that region and the residents represented on or the members of such body may only make use of regional services provided by the council in that region, and may not in any other manner acquire, perform or allow to be performed any services similar to regional services unless the council on the application of a local body exempts that body or the residents or members in question from the obligation to make use of any particular regional service.

6. Constitution of council.

- (1) A council shall consist of a chairman appointed in terms of section 7(1), such number of members as the Administrator may from time to time determine by notice in the *Official Gazette* and who are nominated in terms of subsection (2) of this section, such number of members as may be admitted by agreement in terms of section 4(3)(a)(iii) and anyone nominated under subsection (4) of this section.

(Section 6(1) substituted by section 2(a) of Act 127 of 1991)

- (2) Every local body represented on a council shall from its members nominate one member of the council for every 10 per cent or part of 10 per cent of the total number of votes to which it is entitled in terms of section 9(1)(a) or (4)(b), but no local body shall nominate more than five members: Provided that each local body may nominate at least one member.

(Section 6(2) substituted by section 5 of Act 49 of 1988)

- (3) Simultaneously with the nomination of a member in terms of subsection (2), an alternate member shall be nominated in respect of that member, in the same manner as such member, to act in the place of such member when such member is for any reason absent or unable to exercise or perform any of his powers and duties as a member of the council.
- (4) Notwithstanding the provisions of this section, any person or body referred to in section 29(2)(c)(ii) or 29A of the Black Local Authorities Act, 1982 (Act No. 102 of 1982), may nominate any person, including such person himself or any member of such body, to cast the total number of votes to which the local authority concerned is entitled in terms of section 9(1)(a) or (4)(b).

(Section 6(4) added by section 2(b) of Act 127 of 1991)

7. Chairman and deputy chairman.

- (1) Subject to the provisions of section 2(2)(a)(ii) and (iv), the Administrator shall in respect of every council appoint a chairman, and may at any time in his discretion rescind such appointment.
- (2) The council shall, subject to the provisions of section 11(1A), at its first meeting and annually thereafter, elect one of its members as deputy chairman, who shall act as chairman whenever the chairman is for any reason absent or unable to act as chairman or whenever he is requested thereto by the chairman.

(Section 7(2) substituted by section 6 of Act 49 of 1988)

- (3) Whenever the chairman and the deputy chairman of a council are for any reason simultaneously absent or unable to act as chairman, the council shall from among its number elect a person to act as chairman.

8. Tenure of office and remuneration of chairman and members.

- (1) Subject to the conditions determined by the Administrator, the chairman of a council shall be appointed for a period not exceeding five years at a time, but shall at the expiration of his term of office be eligible for reappointment.

(2)

- (a) Subject to the provisions of paragraph (b) and of subsection (3), a member of a council shall hold office for a period of five years, but shall at the expiration of his term of office be eligible for renomination.

- (b) Every member of a council shall vacate his office on the day fixed in terms of section 7(1) of the Constitutional Affairs Amendment Act, 1985, in respect of the local body which nominated him.

- (3) A member of a council shall vacate his office –

- (a) if he resigns;
- (b) when he ceases to be a member of the local body which nominated him;
- (c) when the local body which nominated him withdraws his nomination,

in which case a person shall be nominated in terms of section 6(2) for the unexpired portion of his term of office.

- (4) The remuneration and allowances of the chairman, the deputy chairman, the members of the council and members of a committee referred to in section 10A who are not members of the council shall be determined by the Administrator with the concurrence of the Minister of Finance.

(Section 8(4) substituted by section 7 of Act 49 of 1988)

9. Apportionment of votes in council.

Prepared by:

(1)

- (a) Subject to the provisions of subsection (2), every local body represented on a council shall in respect of the decisions of the council be entitled to cast such number of votes as is equal to the proportion, expressed as a percentage, between the amount paid by any local authority or management body and the persons in their areas of jurisdiction or the members of a representative body, as the case may be, for the provision by the council of regional services (excluding regional services provided in any industrial area or central business area which the Administrator shall, subject to the provisions of section 2(2)(a) and (b), delimit by notice in the *Official Gazette* after consideration of a report by the Demarcation Board for Local Government Areas referred to in section 7A of the Promotion of Local Government Affairs Act, 1983 (Act No. 91 of 1983), which report shall be based on criteria prescribed by the Administrator, by notice in the *Official Gazette*), and the total amount obtained by the council as a result of the provision of such regional services in that region on behalf of all such local bodies: Provided that, if the Administrator is of the opinion that the basis for the apportionment of votes as determined in this subsection cannot be applied in respect of a specific local body, he may, in order to achieve a result which in his opinion is fair to all persons concerned, subject to the provisions of section 2(2)(a) determine any other basis according to which the number of votes for such local body shall be determined.
- (b) Any person admitted by agreement in terms of section 4(3)(a)(iii) as a member of the council shall in respect of the decisions of the council in regard to any matter to which the agreement relates, or which has financial implications for the local body, person or institution which he represents, be entitled to cast such number of votes as is specified in the agreement in question.

(Section 9(1) substituted by section 8(a) of Act 49 of 1988)

(2)

- (a) If there are more than two local bodies in any region, no such local body shall in respect of the decisions of the council be entitled to a number of votes which is in excess of 50 per cent of the total number of votes which may be cast in respect of such decisions.
- (b) If a local body would, but for the provisions of paragraph (a), have been entitled to cast a number of votes which is in excess of 50 per cent of the total number of such votes, the number of votes which is in excess of 50 per cent shall be apportioned among the other local bodies in the region concerned in the proportion, expressed as a percentage, which the amount paid by any such local body or the residents represented by it to the council for regional services, bears to the total amount obtained by the council for the provision of regional services to such local bodies.

(3)

- (a) The number of votes which may be cast by members of a local body in respect of decisions of the council shall be so apportioned by the chairman of the council among the members of that

local body that the votes that may be cast by members nominated by a local body, are as far as possible equal.

(Section 9(3)(a) substituted by section 8(b) of Act 49 of 1988)

- (b) If a member or his alternate for some reason cannot cast his vote or votes in respect of a decision of the council, the local body concerned may in writing authorize another member to cast the vote concerned on its behalf.

(4)

- (a) Subject to the provisions of paragraph (b), the number of votes to which local bodies are entitled shall annually within a period of three months after the end of the financial year of the council be calculated by the council in accordance with subsections (1) and (2) on the basis of a certificate issued by the treasurer of the council, and the apportionment of votes shall apply from such calculation until the following calculation is made.
- (b) In respect of the first constitution or any reconstitution of a council, the number of votes to which local bodies shall be entitled shall be determined by the Administrator subject to the provisions of section 2(2)(a) on the basis of sworn information obtained by him from the local bodies in the region concerned, or on such other basis as he may determine in terms of the proviso to subsection (1)(a).

(Section 9(4)(b) substituted by section 8(c) of Act 49 of 1988)

10. Meetings

- (1) The first meeting of a council shall take place at a time and place determined by the Administrator, and thereafter, subject to the provisions of subsection (2), at least 10, or the lesser number of meetings which the Administrator may approve, shall be held per year at a time and place determined by the council or the chairman if authorized thereto by the council.
- (2) The chairman may at any time and shall within 14 days after receiving a written request signed by not fewer than six members, call a special meeting of the council.
- (3) Notice of a meeting of a council shall be given to the members thereof as prescribed in the standing orders referred to in subsection (6).

(Section 10(3) substituted by section 9(a) of Act 49 of 1988)

(4)

- (a) Members who together are entitled to two-thirds of the total number of votes contemplated in section 9(1), shall constitute a quorum for a meeting of the council.
- (b) If the number of members present at the time and place determined for a meeting for the consideration of any matter is on two consecutive occasions less than the required number

contemplated in paragraph (a), a meeting of the council shall be held within seven days after the second such occasion after not less than three days' written notice has been given to members, and at that meeting members who are entitled to one half of the total number of votes contemplated in section 9(1) shall form a quorum.

- (c) If a quorum as contemplated in paragraph (b) cannot be formed or if the council cannot come to a decision, the matter for the consideration of which the meeting was called, shall be referred by the chairman to the Administrator for his decision, which decision shall be taken within fourteen days and thereupon be carried out by the council.

(Section 10(4) substituted by section 1 of Act 75 of 1991)

- (5) The chairman may allow any person or institution which in his opinion has an interest in the functions of the council to nominate a person to attend the proceedings of the council or any committee thereof and to take part in such discussions of the council or the committee concerned as in the opinion of the chairman relate to the interests of the person or institution in question, but such a nominee may not vote in respect of any decision.

(Section 10(5) substituted by section 9(b) of Act 49 of 1988)

(6)

- (a) Subject to the provisions of this Act, a council may approve standing orders for the regulation of its proceedings and of all other matters relating to the management, powers and duties of the council.

- (b) Any standing orders may provide –

- (i) for the manner in which committees referred to in sections 10A and 10B may vote notwithstanding the provisions of section 9;
- (ii) that any person contravening a provision of the standing orders shall be guilty of an offence and on conviction liable to a fine not exceeding R500 or in default of payment to imprisonment for a period not exceeding three months.

(Section 10(6) substituted by section 9(c) of Act 49 of 1988)

10A. Committees

- (1) A council-

- (a) may appoint one or more committees to –

- (i) perform such functions as the council may assign to it or them under section 11A; and

- (ii) investigate and make recommendations on matters relating to any function or any part of a function mentioned in Schedule 2, even though such function or part thereof has not yet in terms of section 3(1)(b) been identified as a regional function and entrusted to that council;

- (b) shall designate a chairman for any such committee, and determine the quorum for meetings of such committee.

(Section 10A(1) amended by section 10(a) of Act 49 of 1988)

(Section 10A(1) substituted by section 2 of Act 75 of 1991)

- (2) The chairman of the council shall be a member *ex officio* of every committee appointed under subsection (1), and during his absence or when he requests the deputy chairman of the council to act as chairman, the deputy chairman shall be such member, but the chairman or any member of such committee who is not a member of the council shall not have a vote at any meeting of any such committee.

(Section 10A(2) substituted by section 10(b) of Act 49 of 1988)

- (3)

(Section 10A(3) deleted by section 10(c) of Act 49 of 1988)

(Section 10A inserted by section 5 of Act 78 of 1986)

10B. Executive committee

- (1) A council may, and shall if the Administrator so requests, appoint an executive committee for its area.

- (2)

- (a) An executive committee shall consist of the chairman and the deputy chairman of the council, who shall be the chairman and deputy chairman of the committee respectively, and not more than six members, who shall be members of the council, designated by the council, of which not more than *[sic]* two members may be members of the same local body: Provided that the chairman may not vote in respect of any decision.

- (b) A majority of the total number of members of an executive committee shall constitute a quorum.

- (3)

- (a) A member shall serve on the executive committee for a period of one year, but may again be designated, and shall remain in office until his successor is designated.

- (b) Upon the expiry of the term of office of any member of an executive committee, the vacancy shall be filled by the council concerned at its next ensuing ordinary meeting or, failing which, at a special meeting convened for that purpose by the chairman of the council within 21 days after that ordinary meeting.

- (c) A casual vacancy on an executive committee shall occur if a member resigns as a member of the committee, or if he ceases to be a member of the council concerned as contemplated in section 8(3).
 - (d) If a casual vacancy occurs in an executive committee such vacancy shall be filled by the council concerned at its next ensuing ordinary meeting or, failing which, at a special meeting convened for that purpose by the chairman of the council within 21 days after that ordinary meeting, and the person designated to fill such vacancy shall act in that capacity for the unexpired portion of the term of office of his predecessor.
 - (e) If a council is convinced that the executive committee temporarily cannot function, as no quorum can be obtained, the council may designate so many members as is necessary to constitute a quorum to serve temporarily on the executive committee in the place of the absent members until such members can again attend a meeting of the executive committee.
- (4) An executive committee shall hold at least one ordinary meeting during the month in which the council meets as contemplated in section 10(1).
 - (5) A special meeting of an executive committee-
 - (a) may at any time be convened by the chairman thereof; and
 - (b) shall be convened by the chairman if he is requested thereto in writing by a majority of the members of the executive committee.

(Section 10B inserted by section 11 of Act 49 of 1988)

10C. Powers of executive committee

- (1) An executive committee shall have the power –
 - (a) to ensure that the resolutions of the council are carried out;
 - (b) to consider any matter entrusted to the council in terms of the provisions of any law (excluding any matter determined by the council) and to advise the council in connection therewith;
 - (c) to prepare estimates of revenue and expenditure of the council;
 - (d) to control the expenditure of moneys voted by the council in its approved estimates and all other moneys or funds made available by the council; and
 - (e) to report at every ordinary meeting of the council on the functions of the committee.

(Section 10C inserted by section 11 of Act 49 of 1988)

11. Decisions, reconsideration and appeal.

- (1) A decision of a council shall be taken by a majority of at least two-thirds of the votes of the members (other than the chairman referred to in section 7(1), who shall not have a vote) of the council present at a meeting of the council.

(1A)

- (a) If a council cannot come to a decision on any matter because a majority referred to in subsection (1) was not obtained, the matter shall be reconsidered by the council at its following meeting.
- (b) If a council upon reconsideration of any matter as contemplated in paragraph (a) cannot come to a decision because the majority in question was not obtained –
- (i) the election or designation of the deputy chairman of the council, or a chairman and members of a committee referred to in section 10A or members of the executive committee referred to in section 10B, shall be by an ordinary majority of the votes of the members present at that meeting; and
- (ii) any other matter shall be referred by the chairman to the appeal board as contemplated in section 11(3)(a), in which case the provisions of section 11(6), (7) and (8) shall *mutatis mutandis* apply.

(Section 11(1A) inserted by section 12(a) of Act 49 of 1988)

(2)

- (a) A decision of a council, excluding a decision referred to in subsection (1A)(b), shall at the request of a local body represented at the discussion of the matter concerned at the meeting at which such decision was taken be reconsidered at the following meeting of the council and not again within six months thereafter.
- (b) Any local body not so represented may in writing furnish to the chairman of the council reasons why it was not so represented, whereupon the chairman shall at the request of that local body decide whether or not the decision concerned shall be so reconsidered.

(Section 11(2) substituted by section 6(a) of Act 78 of 1986)

(Section 11(2) substituted by section 12(b) of Act 49 of 1988)

- (3) Any local body represented on a council, or a person or institution admitted by agreement in terms of section 4(3)(a)(iii) as a member of the council, and whose interests are affected by a decision of that council taken after reconsideration in terms of subsection (2), may within such time and in such manner as the Administrator may prescribe by regulation, appeal against that decision to an appeal board –

(Words in section 11(3) preceding paragraph (a) substituted by section 4(a) of Act 75 of 1991)

(a) which shall in respect of any matter referred to in subsection (4) consist of –

(i) the Administrator;

(Section 11(3)(a)(i) substituted by section 9(a) of Act 56 of 1993)

(ii)

(Section 11(3)(a)(ii) deleted by section 9(b) of Act 56 of 1993)

(iii)

(Section 11(3)(a)(iii) deleted by section 9(b) of Act 56 of 1993)

(iv)

(Section 11(3)(a)(iv) added by section 4(b) of Act 75 of 1991)

(Section 11(3)(a)(iv) deleted by section 9(b) of Act 56 of 1993)

(b) which shall in respect of any matter referred to in section 12, other than a matter referred to in the proviso to section 12(6), consist of –

(i) the Minister of Finance;

(Section 11(3)(b)(i) substituted by section 9(c) of Act 56 of 1993)

(ii)

(Section 11(3)(b)(ii) deleted by section 9(d) of Act 56 of 1993)

(3A) If a council –

(a) fails to comply with a request for the reconsideration of a decision in terms of subsection (2); or

(b) after having reconsidered the decision in question, fails to come to a decision,

any local body represented on the council, or a person or institution admitted by agreement in terms of section 4(3)(a)(iii) as a member of the council, and whose interests are affected by the decision that the council was requested to reconsider, may *mutatis mutandis* in accordance with subsection (3) appeal against that decision to an appeal board constituted as contemplated in subsection (3).

(Section 11(3A) inserted by section 15 of Act 134 of 1992)

(4) An appeal in terms of subsection (3)(a) shall be noted only in respect of –

(a) the failure of the council to perform a regional function;

(b) the insufficient performance by the council of a regional function;

- (c) any decision of the council relating to a tariff or levy for services rendered by the council;
(Section 11(4)(c) substituted by section 12(c) of Act 49 of 1988)
- (d) any determination by the council of a priority in connection with the appropriation of funds; and
- (e) the refusal by the council of any application for exemption referred to in section 5.

Provided that a person or institution admitted by agreement in terms of section 4(3)(a)(iii) as a member of a council may note an appeal only in respect of any matter contemplated in section 9(1)(b).

(Proviso to section 11(4) added by section 4(c) of Act 75 of 1991)

- (5) The execution of a decision shall not be affected by a request for reconsideration in terms of subsection (2) or by an appeal in terms of subsection (3), but a determination referred to in subsection (4)(d) shall be suspended pending the result of the request or appeal.
- (6) For the purposes of the application of this section "Administrator" means the administrator appointed by the State President in terms of section 7(1) of the Provincial Government Act, 1986.
(Section 11(6) substituted by section 6(b) of Act 78 of 1986)
- (7) A decision by the appeal board shall be carried out by the council.
(Section 11(7) substituted by section 9(e) of Act 56 of 1993)
- (8)
(Section 11(8) deleted by section 9(f) of Act 56 of 1993)

11A. Delegation of powers

A council may in writing authorize-

- (a) a committee appointed under section 10A;
(Section 11A(a) substituted by section 13(a) of Act 49 of 1988)
- (aA) an executive committee appointed under section 10B;
(Section 11A(aA) inserted by section 13(b) of Act 49 of 1988)
- (aB) the chairman of the council;
(Section 11A(aB) inserted by section 13(b) of Act 49 of 1988)
- (b) any officer of the council,

to exercise or perform in general or in a particular case or in cases of a particular nature, any power, duty or function conferred or imposed on the council by or in terms of this Act, except –

- (i) the determination of a rate of a levy or the appropriation of funds in terms of section 12;
(Section 11A(i) substituted by section 8 of Act 89 of 1990)
- (ii) the expropriation of immovable property or the taking of the right to use it temporarily;
- (iii) the approval of tariffs in connection with any function referred to in section 3(1)(b) and (c);
(Section 11A(iii) amended by section 13(c) of Act 49 of 1988)
- (iv) the making of by-laws or standing orders under section 4(1)(a) or 10(6).
- (v) the appointment of committees referred to in sections 10A and 10B.
(Section 11A(v) added by section 13(d) of Act 49 of 1988)

(Section 11A inserted by section 7 of Act 78 of 1986)

12. Financing of council.

(1)

- (a) Subject to the provisions of section 4(1), a council shall levy and claim from –
 - (i) every employer who employs or is deemed to employ employees within its region, and each person carrying on or deemed to be carrying on an enterprise within its region as referred to in paragraph (b) of the definition of "regional services levy", a regional services levy;
 - (ii) every person carrying on or deemed to be carrying on an enterprise within its region, a regional establishment levy.
- (b) The Minister of Finance may from time to time, after consultation with the Council for the Co-ordination of Local Government Affairs established by section 2 of the Promotion of Local Government Affairs Act, 1983 (Act No. 91 of 1983), and by notice in the *Gazette*, determine the manner in which the regional services levy and the regional establishment levy shall be calculated and paid.

(Section 12(1) substituted by section 8(a) of Act 78 of 1986)

(1A) The Minister of Finance may in any notice contemplated in subsection (1)(b) -

- (a) determine circumstances in which an employee shall be deemed to be employed within a region;

- (b) determine circumstances in which a person shall be deemed to be carrying on an enterprise within a region;
- (c) determine how an amount upon which the regional establishment levy is payable shall be calculated;
- (d) exempt any employer or person from the regional services levy or the regional establishment levy in relation to any enterprise;

(Section 12(1A)(d) amended by section 14(a) of Act 49 of 1988)

- (dA) authorize the Commissioner for Inland Revenue -

- (i) to take such steps as the Commissioner may deem necessary to ensure that any levy payable under this Act is paid;
- (ii) to conduct audits of the affairs of any person who is or may be liable for the payment of any such levy;
- (iii) to require any person to produce for examination any books, records or accounts or any other document which in the opinion of the said Commissioner are or may be necessary to determine the liability of such person or any other person for the payment of any such levy;
- (iv) to determine or estimate the liability of any person for any such levy and to direct a council to make an assessment of such levy; and
- (v) to furnish a council with a ruling or directive on the interpretation of any provision of this Act or any such notice relating to the determination of the liability of any person for the payment of any such levy, which ruling or directive the council shall be obliged to apply;

(Section 12(1A)(dA) inserted by section 14(b) of Act 49 of 1988)

- (dB) authorize a council to administer, subject to any ruling or directive furnished by the said Commissioner under the provisions of paragraph (dA)(v), any provision of this Act or of any such notice in so far as it relates to the determination of the liability of any person for or the payment or recovery of any such levy;

(Section 12(1A)(dB) inserted by section 14(b) of Act 49 of 1988)

- (dC) authorize a council, upon written application by an employer or person and subject to such conditions as the council may determine, to permit that employer or person to pay the total amount of the regional services levy and regional establishment levy for which he is liable within a period of 20 days after the end of every period of a year or such shorter period as the council may determine;

(Section 12(1A)(dC) inserted by section 14(b) of Act 49 of 1988)

(Section 12(1A)(dC) substituted by section 16 of Act 69 of 1989)

(Section 12(1A)(dC) substituted by section 10 of Act 136 of 1992)

- (dD) provide for an appeal against any decision of a council or the said Commissioner to the special court referred to in section 83 of the Income Tax Act, 1962 (Act No. 58 of 1962), and for an appeal against any decision of the said court;

(Section 12(1A)(dD) inserted by section 14(b) of Act 49 of 1988)

- (e) make such other provision as he deems necessary to enable a council to impose and claim any such levy.

(Section 12(1A) inserted by section 8(b) of Act 78 of 1986)

- (1B) The Commissioner may not act under subsection (1A)(dA)(iv) and the council may not act under an authorisation in terms of subsection (1A)(dB) after the expiration of two years from the date the return from the employer or person concerned was received by the council or if no return was received, from the date on which a return was required to be submitted to the council, unless the levy was not paid due to fraud or misrepresentation.

(Section 12(1B) inserted by section 19 of Act 9 of 2005)

- (2) Every council shall open and maintain an account in its name and shall pay into it –
- (a) all income, donations, loans, appropriations and money received by the council from any source;
 - (b) fines paid in respect of any contravention of the provisions of this Act in the area of jurisdiction of the council;
 - (c) interest received on the investment of money referred to in paragraphs (a) and (b).
- (3) No money shall be withdrawn from the account referred to in subsection (2) save in accordance with the provisions of this Act.
- (4) A council shall before the end of its financial year submit a copy of its budget for the next ensuing financial year to the Minister of Finance, and obtain his approval thereof.
- (5) A council shall pay one twentieth per cent of the total proceeds in a specific financial year of the levies referred to in subsection (1) to the training fund established by section 7 of the Local Government Training Act, 1985 (Act No. 41 of 1985).
- (6) Subject to the provisions of subsection (5), the council shall, by resolution, appropriate the funds referred to in subsection (2) within or outside its region or in accordance with an agreement in terms of section 4(3), for –

- (a) the payment or part payment of the costs incurred in the execution or performance of any power or function entrusted to a council in terms of section 3(1)(b) and (c);
- (b) the payment or part payment of the costs incurred in the region by a local body in the execution or performance of any of the powers or functions of such local body:

(Words preceding the proviso to section 12(6)(b) substituted by section 14(c) of Act 49 of 1988)

Provided that a council shall not make any payments in respect of a regional service in respect of which exemption has been granted in terms of section 5;

- (c) the payment or part payment of the costs resulting from the collection of the levies referred to in subsection (1) and the administration of this Act;
- (d) the payment or part payment of the costs of the establishment, improvement and maintenance of an infrastructure for and the running of transport services for commuters between their places of residence within or outside the region or outside the Republic and their places of employment in the region;
- (e) any other purpose approved by the Minister of Finance after consultation with the Administrator:

Provided that in determining the priorities in connection with the appropriation of funds, the council shall give preference to the establishment, improvement and maintenance of infrastructural services and infrastructural facilities in areas where the greatest needs therefor exist.

- (7) A levy referred to in subsection (1) shall not be recovered by any employer or person by adding it as a separate item to his prices or tariffs or the cost of his services or by deducting it from the wages or salaries paid by him.

(Section 12(7) amended by section 8(c) of Act 78 of 1986)

- (8) Any levy referred to in subsection (1) may be deducted as an operating expense for the purposes of income tax by any employer or person.

(Section 12(8) amended by section 8(c) of Act 78 of 1986)

- (9) Any person who fails to pay any levy referred to in subsection (1)(a) or who contravenes a provision of subsection (7) shall be guilty of an offence and on conviction be liable to a fine not exceeding R5 000 or imprisonment for a period not exceeding 12 months or to both such fine and such imprisonment.
- (10) If any person who is liable for the payment of a levy under subsection (1) fails to pay such levy in full within the period for payment prescribed in terms of this Act, interest shall, unless the relevant council, having regard to the circumstances of the case, otherwise directs, become payable by that person on the balance of the levy outstanding at the same rate as the rate determined from time to time for the

purposes of paragraph (b) of the definition of "prescribed rate" in section 1 of the Income Tax Act, 1962 (Act No. 58 of 1962), reckoned from the end of the said period.

(Section 12(10) substituted by section 8(d) of Act 78 of 1986)

(Section 12(10) substituted by section 14(d) of Act 49 of 1988)

(11) A levy, or interest payable in terms of subsection (10), shall be deemed to be a debt due to the council and may be recovered by the council by way of judicial process in a competent court.

(11A) A council may, with the prior approval of the Minister of Finance, borrow or lend money for the purposes of or in connection with the exercise or performance of any power, duty or function conferred on or assigned to the council by or in terms of this Act.

(Section 12(11A) inserted by section 16 of Act 134 of 1992)

(12) Any employer or person contemplated in subsection (1) shall at the request of any government body to which he applies for any permit, licence or other authorization, furnish the government body with his regional services council registration number given to him by a council, failing which such government body may refuse to grant such applicant the said permit, licence or other authorization.

(Section 12(12) added by section 5 of Act 75 of 1991)

(13) The Minister of Finance may, subject to such conditions as he may determine, delegate any or all of the powers conferred on him by this section to the Deputy Minister of Finance or an officer in his department with a rank not lower than that of deputy director.

(Section 12(13) added by section 5 of Act 75 of 1991)

12A. Establishment of rural councils

(1) The Administrator may by notice in the *Official Gazette* and from the date mentioned in such notice establish a rural council in a region or part of a region for –

(Words in section 12A(1) preceding paragraph (a) substituted by section 10(a) of Act 56 of 1993)

(a) persons resident in such region or part;

(b) persons who are the registered owners of immovable property situated in that region or part; and

(c) persons who hold an interest in a juristic person that is the registered owner of immovable property situated in that region or part,

but outside the area of jurisdiction of a local authority or a management body other than a rural council.

(Section 12A(1) substituted by section 6(a) of Act 75 of 1991)

(2)

(Section 12A(2) deleted by section 10(b) of Act 56 of 1993)

(3)

(Section 12A(3) substituted by section 6(b) of Act 75 of 1991)

(Section 12A(3) deleted by section 10(b) of Act 56 of 1993)

- (4) The members of the rural council shall be elected by the persons referred to in subsection (1)(a) and (b) and by the juristic person referred to in subsection (1)(c): Provided that the Administrator may, until a first election of members is held, by notice in the *Official Gazette* appoint persons who are qualified for election, as members of the rural council to serve as such members for a period not exceeding 12 months: Provided further that a rural council whose members are so appointed shall, notwithstanding anything to the contrary in this Act, be a management body for the purposes of this Act.

(Section 12A(4) substituted by section 6(c) of Act 75 of 1991)

(Section 12A(4) substituted by section 10(c) of Act 56 of 1993)

- (5) A rural council shall be a juristic person.

- (6) The objects of a rural council are to grant representation on a council to persons and juristic persons contemplated in subsection (1) in regard to a region outside the areas of jurisdiction of local authorities or management bodies other than rural councils and to promote the interests and welfare of those persons, and for such purpose a rural council shall be vested and entrusted with the powers and duties which the Administrator may from time to time identify in the *Official Gazette* as powers and duties of a rural council, but a rural council shall not have the power to impose any levy or service charge or to levy taxes on immovable property.

(Section 12A(6) substituted by section 6(d) of Act 75 of 1991)

(Section 12A(6) substituted by section 10(d) of Act 56 of 1993)

- (7) The expenditure in connection with the administration of a rural council shall be defrayed out of money appropriated by Parliament for such purpose.

- (8) The Administrator may by notice in the *Official Gazette* make regulations in respect of any matter which in his opinion is necessary or expedient for the effective execution or furtherance of the provisions and objects of this section.

(Section 12A(8) substituted by section 10(e) of Act 56 of 1993)

(Section 12A inserted by section 15 of Act 49 of 1988)

13. Regulations

(1)

- (a) The Administrator may, subject to the provisions of subsection (3), by notice in the *Official Gazette* make regulations in respect of any matter referred to in this Act (except a matter contemplated in section 12, but including a matter contemplated in the proviso to subsection (6) thereof) which in

the opinion of the Administrator is necessary or expedient for the effective execution or furtherance of the provisions and objects of this Act.

- (b) Different regulations may be made in respect of different regions.

(2)

- (a) The Minister of Finance may, subject to the provisions of subsection (3), make regulations in regard to any matter referred to in section 12 (excluding a matter contemplated in the proviso to subsection (6) thereof) which in the opinion of the said Minister is necessary or expedient for the effective execution or furtherance of the provisions and objects of this Act.

- (b) Different regulations may be made in respect of different regions and different rates of or exemptions from levies may be determined for different regions.

(3) Regulations made under this section shall be made only –

(Words in section 13(3) preceding paragraph (a) substituted by section 7(a) of Act 75 of 1991)

- (a) after consultation with the Council for the Co-ordination of Local Government Affairs established by section 2 of the Promotion of Local Government Affairs Act, 1983 (Act No. 91 of 1983); and

- (b)

(Section 13(3)(b) deleted by section 11 of Act 56 of 1993)

(4) In the case of a conflict between a regulation in terms of this section and an ordinance or a regulation made under an ordinance, the first-mentioned regulation shall prevail.

(Section 13(4) substituted by section 7(b) of Act 75 of 1991)

(5) Any regulation issued under this section may provide for penalties for any contravention of or any failure to comply with the provisions of such regulations, of a fine not exceeding R5 000 or imprisonment for a period not exceeding 12 months or to both such fine and such imprisonment.

13A. Accounts and audit

(1) The council shall cause full and correct accounts to be kept of all moneys received or expended and of all assets and liabilities and all financial transactions concluded by it.

(2) The books, statements, accounts and balance sheets of a council shall be audited by the Auditor-General.

(Section 13A inserted by section 16 of Act 49 of 1988 with effect from 1 July 1987)

14. Secrecy

- (1) A person employed in the carrying out of the provisions of section 12 of this Act shall not -
- (a) disclose to any person or his representative any matter in respect of any other person that may in the exercise of his powers or the performance of his duties under the said provisions come to his knowledge; or

- (b) permit any person to have access to any records in the possession or custody of the council,

except in the exercise of his powers or the performance of his duties under this Act or by order of a competent court: Provided that the Commissioner for Inland Revenue in the exercise of his functions under this or any other Act, shall have access to all records and documents in the possession or custody of the council for the purposes of this Act.

(Words following section 14(1)(b) substituted by section 17(a) of Act 49 of 1988)

- (2)

(Section 14(2) deleted by section 17(b) of Act 49 of 1988)

- (3) Any person who contravenes the provisions of subsection (1) shall be guilty of an offence and on conviction be liable to a fine not exceeding R5 000 or to imprisonment for a period not exceeding 12 months or to both such fine and such imprisonment.

15. Furnishing of information

Notwithstanding the provisions of section 4 of the Income Tax Act, 1962 (Act No. 58 of 1962), and section 6 of the Value-Added Tax Act, 1991 (Act No. 89 of 1991), the Commissioner for Inland Revenue or any person designated by him, may furnish to a council such information as in the opinion of the said Commissioner or person is necessary for the determination and collection of any regional services levy or regional establishment levy.

(Section 15 substituted by section 9 of Act 78 of 1986)

(Section 15 substituted by section 4 of Act 37 of 1995)

15A. Removal of conflict and administrative problems

- (1) If in the application of this Act it appears that any provision thereof is in conflict with any other law or that administrative problems are being experienced, the Administrator may by notice in the *Provincial Gazette* make regulations in order to remove such conflict or administrative problems: Provided that in respect of any matter referred to in section 12, such regulations shall be made by the Minister of Finance.

(Section 15A(1) amended by Item 3 of the Schedule to Proc. R153 of 1994)

- (2)

(Section 15A(2) deleted by section 12 of Act 56 of 1993)

(3)

- (a) A copy of a regulation in terms of subsection (1) shall –
- (i) if such regulation was made by a Minister of the national government, be submitted to Parliament by that Minister within 14 days after the publication thereof;
 - (ii) if such regulation was made by a member of the Executive Council of a province, be submitted to the provincial legislature of that province by that member within 14 days after the publication thereof.
- (b) If Parliament or the provincial legislature concerned, as the case may be, disapproves of any such regulation or any provision thereof, such regulation or such provision shall thereafter cease to be of force and effect to the extent to which it is so disapproved, but without prejudice to the validity of anything done in terms of such regulation or such provision up to the date upon which it so ceased to be of force and effect, or to any right, privilege, obligation or liability acquired, accrued or incurred as at the said date under and by virtue of such regulation or such provision.

(Section 15A(3) substituted by Item 3 of the Schedule to Proc. R153 of 1994)

(Section 15A inserted by section 18 of Act 49 of 1988)

15B. Delegation

The Minister of Finance may delegate any power or function conferred upon him or her by this Act, to the member of the Executive Council of a province responsible for the budget in that province.

(Section 15B inserted by Item 3 of the Schedule to Proc. R153 of 1994)

16. Act binding on State and statutory bodies, and effect of certain exemptions from taxes or levies

This Act shall bind the State and all bodies established by or under any law, and no provision contained in any other law published on or before 31 July 1985 providing for an exemption from any taxes or levies shall be applicable to the regional services levy or the regional establishment levy.

(Section 16 substituted by section 10 of Act 78 of 1986)

17. Repeal and amendment of laws

The laws mentioned in Schedule 3 are hereby repealed or amended to the extent indicated in the third column of Schedule 3.

18. Short title

This Act shall be called the Regional Services Councils Act, 1985.

Schedule 1

Matters referred to in section 2(2)(b)

1. Community of interests between the residents.
2. Nature of services rendered.
3. Cost-effectiveness and efficiency in the rendering of services.
4. Natural and geographical characteristics.
5. Existing administrative boundaries.
6. Economic interdependency between residents in respect of residency, work, commuting, recreation and predominant consumer spending.
7. Financial self-sufficiency with regard to the rendering of services.
8. Development potential.

Schedule 2

Functions referred to in section 3(1)(b)

1. Bulk supply of water.
2. Bulk supply of electricity.
3. Sewerage purification works, main sewerage disposal pipelines and re-use systems.
(Item 3 of Schedule 2 substituted by section 8 of Act 75 of 1991)
4. Land usage and transport planning in the region.
5. Roads and stormwater drainage.
6. Passenger transport services.
7. Traffic matters.
8. Abattoirs.

9. Fresh produce markets.
10. Refuse dumps.
11. Cemeteries and crematoriums.
12. Ambulance and fire brigade services.
13. Health services.
14. Airports.
15. Civil defence.
16. Libraries.
17. Museums.
18. Recreation facilities.
19. Environment conservation.
20. Promotion of tourism.
21. The establishment, improvement and maintenance of other infrastructural services and facilities.
22. Other regional functions.

Schedule 3

No. and year of law	Title	Extent of repeal or amendment
Act No. 25 of 1945	Blacks (Urban Areas) Consolidation Act, 1945	The repeal of section 9(4) in relation to a region as from the date on which the levies referred to in section 12 of this Act are introduced in that region.
Act No. 53 of 1957	Black Transport Services Act, 1957	The repeal of the whole in relation to a region as from the date on which the levies referred to in section 12 of this Act are introduced in that region.
Act No. 27 of 1972	Transport Services for Coloured Persons and Indians Act, 1972	The repeal of the whole in relation to a region as from the date on which the levies referred to in section 12 of this Act are introduced in that region.

Act No. 29 of 1972	Contributions in respect of Black Labour Act, 1972	The repeal of the whole in relation to a region as from the date on which the levies referred to in section 12 of this Act are introduced in that region.
Ordinance No. 8 of 1972, of the Orange Free State	Licences Ordinance, 1972	The liability to pay licence fees referred to in section 9(3) in relation to a region as from the date on which the levies referred to in section 12 of this Act are introduced in that region.
Ordinance No. 11 of 1973, of Natal	Licences and Business Hours Ordinance, 1973	The liability to pay licence fees referred to in section 9(3) in relation to a region as from the date on which the levies referred to in section 12 of this Act are introduced in that region.
Ordinance No. 19 of 1974, of the Transvaal	Licences Ordinance, 1974	The liability to pay licence fees referred to in section 10(1) in relation to a region as from the date on which the levies referred to in section 12 of this Act are introduced in that region.
Ordinance No. 17 of 1981, of the Cape of Good Hope	Licences Ordinance, 1981	The liability to pay licence fees referred to in sections 3(2)(b) and 8(1)(b) in relation to a region as from the date on which the levies referred to in section 12 of this Act are introduced in that region.
Act No. 88 of 1967	Physical Planning Act, 1967	(a) The amendment of section 1 by the insertion after the definition of "quarry" of the following definition: <u>"regional services council" means a regional services council established in terms of the Regional Services Councils Act, 1985;"</u>
		(b) The amendment of section 6A – (i) by the substitution for paragraph (b) of subsection (4) of the following paragraph: (b) Any such proposals by a local authority shall be so submitted through the provincial administration concerned <u>and if that local authority is represented on a regional services council, a copy of such proposals shall be submitted to the regional services council concerned."</u> ;
		(ii) by the substitution for subsection (9) of the following subsection:

		<p>"(9) After receipt of the advice of the investigation committee, the Director-General shall submit to the Administrator such advice, all comments and representations received in connection with the draft guide plan, as well as his own comments thereon, and the Administrator shall submit his comments <u>as well as the comments (if any) of every regional services council to the area of which the plan in question applies</u> to the Minister within 60 days or such longer period as the Minister may determine.";</p> <p>(iii) by the addition to subsection (12) of the following proviso: <u>"Provided that where the scheme or land referred to in this subsection is situated within the area of jurisdiction of a regional services council, any reference in this subsection to 'Administrator' shall be construed as a reference to the regional services council concerned."</u>;</p> <p>(iv) by the addition to paragraph (a) of subsection (13) of the following proviso: <u>"Provided that where a guide plan referred to in this paragraph, applies to land situated within the area of jurisdiction of a regional services council, any reference in this paragraph to 'Minister' and 'Administrator' wherever they occur, shall be construed as a reference to 'Administrator' and 'regional services council concerned', respectively."</u>;</p> <p>(v) by the addition to paragraph (b) of subsection (13) of the following proviso: <u>"Provided that where a plan or plans referred to in this paragraph, apply to</u></p>
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		<p><u>land situated within the area of jurisdiction of a regional services council, any reference in this paragraph to 'Minister', 'Administrator' and 'officer in charge of the local government section of the provincial administration concerned', shall be construed as a reference to 'Administrator', 'regional services council concerned' and 'chief executive officer of the regional services council concerned', respectively.";</u></p>
		<p>(vi) by the addition to paragraph (c) of subsection (13) of the following proviso: <u>"Provided that where a plan or plans referred to in this paragraph, apply to land situated within the area of jurisdiction of a regional services council, any reference in this paragraph to 'Minister' and 'Administrator', wherever they occur, shall be construed as a reference to 'Administrator' and 'regional services council concerned', respectively.";</u> and</p>
		<p>(vii) by the substitution for paragraph (b) of subsection (19) of the following paragraph: <u>"(b) the comments of the Administrator concerned and the regional services council concerned and, if land which in terms of the guide plan may be used for agricultural purposes can in the opinion of the Minister be affected by the proposed amendment or withdrawal, the comments of the Minister of Agriculture shall be obtained."</u></p>
Ordinance No. 18 of 1976, of the Cape of Good Hope	Divisional Councils Ordinance, 1976	The liability to pay rates referred to in sections 80(1), 81(a) and 82 1 [sic] (a) and (b) in relation to a region as from the date on which the levies referred to in section 12 of this Act are introduced in that region.
Act No. 78 of 1977	Urban Transport Act, 1977	(a) The amendment of section 1 –

		<p>(i) by the substitution for the definition of "Administrator" of the following definition:</p> <p>" 'Administrator' means –</p> <p>(a) <u>an Administrator acting on the advice and with the consent of the executive committee of which he is a member;</u></p> <p>(b) <u>for the purposes of sections 11, 12, 13, 14, 15 and 16 in the case where a regional services council is designated as a core city, the regional services council concerned.</u>"; and</p>
		<p>(ii) by the insertion after the definition of "officer" of the following definition:</p> <p><u>"regional services council" means a regional services council established in terms of the Regional Services Councils Act, 1985;"</u>.</p>
		<p>(b) The amendment of section 24 by the substitution for subsection (2) of the following subsection:</p> <p>"(2) Any Administrator may in writing delegate any power conferred on him by this Act to <u>a core city or</u> any person in the services of his administration."</p>
Act No.115 of 1984	Remuneration of Town Clerks Act, 1984	<p>The amendment of section 1 by the substitution in subsection (1) for the definition of "local authority" of the following definition:</p> <p>"'local authority' means any institution or body contemplated in section 84(1)(f) of the [Republic of South Africa Constitution Act] <u>Provincial Government Act</u>, 1961 (Act No. 32 of 1961), in connection with which a provincial council may make ordinances, and also a regional services council established under the Regional Services Councils Act, [1984] 1985;"</p>
Act No.117 of 1984	Local Government Bodies Franchise Act, 1984	<p>..... <i>Repealed by section 1 of Act 42 of 1997</i></p>

(Schedule 3 amended by section 19 of Act 49 of 1988 with effect from 1 July 1987)

(Schedule 3 amended by section 1 of Act 42 of 1997)

