

# ORGANISED LOCAL GOVERNMENT ACT 52 OF 1997

[ASSENTED TO 6 NOVEMBER 1997]

[DATE OF COMMENCEMENT: 12 NOVEMBER 1997]

*(Afrikaans text signed by the President)*

**as amended by**

Local Government Laws Amendment Act 51 of 2002  
Financial and Fiscal Commission Amendment Act 25 of 2003

## ACT

**To provide for the recognition of national and provincial organisations representing the different categories of municipalities; to determine procedures by which local government may designate representatives to participate in the National Council of Provinces; to determine procedures by which local government may consult with national and provincial government; to determine procedures by which local government may nominate persons to the Financial and Fiscal Commission; and to provide for matters connected therewith.**

### Preamble

SINCE the Constitution requires an Act of Parliament to provide for the recognition of national and provincial organisations representing municipalities;

AND SINCE the legislation must determine procedures by which local government may consult with national and provincial government, designate representatives to participate in the National Council of Provinces and nominate persons to the Financial and Fiscal Commission,

BE IT THEREFORE ENACTED by the Parliament of the Republic of South Africa, as follows:-

### 1 Definitions

(1) In this Act, unless the context indicates otherwise-

'**Minister**' means the Minister for Provincial Affairs and Constitutional Development;

'**national organisation**' means the organisation recognised in terms of section 2 (1) (a);

'**provincial organisation**' means an organisation recognised in terms of section 2 (1) (b);

'**responsible member**' means the member of the Executive Council responsible for local government in the province in question.

(2) .....

[Sub-s. (2) deleted by s. 1 of Act 51 of 2002.]

### 2 Recognition of national and provincial organisations

(1) Subject to section 6, the Minister must, by notice in the *Gazette*-

(a) recognise one national organisation representing the majority of the provincial organisations contemplated in paragraph (b); and

(b) with the concurrence of the responsible member, recognise one organisation in each province representing the majority of municipalities in the province in question: Provided that all the different categories of municipalities in the province in question are represented in the organisation in question.

(2) (a) The Minister may withdraw any recognition referred to in subsection (1) if-

- (i) the organisation ceases to represent the organisations or municipalities as contemplated in subsection (1) or ceases to comply with any of the criteria contemplated in section 6; and
- (ii) the Minister gives the organisation in question 30 days notice of the intended withdrawal.

(b) If the Minister withdraws the recognition of an organisation contemplated in subsection (1) (b), he or she must act with the concurrence of the responsible member.

### **3 Designation of representatives to participate in National Council of Provinces**

(1) Each provincial organisation may nominate not more than six members of municipal councils in writing for designation as representatives to participate in the proceedings of the National Council of Provinces.

(2) (a) The national organisation must in accordance with criteria determined by it, when necessary, designate not more than 10 persons from the nominees contemplated in subsection (1) as representatives to participate in the proceedings of the National Council of Provinces.

(b) The national organisation may assign the duty to so designate representatives to the head of its administration.

(3) Every designation made in terms of subsection (2) must be communicated to the Secretary of the National Council of Provinces by the head of the administration of the national organisation.

(4) Such communication must be in writing, which may include electronically transmitted print, and must indicate the period or purpose for which the designation is made.

(5) Whenever a vacancy occurs in the number of persons contemplated in subsection (1), the provincial organisation concerned may nominate another person in writing to fill the vacancy.

### **4 Consultation procedure**

(1) Consultation between the national organisation and the national and a provincial government takes place at a meeting convened by the Minister.

(2) The Minister may invite any of the provincial organisations to the meeting contemplated in subsection (1).

(3) Despite subsection (1), the national organisation may at any time approach any Minister to consult with the national government.

(4) A provincial organisation may only consult the national government after consultation with the national organisation.

(5) Consultation between a provincial organisation and the provincial government in question takes place at a meeting convened by the responsible member.

(6) The responsible member may invite the national organisation or any other provincial organisation to the meeting contemplated in subsection (5).

(7) Despite subsection (5), a provincial organisation may at any time approach any member of the Executive Council of the province in question to consult with the provincial government.

(8) This section does not preclude consultation by organised local government with any other organ of state as defined in the Constitution.

### **5 Nomination of persons to Financial and Fiscal Commission**

(1) Whenever there is a vacancy on the Financial and Fiscal Commission in respect of members contemplated in section 5 (1) (c) of the Financial and Fiscal Commission Act, 1997 (Act 99 of 1997), the Minister, within 14 days of

receiving the Commission's notification of the vacancy, must notify the national organisation to request each provincial organisation to nominate one person in writing within 45 days to the national organisation.

(2) (a) If there is one vacancy, the executive committee of the national organisation must compile a list consisting of no more than four nominees from the nominees contemplated in subsection (1).

(b) If there are two vacancies, the executive committee of the national organisation must compile a list consisting of no more than six nominees from the nominees contemplated in subsection (1).

(3) The executive committee of the national organisation must submit the list to the Minister of Finance within 76 days after receiving notification from the Minister about the vacancy.

[S. 5 substituted by s. 6 of Act 25 of 2003.]

## **6 Regulations**

(1) The Minister may, after consultation with the responsible members and having regard to principles of transparency and equity, make regulations determining criteria other than those contemplated in section 2, for the recognition of the organisation referred to in section 2 (1) (a) and the organisations referred to in section 2 (1) (b).

(2) The Minister must, in determining the criteria contemplated in subsection (1), take into account all relevant factors, including-

- (a) political inclusiveness;
- (b) provincial representiveness;
- (c) a balance between urban and rural municipalities.

## **7 Repeal of law and saving**

(1) Subject to subsection (2), section 10 of the Local Government Transition Act, 1993 (Act 209 of 1993), is hereby repealed.

(2) Any organisation recognised under section 10 of the Local Government Transition Act, 1993 (Act 209 of 1993), immediately before the coming into operation of this Act, must be regarded as having been recognised in terms of section 2 of this Act.

## **8 Short title**

This Act is called the Organised Local Government Act, 1997.