

# TRANSFER OF STAFF TO MUNICIPALITIES ACT 17 OF 1998

[ASSENTED TO 21 MAY 1998]

[DATE OF COMMENCEMENT: 27 MAY 1998]

*(English text signed by the President)*

## ACT

**To provide for the transfer of certain employees from a provincial administration to designated municipalities; and to provide for matters connected therewith.**

### 1 Definitions

In this Act, unless the context indicates otherwise-

'**employee**' means an employee as defined in section 1 of the Public Service Act, 1994 (Proclamation 103 of 1994), and who was immediately before the commencement of this Act permanently in the service of a provincial administration;

'**MEC**' means the member of the Executive Council of a province responsible for local government in that province;

'**municipality**' means a municipality as defined in section 10B of the Local Government Transition Act, 1993 (Act 209 of 1993);

'**provincial administration**' means a provincial administration as defined in the Public Service Act, 1994 (Proclamation 103 of 1994).

### 2 Transfer of employees

(1) Subject to the Labour Relations Act, 1995 (Act 66 of 1995), an MEC may transfer such number of employees as may be necessary for the effective administration of the municipality in question and which may be required to render efficient municipal services, to a municipality designated by the MEC with effect from a date determined by him or her by notice in the Gazette.

(2) No employee may be transferred without-

- (a) his or her consent; and
- (b) the concurrence of the designated municipality.

(3) If an employee is so transferred, the conditions of service of the municipality in question apply to him or her, but the conditions of service may in the aggregate not be less favourable than the conditions of service which applied to the employee immediately before.

### 3 Accumulated vacation leave

(1) Any vacation leave standing to the credit of an employee immediately before his or her transfer must, from the date of the transfer, be regarded as leave credited to him or her in the employment of the municipality in question, subject to the cash value, on date of transfer, of such leave being adjusted to an equivalent cash value applicable to an employee of similar rank of the municipality in question.

(2) (a) In respect of each employee transferred the relevant province must pay the municipality from its provincial revenue fund, the equivalent cash value contemplated in subsection (1).

(b) The payment contemplated in paragraph (a) must be made within 60 days of the date on which the employee is transferred.

(3) The cash value of the number of days vacation leave standing to the credit of an employee at the date of transfer which exceeds the number of days vacation leave which an employee in the service of the municipality in question may accumulate, must be paid to the employee by that municipality at the rate applicable to the employee immediately before his or her transfer to the municipality.

#### **4 Pensions**

Any employee who is a member of the Government Employees Pension Fund immediately before his or her transfer, remains a member of that fund, but may withdraw from that fund in accordance with the Government Employees Pension Law, 1996 (Proclamation 21 of 1996).

#### **5 Disciplinary steps or grievance procedure suspends transfer**

(1) Any disciplinary steps instituted or being considered against an employee liable to be transferred in terms of section 2, or any grievance procedure instituted by such employee, suspends the transfer of the employee concerned until the finalisation of the relevant disciplinary steps or grievance procedures.

(2) The transfer of an employee contemplated in subsection (1) becomes effective on the first day of the month following the finalisation of the disciplinary steps or grievance procedure, unless the employee is dismissed.

#### **6 Short title**

This is the Transfer of Staff to Municipalities Act, 1998.