

REPUBLIC OF SOUTH AFRICA

**PORTFOLIO COMMITTEE AMENDMENTS
TO**

**INTERGOVERNMENTAL
RELATIONS FRAMEWORK
BILL**

[B 3—2005]

*(As agreed to by the Portfolio Committee on Provincial and Local Government
(National Assembly))*

[B 3A—2005]

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AMENDMENTS AGREED TO
INTERGOVERNMENTAL RELATIONS FRAMEWORK BILL
[B 3—2005]

PREAMBLE

1. On page 2, in the sixth line, to omit “people” and to substitute:
country as a developmental state
2. On page 2, in the tenth line, after “together” to insert:
and to integrate as far as possible their actions
3. On page 2, in the twelfth line, to omit “co-operation” and to substitute:
co-operation and the integration of actions
4. On page 2, from the twenty-second line, to omit “complement those Acts of Parliament by establishing” and to substitute “establish”.

TABLE OF CONTENTS

Table of Contents rejected.

NEW TABLE OF CONTENTS

1. That the following be a new Table of Contents:

TABLE OF CONTENTS

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INTERPRETATION, APPLICATION AND OBJECT OF ACT

1. Interpretation
2. Application of Act
3. Conflicts with other legislation
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INTERGOVERNMENTAL STRUCTURES

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President's Co-ordinating Council

6. Composition
7. Role
8. Meetings

Part 2***National intergovernmental forums***

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11. Role
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CHAPTER 4

SETTLEMENT OF INTERGOVERNMENTAL DISPUTES

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40. Duty to avoid intergovernmental disputes
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44. Assistance by Minister or MEC for local government
45. Judicial proceedings

CHAPTER 5

MISCELLANEOUS

46. Reports to Parliament
47. Regulations and guidelines
48. Short title

CLAUSE 1

1. On page 4, in line 35, to omit "5" and to substitute "6".
2. On page 4, in line 42, to omit "32" and to substitute "35".
3. On page 5, in line 6, to omit "8" and to substitute "9".
4. On page 5, in line 7, to omit "15" and to substitute "16".
5. On page 5, from line 8, to omit "20" and to substitute "21".
6. On page 5, in line 10, to omit "21" and to substitute "22".
7. On page 5, in line 11, to omit "22" and to substitute "24".
8. On page 5, in line 12, to omit "26" and to substitute "28".
9. On page 5, in line 20, to omit "27" and to substitute "30".
10. On page 5, after line 25, to insert:
 - "**mayor**", in respect of the different types of municipalities, means —
 - (a) a mayor elected in terms of section 48 of the Local Government: Municipal Structures Act, 1998 (Act No. 117 of 1998);
 - (b) an executive mayor elected in terms of section 55 of the Local Government: Municipal Structures Act, 1998; or
 - (c) a speaker who is called a mayor in terms of section 36(5) of the Local Government: Municipal Structures Act, 1998;
11. On page 5, from line 26, to omit the definition of "MEC for local government" and to substitute:

"MEC for local government" means the member of a provincial Executive Council who is responsible for local government matters in the province;
12. On page 5, from line 28, to omit "Provincial and Local Government" and to substitute "provincial and local government".

13. On page 5, from line 56, to omit the definition of “organ of state” and to substitute:

“organ of state” means an organ of state as defined in section 239 of the Constitution, excluding those listed in section 2(2);

14. On page 6, from line 17, to omit subsections (3) and (4).

CLAUSE 2

1. On page 6, in line 26, to omit “and all national organs of state”.
2. On page 6, in line 27, to omit “and all provincial organs of state”.
3. On page 6, in line 28, to omit “and all municipal organs of state”.
4. On page 6, in line 35, to omit “and”.
5. On page 6, after line 39, to add:
 - (3) An organ of state may only participate in an intergovernmental structure contemplated in Chapter 2 if—
 - (a) it is specifically referred to in that Chapter; or
 - (b) it is invited to participate.

NEW CLAUSE

1. That the following be a new Clause:

Conflicts with other legislation

3. (1) In the event of a conflict between a provision of this Act and a provision of another Act of Parliament regulating intergovernmental relations, the provision of that other Act prevails.

- (2) In the event of a conflict between a provision of this Act and—
- (a) provincial legislation, the conflict must be resolved in terms of section 146 of the Constitution;
 - (b) a municipal by-law, the provision of this Act prevails.

CLAUSE 3

1. On page 6, in line 41, to omit “concept” and to substitute “principle”.

CLAUSE 4

1. On page 6, in line 52, to omit “and all organs of state within those governments”.

CLAUSE 5

1. On page 7, in line 32, to omit “a person” and to substitute “a municipal councillor”.

CLAUSE 6

1. On page 7, in line 52, after “national interest” to insert:
 , including a report referred to in section 20

CLAUSE 9

1. On page 8, in line 19, to omit “8(1)” and to substitute “9(1)”.
2. On page 8, in line 26, to omit “a person” and to substitute “a municipal councillor”.

CLAUSE 10

1. On page 8, in line 34, to omit “8” and to substitute “9”.

CLAUSE 11

1. On page 9, in line 2, to omit “8” and to substitute “9”.

CLAUSE 14

1. On page 9, in line 24, to omit “8” and to substitute “9”.

CLAUSE 16

1. On page 9, in line 42, to omit “a person” and to substitute “a municipal councillor”.

CLAUSE 19

1. On page 10, in line 36, to omit “annually” and to substitute “at least annually”.

CLAUSE 20

1. On page 10, in line 42, to omit “formal”.
2. On page 10, in line 52, to omit “formal”.

NEW CLAUSE

1. That the following be a new Clause:

Role of interprovincial forums

23. An interprovincial forum is a consultative forum for the participating provinces to discuss and consult on matters of mutual interest, including—

- (a) information sharing, best practice and capacity building;
- (b) co-operating on provincial developmental challenges affecting more than one province; and
- (c) any other matter of strategic importance which affects the interests of the participating provinces.

CLAUSE 24

1. On page 11, from line 43, to omit “20” and to substitute “21”.

NEW CLAUSE

1. That the following be a new Clause:

Role of intermunicipality forums

29. The role of an intermunicipality forum is to serve as a consultative forum for the participating municipalities to discuss and consult each other on matters of mutual interest, including—

- (a) information sharing, best practice and capacity building;
- (b) co-operating on municipal developmental challenges affecting more than one municipality; and
- (c) any other matter of strategic importance which affects the interests of the participating municipalities.

CLAUSE 30

1. On page 12, after line 46, to insert:
 - (c) procedures for the designation of a person to preside at a meeting in the absence of the chairperson;

CLAUSE 31

1. On page 13, in line 12, to omit “**Standard**” and to substitute “**Standard draft**”.
2. On page 13, in line 14, to omit “standard” and to substitute “standard draft”.
3. On page 13, in line 15, to omit “standard” and to substitute “standard draft”.
4. On page 13, in line 17, to omit “Standard” and to substitute “Standard draft”.

CLAUSE 33

1. On page 14, in line 18, to omit “province or any specifically” and to substitute “province and any specifically”.
2. On page 14, in line 24, to omit “15 or 20” and to substitute “16 or 21”.

CLAUSE 40

1. On page 15, in line 57, to omit “44” and to substitute “47”.
2. On page 16, in line 2, to omit “44” and to substitute “47”.
3. On page 16, in line 4, to omit “39(3)” and to substitute “42(3)”.
4. On page 16, in line 5, to omit “39(4)” and to substitute “42(4)”.

CLAUSE 41

1. On page 16, in line 11, to omit “39(3)” and to substitute “42(3)”.
2. On page 16, in line 13, to omit “39(4)” and to substitute “42(4)”.

CLAUSE 42

1. On page 16, in line 23, to omit “38” and to substitute “41”.
2. On page 16, from line 25, to omit “38, discussions in terms of section 39 and reports in terms of section 40” and to substitute:

41, discussions in terms of section 42 and reports in terms of section 43

CLAUSE 43

1. On page 16, from line 31, to omit “submit a report to Parliament for tabling in both Houses” and to substitute:

table a report in both Houses of Parliament

CLAUSE 44

1. Clause rejected.

NEW CLAUSE

1. That the following be a new Clause:

Regulations and guidelines

47. (1) The Minister may, by notice in the *Gazette*, issue regulations or guidelines not inconsistent with this Act regarding—

- (a) any matter that may be prescribed in terms of this Act;
- (b) a framework for coordinating and aligning development priorities and objectives between the three spheres of government;
- (c) a framework for coordinating intergovernmental conduct and action affecting municipal functions;
- (d) implementation protocols;
- (e) indicators for monitoring and evaluating the implementation of this Act; and
- (f) any other matter that may facilitate the administration of this Act.

(2) A regulation or guideline in terms of this section may differentiate between different—

- (a) municipalities, which may, for the purpose of this section, be defined either in relation to categories, types or budgetary size of municipalities or in any other determinable manner;
- (b) functional areas; and
- (c) types of intergovernmental structures established under this Act.

(3) No guidelines issued in terms of subsection (1) are binding on an organ of state in any sphere of government unless adopted by its executive authority.

(4) Before regulations or guidelines are issued in terms of subsection (1), the Minister must—

- (a) publish the draft regulations or guidelines in the *Gazette* for public comment; and
- (b) engage in an appropriate consultative process with relevant organs of state on the substance of the regulations or guidelines.