

Context to the Code of Conduct for Councillors Regulations, 2022

On 11 October 2021, the President proclaimed that the Local Government: Municipal Structures Amendment Act No. 3 of 2021 commences on 1 November 2021.

Prior to the commencement of the Act, the Code of Conduct for Councillors (“the Code”) was included as Schedule 1 in the Local Government: Municipal Systems Act No. 32 of 2000.

The amendments subsequently migrated the Code from the Systems Act and introduced it as Schedule 7 in the Municipal Structures Act.

Item 8(3) of the Code requires a Councillor to declare, in writing to the Municipal Manager, gifts that are above a prescribed amount.

To provide for this requirement, Regulations were issued on 9 February 2001 and required Councillors to declare gifts that were more than R1,000 in value. The migration of the Code from the Systems Act to the Structures Act has created a “vacuum” and now requires Regulations to be issued in terms of the Structures Act.

The draft Regulations are aligned to the Regulations that were issued in 2001, but have been further expanded to deal with the following other matters –

- i. Prohibition of “walk-outs” during council meetings;
- ii. Introduction of a requirement for designated councils’ gifts register;
- iii. Unruly behaviour of councillor’s to maintain the decorum in the municipal councils;
- iv. Obligation to municipalities to provide adequate support to cater for councillors living with disabilities to participate effectively in council proceedings;
- v. Requirement for councillors to settle municipal accounts (no longer than 3 months) due for rates and services in accordance with the credit control policy of the municipality; and
- vi. Requirement for reporting on a quarterly basis by the municipality to the MEC and the Minister on compliance to the Code.

The Regulations are made in accordance with Section 92 of the Municipal Structures Act, which empowers the Minister to make Regulations not inconsistent with the Act prescribing any matter that may or must be prescribed in terms of the Act and to facilitate the application thereof.

The draft Regulations are aimed at facilitating the application of Schedule 7 of the Structures Act which provides for the Code of Conduct for Councillors.