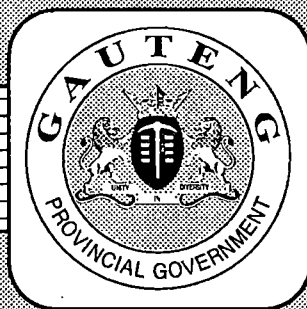


**THE PROVINCE OF  
GAUTENG**



**DIE PROVINSIE  
GAUTENG**

**Provincial Gazette Extraordinary  
Buitengewone Provinsiale Koerant**

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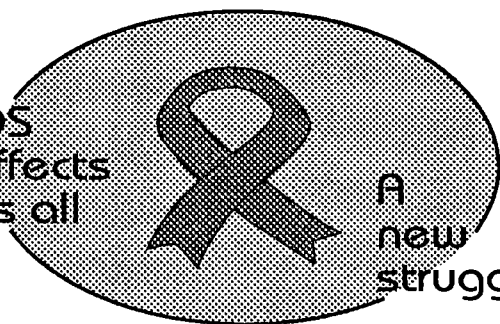
**Vol. 8**

PRETORIA, 19 FEBRUARY 2002  
FEBRUARIE

**No. 38**

**We all have the power to prevent AIDS**

AIDS  
affects  
us all



A  
new  
struggle

**Prevention is the cure**

**AIDS  
HELPLINE**

**0800 012 322**

DEPARTMENT OF HEALTH

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## GENERAL NOTICE

NOTICE 410 OF 2002

### GAUTENG PROVINCIAL LEGISLATURE

#### PUBLICATION OF GAUTENG TENDER BOARD REPEAL BILL, 2002

Notice is hereby given that the Member of the Executive Council for Finance and Economic Affairs (Mr P J Moleketi) intends to introduce the Gauteng Tender Board Repeal Bill, 2002 in the Legislature as published in this Extraordinary Gazette.

Any person or organisation wishing to comment on this proposed Legislation may lodge written comments or representations **on or before March 12, 2002** by posting, faxing or handing them in at the following address:

The Secretary to the Legislature  
Gauteng Provincial Legislature  
C/o Committee Co-ordinator (Mr T Mogale)  
Private Bag X52  
Johannesburg  
2000

Physical Address  
Gauteng Provincial Legislature  
Corner President and Loveday Str  
Johannesburg  
Tel No: (011) 498-5452  
Fax No: (011) 498-5719

## **B I L L**

To repeal the Provincial Tender Board Act, 1994; to give effect to new procurement reform initiatives underway; and to provide for transitional provisions.

**BE IT ENACTED BY the Provincial Legislature of Gauteng, as follows: -**

### **Repeal of legislation**

1. The Provincial Tender Board Act, 1994 (Act No. 2 of 1994) is hereby repealed.

### **Transitional provision**

2. (1) The Executive Council must appoint a Provincial procurement body responsible for the adjudication and awarding of term contracts and special projects initiated prior to 31 March 2002 and not adjudicated and/or awarded by the Provincial Tender Board by 01 April 2002.

- (2) For the purpose contemplated in subsection (1) the Executive Council may establish one or more Provincial procurement bodies.

### **Short title and commencement**

3. This Act is called the Gauteng Tender Board Repeal Act, 2002, and shall be regarded to have taken effect on 01 April 2002.

## **EXPLANATORY MEMORANDUM ON THE OBJECTS OF THE GAUTENG TENDER BOARD REPEAL BILL, 2002**

### **1. REASONS FOR THE BILL**

#### **1.1 Purpose of the Bill**

The Bill is being introduced to repeal the Provincial Tender Board Act, 1994 (Act No. 2 of 1994) and to provide for a transition to a new procurement regime in the Province.

#### **1.2 Background**

The introduction of the Public Finance Management Act, 1999 (PFMA) has brought with it substantial changes in the manner finances are managed in the public sector. One of the major reforms that arise from the implementation of the PFMA covers issues of procurement. Ultimately in keeping with the PFMA, the Tender Board Act must be repealed as from the 1<sup>st</sup> April 2002. This means that the Gauteng Tender Board will cease to exist as from the 1<sup>st</sup> April 2002. By including a transition clause, provision can be made for the phasing in of reforms to allow for a smooth transition, with specific reference to term contracts and special projects in the Gauteng Provincial Government.

#### **1.3 Discussion**

The transition from current practices to the new dispensation will require careful management. A specific significance will be the impact on the Province with regard to procurement processes that have commenced, but have not been adjudicated by the Tender Board. These possible future term contracts may only be ready for award after the 31<sup>st</sup> March 2002. In order to ensure continuity the Provincial Executive Council may decide which Provincial procurement body will be responsible for the adjudication of such high level term contracts and special projects.

## **2. IMPLICATIONS OF THE BILL**

### **2.1 Social Implications**

None, except that procurement reforms and interim arrangements have to comply with constitutional precepts of fairness, equity, transparency, competitiveness and cost effectiveness.

### **2.2 Environmental Implications**

None.

### **2.3 Financial implications**

No significant financial implications.

## **3. CLAUSE-BY-CLAUSE EXPLANATION OF THE BILL**

**Clause 1:** The clause repeals the Provincial Tender Board Act, 1994.

**Clause 2:** This clause contains the transitional provision, namely:

- To ensure continuity the Provincial Executive Council must appoint a Provincial procurement body responsible for the adjudication and awarding of term contracts and special projects, not yet adjudicated and/or awarded by the Tender Board by the 31<sup>st</sup> March 2002.
- For this purpose the Executive Council may establish one or more Provincial procurement bodies.

**Clause 3:** The clause contains the short title and commencement date.

**KENNISGEWING 410 VAN 2002**

**WETSONTWERP**

**Tot herroeping van die Wet op die Provinsiale Tenderraad, 1994; om uitvoering te gee aan nuwe inisiatiewe vir verkrygingshervorming wat aan die kom is; en om vir oorgangsbepalings voorsiening te maak.**

**DAAR WORD BEPAAL** deur die Gauteng Provinsiale Wetgewer, soos volg:-

**Herroeping van wetgewing**

1. Die Wet op die Provinsiale Tenderraad, 1994 (Wet No. 2 van 1994), word hierby herroep.

**Oorgangsbepaling**

2. (1) Die Uitvoerende Raad moet 'n Provinsiale verkrygingsliggaam aanstel wat verantwoordelik is vir die beoordeling en toekenning van termynkontrakte en spesiale projekte wat voor 31 Maart 2002 geïnisieer is en wat nie teen 01 April 2001 deur die Provinsiale Tenderraad beoordeel en/of toegeken is nie.  
  
(2) Vir die doeleindes in subartikel (1) beoog, kan die Uitvoerende Raad een of meer Provinsiale verkrygingsliggame instel.

**Kort titel en inwerkingtreding**

3. Hierdie Wet heet die Gautengse Wet op die Herroeping van die Wet op die Provinsiale Tenderraad, 2002, en word geag op 01 April 2002 in werking te tree.

# **VERKLARENDE MEMORANDUM OOR DIE OOGMERKE VAN DIE GAUTENGSE WET OP DIE HERROEPING VAN DIE WET OP DIE PROVINSIALE TENDERRAAD, 2002**

## **1. REDES VIR DIE WETSONTWERP**

### **1.1 Doel van die Wetsontwerp**

Die Wetsontwerp word voorgestel om die Wet op die Provinsiale Tenderraad, 1994 (Wet No. 2 van 1994), te herroep en om voorsiening te maak vir 'n oorgang tot 'n nuwe verkrygingsbedeling in die Provinsie.

### **1.2 Agtergrond**

Die invoering van die Wet op Openbare Finansiële Bestuur, 1999 (WOFB), het wesenlike veranderings teweeg gebring in die wyse waarop finansies in die openbare sektor bestuur word. Een van die vernaamste hervormings wat uit die implementering van die WOFB voortspruit, dek kwessies van verkryging. In ooreenstemming met die WOFB moet die Wet op die Provinsiale Tenderraad met ingang van 1 April 2002 herroep word. Dit beteken dat die Gautengse Tenderraad met ingang van 1 April 2002 ophou bestaan. Deur 'n oorgangsklausule in te sluit, kan voorsiening gemaak word vir die infasering van hervormings om 'n gladde oorgang moontlik te maak, met spesifieke verwysing na die termynkontrakte en spesiale projekte in die Gautengse Provinsiale Regering.

### **1.3 Bespreking**

Die oorgang van huidige praktyke na die nuwe bedeling sal deeglike bestuur verg. Van spesiale belang sal wees die impak op die Provinsie met betrekking tot verkrygingsprosesse wat 'n aanvang geneem het maar nog nie deur die Tenderraad beoordeel is nie. Hierdie moontlike toekomstige termynkontrakte kan moontlik eers ná 31 Maart 2002 gereed wees vir toekenning. Om kontinuïteit te verseker, kan die Provinsiale Uitvoerende Raad besluit watter Provinsiale verkrygingsliggaam verantwoordelik sal wees vir die beoordeling van sulke hoëvlakse termynkontrakte en spesiale projekte.

## **2. IMPLIKASIES VAN DIE WETSONTWERP**

### **2.1 Maatskaplike implikasies**

Geen, behalwe dat verkrygingshervormings en tussentydse reëlins moet voldoen aan grondwetlike voorskrifte van billikheid, regverdigheid, deursigtigheid, mededingendheid en kostedoeltreffendheid.

### **2.2 Omgewingsimplikasies**

Geen.



### **2.3 Finansiële implikasies**

Geen beduidende finansiële implikasies nie.

### **3. VERDUIDELIKING VAN DIE WETSONTWERP KLOUSULE VIR KLOUSULE**

**Klausule 1:** Hierdie klausule herroep die Wet op die Provinsiale Tenderraad, 1994.

**Klausule 2:** Hierdie klausule bevat die oorgangsbepalings, naamlik:

- Om kontinuïteit te verseker, moet die Provinsiale Uitvoerende Raad 'n Provinsiale verkrygingsliggaam aanstel wat verantwoordelik is vir die beoordeling en toekenning van termynkontrakte en spesiale projekte wat teen 31 Maart 2002 nog nie deur die Tenderraad beoordeel en/of toegeken is nie.
- Vir hierdie doel kan die Uitvoerende Raad een of meer Provinsiale verkrygingsliggame instel.

**Klausule 3:** Hierdie klausule bevat die kort titel en die datum van inwerkingtreding.

## NOTICE 410 OF 2002

**UMTHETHOSIVIVINYWA**

Ukuchitha uMthetho weBhodi lamaThenda lesiFundazwe, 1994, ukuze kukwazi ukusebenza izinguquko kwezokukhipha amathenda ezihleliwe, kanye nokuhlinzekela izidingo zesikhathi soguquko.

**MAKWENZIWE UMTHETHO** yisiShayamthetho sesiFundazwe saseGauteng, kanje:-

**Ukuchithwa komthetho**

1. UMthetho weBhodi lamaThenda, 1994 (uMthetho No. 2 ka 1994) ngalokhu uyachithwa.

**Ukuhlinzekela isikhathi soguquko**

2. (1) Umkhandlu Omkhulu kumele uqoke umgwamanda wezokukhipha amathenda wesiFundazwe ozobhekana nokuthatha izinqumo nokunikeza izinkontileka zesikhathi eside kanye namaphulojeki ayisipesheli okwaqalwa ngaphambi komhlaka 31 Mashi 2002 kepha okwakungakathathelwa zinqumo futhi/noma kungakanikezelwa yiBhodi lamaThenda lesiFundazwe ngesikhathi kushaya umhlaka 2 Ephreli 2002.  
(2) Ukuze kubhekwe iphuzu elibekwe kwisigatshana (1) uMkhandlu Omkhulu ungasungula umgwamanda wesiFundazwe wezokukhipha amathenda owodwa noma ngaphezulu.

**Isihloko esifushane nosuku lokuqala ukusebenza**

3. Lo Mthetho uyobizwa ngelithi uMthetho waseGauteng oChitha iBhodi lamaThenda, 2002, kanti uyothathwa njengoqale ukusebenza mhlaka 01 Ephreli 2002.

# **IMEMORANDAMU ECHAZAYO MAYELANA NEZINJONGO ZOMTHETHOSIVIVINYWA OCHITHA IBHODI LAMATHENDA LASEGAUTENG, 2002**

## **1. IZIZATHU ZOKUBA KHONA KOMTHETHOSIVIVINYWA**

### **1.1 Injongo yoMthethosivivinywa**

UMthethosivivinywa ungeniswa ukuze uchithe uMthetho weBhodi lamaThenda lesiFundazwe, 1994 (uMthetho No. 2 ka 1994) kanye nokuhlinzekela uguquko kwezokukhipha amathenda esiFundazweni.

### **1.2 Isisekelo**

Ukungeniswa koMthetho wokuPhathwa kweziMali zoMphakathi, 1999 (i-PFMA) kulethe izinguquko eziningi kwindlela izimali eziphethwe ngayo emkhakheni wezomphakathi. Enye yezinguquko ezinkulu evela ekusebenzeni kwe-PFMA ibhekene nezindaba zokukhipha amathenda. Ekugcineni kwakho konke ukuze kuhanjswane ne-PFMA, uMthetho weBhodi lamaThenda kumele uchithwe kusukela mhlaka 1 Ephreli 2002. Lokhu kusho ukuthi iBhodi lamaThenda laseGauteng lizophela kusukela mhlaka 1 Ephreli 2002. Ngokufaka isigaba esibhekela uguquko, kuzohlinzekelwa ukungeniswa kwezinguquko kancane ukuze konke kuhambe kahle, kubhekiswe ikakhulu kwizinkontileka ezinesikhathi eside kanye namaphulojeki ayisipesheli kuHulumeni wesiFundazwe saseGauteng.

### **1.3 Ingxoxo**

Uguquko kusukwa kokwenziwa njengamanje kuyiwa kwihlelo elisha kuzodinga ukuphatha ngokucophelela. Okusemqoka kakhulu kuyoba ukuthinteka kwesiFundazwe maqondana nemigudu yokukhipha amathenda emisebenzi ebisivele iqalile, kepha ingakathathelwa isinqumo yiBhodi lamaThenda. Lezi zinkontileka zesikhathi esizayo zingase

zilungele ukukhishwa emva komhlaka 31 Mashi 2002. Ukuze kuqinisekise ukuthi izinto ziqhubeka kahle uMkhandlu Omkhulu wesiFundazwe unganquma ukuthi yimuphi umgwamanda wesiFundazwe wezokukhipha amathenda

ozobhekana nokuthatha izinqumo ngezinkontileka zesikhathi eside kanye namaphulojeki ayisipesheli okusezingeni eliphezulu njengalokhu.

## **2. IMITHELELA YOMTHETHOSIVIVINYWA**

### **2.1 Imithelela kwezenhlalo**

Ayikho, ngaphandle kokuthi uguquko kanye namalungiselelo esikhashana kumele kuhambisane nokushiwo ngumthethosisekelo ngokuba neqiniso, ukulingana, ukuvela obala, ukuqhudelana kanye nokonga kwizindleko.

### **2.2 Imithelela kwezemvelo**

Ayikho

### **2.3 Imithelela kwezezimali**

Akukho mithethelela engako kwezezimali.

## **3. UKUCHAZWA KWEZIGABA ZOMTHETHOSIVIVINYWA NGAZINYE**

**Isigaba 1:** Isigaba sichitha uMthetho weBhodi lamaThenda lesiFundazwe, 1994

**Isigaba 2:** Lesi sigaba siqukethe okuhlinzekelwe isikhathi soguquko, okuyilokhu:

- Ukuqinisekisa ukuthi kuqhutshekela phambili, uMkhandlu Omkhulu wesifundazwe kumele uqoke umgwamanda wesifundazwe wezokukhipha amathenda ozobhekana nokuthatha izinqumo nokunikeza izinkontileka zesikhathi eside kanye namaphulojeki ayisipesheli, ayengakathathelwa izinqumo futhi/noma ayengakakhishwa yiBhodi lamaThenda ngesikhathi kushaya umhlaka 31 Mashi 2002.
- Ukubhekela lesi sidingo uMkhandlu Omkhulu ungasungula umgwamanda wesifundazwe wezokukhipha amathenda owodwa noma ngaphezulu.

**Isigaba 3:** Isigaba siqukethe isihloko esifushane kanye nosuku lokuqala ukusebenza.

**NOTICE 410 OF 2002****MOLAOKAKANYWA**

Go fediša Molao wa Lekgotla la Dithentara la Profense, 1994; go maatlafatša ditšhimollo tše diswa tša phetolo ya khumano tšeo di lego tseleng; le go dira dikgonegišo tša nakwana.

**O PHETHAGADITŠWE KE** Lekgotlatheramelao la Profense ya Gauteng, ka mokgwa woo o latelago:-

**Phedišo ya molaotlhakwa**

1. Molao wa Lekgotla tša Dithentara la Profense, 1994 (Molao wa No ya bo 2 wa 1994) o a fedišwa.

**Dikgonegišo tša Nakwana**

2. (1) Lekgotlaphethiši le swanetše go kgetha mokgatlo wa khumano wa Profense woo maikarabelo a wona e lego go ahlola le go fa dikontraka tša nakwana le tša diprotšeke tšeo di kgethegilego tšeo di šimolotšwego pele ga 31 tša Matšhe 2002 empa di se di ahlolwe goba go fiwa ke Lekgotla la Dithentara la Profense ge 01 Aporele 2002 e fihla.  
(2) Ka mabaka ao a akantšwego ka go sekakarolo (1) Lekgotla Phethiši le ka no hloma mokgatlo o tee goba go feta wa khumano wa profense.

**Thaetlele ye kopana le go thoma**

3. Molao wo o bitšwa Molao wa Lekgotla la Dithentara la Gauteng, 2002, gomme o tla tsewa gore o thomile go šoma ka di 01 tša Aporele 2002.

**MEMORANTAMO WA GO HLALOŠA DINEPO TŠA PHEDIŠO YA  
MOLAOKAKANYWA WA LEKGOTLA LA DITHENTARA WA GAUTENG, 2002**

**1. LEBAKA LA MOLAOKAKANYWA**

**1.1 Maikemišetšo a Molaokakanywa**

Molaokakanywa o tsenywa gore o fediše Molao wa Lekgotla la Dithentara wa Profense, 1994 (Molao wa No ya bo 2 wa 1994) le go kgonegiša phetogelo go mokgwa wa khumano wo moswa ka Profenseng.

**1.2 Botšo**

Go tsenywa ga Molao wa Taolo ya Ditšhelete tša Setšhaba, 1999 (PFMA) go tlišitše diphetogo tše bohlokwa go mokgwa woo ditšhelete di laolwago ka gona ka go lekala la praebete. Ye nngwe ya diphetogo tše dikgolo kudu tša go tšwa go phethagatšo ya PFMA e akaretša merero ya khumano. Mafelelong, go latelela PFMA, Molao wa Lekgotla la Dithentara o swanetše go fedišwa go tloga ka di 01 tša Aaporele 2002. Se se ra gore Lekgotla la Dithentara la Gauteng le ka se sa ba gona go tloga ka di 1 tša Aaporele 2002. Ka go tsenya lefokwana la nakwana, go ka no kgonegišwa go tsenywa ga diphetogo go dumelela phetogelo ye bonolo, go bolelwa gabotsebotse ka dikontaraka tša lebakanyana le diprotšeke tšeo di kgethegilego ka go Mmušo wa Profense ya Gauteng.

**1.3 Therišano**

Phetogelo go tloga go ditiragalo tša ga bjale go ya go tše diswa e tla tihloka taolo ya go fiwa šedi ye kgolo. Se bohlokwa gabotsebotse e tla ba thulano go Diprofense mabapi le ditshepetšo tša khumano tšeo di setšego di thomile, empa di se di ahlolwe ke Lekgotla la Dithentara. Dikontraka tše tša lebakanyana tša išago di tla lokela go fa fela morago ga di 31 tša Matšhe 2002. Go netefatša tšwelopele, Lekgotlaphethiši la Profense le ka no phetha gore ke mokgatlo ofe wa khumano woo o tla rwalago maikarabelo a kahlolo ya dikontaraka tša lebakanyana tša maemo a godimo ka mokgwa woo le diprotšeke tše kgethegilego.

## **2 DITHULANO TŠA MOLAOKAKANYWA**

### **2.1 Dithulano tša leago**

Ga di go, ntle le gore diphetolo tša khumano le dipeakanyo tša nakwana di swanetše go latelela ditaelo tša molaotheo tša go ba le bonnete, tekatekano, go se fihle selo, go bapetšega le wa go swanelana le tshenyegelo ya tšona.

### **2.2 Dithulano go Tikologo**

Ga di go.

### **2.3 Dithulano tša Ditšhelete**

Ga go dithulano. tša ditšhelete tše botlhokwa

## **3 Tihalošo ya Lefokwana ka Lefokwana la Molaotheo**

**Lefokwana 1:** Lefokwana le fediša Molao wa Lekgotla la Dithentara wa Profense, 1994.

**Lefokwana 2:** Lefokwana le le na le dikgonegišo tša lebakayana, tšeo e lego:

- Go netefatša tšwelopele, Lekgotlaphethiši la Profense le swanetše go kgetha mokgatlo wa Khumano wa Profense woo maikarabelo a wona e lego kahlolo le go fa dikontraka tša lebakanyana le diprotšeke tše kgethegilego, tšeo di se di ahlolwego le/goba go fiwa ke Lekgotla la Dithentara ge di 31 tša Matšhe 2002 di fihla.
- Ka lebaka le, Lekgotlaphethiši le ka no hloma mokgatlo wo tee goba go feta wa khumano wa Profense.

**Lefokwana 3:** Lefokwana le na le thaetlele ye kopana le tšatši la go thoma.

