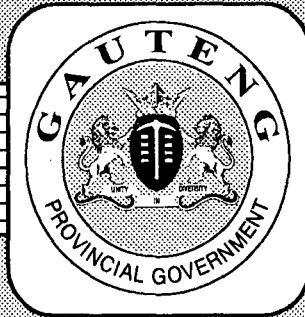


THE PROVINCE OF  
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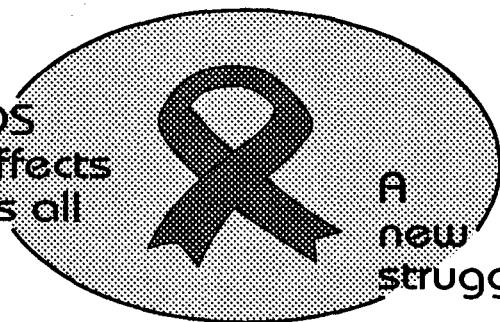
Vol. 9

PRETORIA, 17 MARCH  
MAART 2003

No. 88

We all have the power to prevent AIDS

AIDS  
affects  
us all



A  
new  
struggle

Prevention is the cure

AIDS  
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DEPARTMENT OF HEALTH



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## GENERAL NOTICE

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NOTICE 817 OF 2003

### GAUTENG PROVINCIAL LEGISLATURE

#### **PUBLICATION OF RATIONALISATION OF LOCAL GOVERNMENT AFFAIRS AMENDMENT BILL 2003**

Notice is hereby given that the Member of Executive Council for Development Planning and Local Government, Mr. T G Fowler, intends to introduce the Rationalisation of Local Government Affairs Amendment Bill 2003 in the Legislature as published in this Extraordinary Gazette.

Any person or organisation wishing to comment on this proposed Legislation may lodge written comments on or before **7 April 2003** by posting, faxing or handing them in at the following address:

The Secretary to the Legislature  
 Gauteng Provincial Legislature  
 C/o Committee Co-ordinator (Ms Lynn Mckay)  
 Private Bag X52  
 Johannesburg  
 2000

Physical Address  
 Gauteng Provincial Legislature  
 Corner President and Loveday Str  
 Johannesburg  
 Tel No: (011) 498-5474  
 Fax No: (011) 498-5719

## **B I L L**

**To amend the Rationalisation of Local Government Affairs Act, 1998 (Act No. 10 of 1998) in order to repeal sections pertaining to the appointment of chief executive officers and other personnel, powers and duties of the chief executive officers, rationalisation of terms and conditions of employment, medical aid benefits of the employees, and their retirement benefits; and miscellaneous provisions relating to mayors.**

**BE IT ENACTED** by the Provincial Legislature of Gauteng as follows:

**Repeal of sections 16, 17, 18, 19, 20 and 21 of the Rationalisation of Local Government Affairs Act, 1998 (Act No. 10 of 1998)**

1. Sections 16, 17, 18, 19, 20, 21 of the Rationalisation of Local Government Affairs Act, 1998 (Act No. 10 of 1998) are hereby repealed.

### **Short Title and Commencement**

2. This Act is called the Rationalisation of Local Government Affairs Amendment Act, 2003, and comes into operation on a date fixed by the Premier by proclamation in the Provincial Gazette.

## **AMENDMENT OF THE RATIONALISATION OF LOCAL GOVERNMENT AFFAIRS ACT, 1998 (ACT NO. 100F 1998): REPEAL OF CHAPTER 4**

### **1. EXPLANATORY MEMORANDUM**

#### **1.1 BACKGROUND**

1.1.1 It was brought to the attention of the Department of Development Planning and Local Government ("the Department") that sections (16, 17, 18, 19, 20, 21) as contained in Chapter 4 of the Rationalisation of Local Government Affairs Act, 1998, may be inconsistent with the Constitution, 1996 (Act 108 of 1996).

1.1.2 The Department subsequently solicited and obtained a legal opinion from Senior Counsel, Paul Kennedy SC. The opinion in essence entails that the sections referred to above, are vulnerable to constitutional attack in that they relate to matters which do not fall within the legislative competence of the Gauteng Province.

1.1.3 Apart from sections 18, 19 and 20, the Act (Rationalisation of Local Government Affairs Act, 1998) contains provisions pertaining to the appointment of chief executive officers and other personnel (section 16); powers and duties of chief executive officers (section 17); and miscellaneous provisions relating to mayors (section 21). It is submitted that these provisions are superseded by the Local Government: Municipal Structures Act, 1998 and the Local Government: Municipal Systems Act, 2000. Therefore, Chapter 4 of the Rationalisation of Local Government Affairs Act has to be repealed, and the Act has to be amended accordingly.

#### **1.2 PURPOSE OF THE BILL**

The purpose of the Bill is to amend the Rationalisation of Local Government Affairs Act, 1998, in order to repeal sections of the Act dealing with the

appointment of the chief executive officers and other personnel, powers and duties of chief executive officers and miscellaneous provisions relating to mayors which are superseded by national legislation, the Local Government : Municipal Structures Act, 1998, and the Local Government : Municipal Systems Act, 2000; and to repeal sections pertaining to human resources which appear to be inconsistent with the Constitution, 1996.

## **2. FINANCIAL IMPLICATIONS**

The costs in connection with the passing of the Bill are estimated at R25 000,00. This amount is calculated to cover the costs of translations and publications.

## **3. ENVIRONMENTAL IMPLICATIONS**

None

## **4. OTHER DEPARTMENTS / INSTITUTIONS CONSULTED**

None

## **5. CLAUSE BY CLAUSE DESCRIPTION**

### **5.1 Clause 1**

This clause makes provision for the repeal of Chapter 4 of the Rationalisation of Local Government Affairs Act, 1998.

### **5.2 Clause 2**

This clause contains the short title of the Bill.

## WETSONTWERP

**Om die Wet op die Rasionalisering van Plaaslike Regeringsaangeleenthede, 1998 (Wetnr. 10 van 1998), te wysig om artikels te herroep rakende die aanstelling van uitvoerende hoofbeampes en ander personeel, die magte en bevoegdhede van uitvoerende hoofbeampes, die rasionalisering van bepalings en voorwaardes van indiensneming, mediese fondsvoordele van die werknemers, en hulle aftreevoordele; en diverse bepalings wat met burgemeesters verband hou.**

Word daar soos volg deur die Gautengse Provinsiale Wetgewer **VERORDEN**:

**Herroeping van artikels 16, 17, 18, 19, 20 en 21 van die Wet op die Rasionalisering van Plaaslike Regeringsaangeleenthede, 1998 (Wetnr. 10 van 1998)**

1. Artikels 16, 17, 18, 19, 20, 21 van die Wet op die Rasionalisering van Plaaslike Regeringsaangeleenthede, 1998 (Wetnr. 10 van 1998) word hiermee herroep.

### **Korttitel en Inwerkingtreding**

2. Hierdie Wet staan bekend as die Wet op die Rasionalisering van Plaaslike Regeringsaangeleenthede, 2003, en tree in werking op 'n datum soos deur die Premier by wyse van uitvaardiging in die Provinsiale Koerant bepaal.

## **WYSIGING VAN DIE WET OP DIE RASIONALISERING VAN PLAASLIKE REGERINGSAANGELEENTHEDE, 1998 (WETNR. 10 VAN 1998): HERROEPING VAN HOOFSTUK 4**

### **1. VERDUIDELIKENDE MEMORANDUM**

#### **1.1 AGTERGROND**

- 1.1.1 Dit het onder die aandag van die Departement van Ontwikkelingsbeplanning en Plaaslike Regering ("die Departement") gekom dat artikels (16, 17, 18, 19, 20, 21) soos vervat in Hoofstuk 4 van die Wet op die Rasionalisering van Plaaslike Regeringsaangeleentehede, 1998, teenstrydig mag wees met die Grondwet, 1996 (Wet 108 van 1996).
- 1.1.2 Voortspruitend hieruit het die Departement regsmeening van Senior Advokaat, Paul Kennedy, SC, ingewin. Die mening behels in wese dat die artikels waarna hierbo verwys word, vatbaar is vir konstitusionele aantasting aangesien die artikels te make het met aangeleentehede wat nie binne die wetgewende bevoegdheid van die Gautengse Provinsie val nie.
- 1.1.3 Afgesien van artikels 18, 19, en 20, bevat die Wet (Wet op die Rasionalisering van Plaaslike Regeringsaangeleentehede, 1998) bepalings wat betrekking het op die aanstelling van uitvoerende hoofbeamptes en ander personeel (artikel 16); die magte en bevoegdhede van uitvoerende hoofbeamptes (artikel 17); en diverse bepalings wat met burgemeesters verband hou (artikel 21). Daar word voorgedra dat hierdie bepalings vervang word deur die Wet op Plaaslike Regering: Munisipale Strukture, 1998, en die Wet op Plaaslike Regering: Munisipale Stelsels, 2000. Om hierdie rede moet Hoofstuk 4 van die Wet op die Rasionalisering van Plaaslike Regeringsaangeleentehede herroep word, en moet die Wet dienoreenkomstig gewysig word.



## **1.2 DOEL VAN DIE WETSONTWERP**

Die doel van die Wetsontwerp is om die Wet op die Rasionalisering van Plaaslike Regeringsaangeleenthede, 1998, te wysig om artikels van die Wet te herroep wat te doen het met die aanstelling van uitvoerende hoofbeamptes en ander personeel, die magte en bevoegdhede van uitvoerende hoofbeamptes en diverse bepalings wat met burgemeesters verband hou, wat te bowe gegaan word deur nasionale wetgewing, te wete die Wet op Plaaslike Regering: Munisipale Strukture, 1998, en die Wet op Plaaslike Regering: Munisipale Stelsels, 2000; en om artikels ten opsigte van menslike hulpbronne te herroep wat skyn strydig te wees met die Grondwet, 1996.

## **2. FINANSIËLE IMPLIKASIES**

Dié koste verbonde aan die aanname van hierdie Wetsontwerp word beraam op R25 000,00. Hierdie bedrag word bereken om die koste van vertalings en publikasies te dek.

## **3. OMGEWINGSIMPLIKASIES**

Geen

## **4. ANDER DEPARTEMENTE / INSTELLINGS GERAADPLEEG**

Geen

## **5. BESKRYWING VAN DIE WETSONTWERP KLOUSULE BY KLOUSULE**

### **5.1 Klousule 1**

Hierdie klousule maak voorsiening vir die herroeping van Hoofstuk 4 van die Wet

op die Rasionalisering van Plaaslike Regeringsaangeleenthede, 1998.

5.2 Klousule 2

Hierdie klousule bevat die korttitel van die Wetsontwerp.

**SEPEDI****MOLAOKAKANYWA**

Go fetoša Molao wa Tekanetšo ya Merero ya Pušo ya Selegae, 1998 (Molao wa Nomoro ya 10 wa 1998) gore go phumolwe dikarolo tše di lego mabapi le go hlongwa ga bahlankediphethiši-bagolo le bašomedi ba bangwe, maatla le maikarabelo a bahlankediphethiši-bagolo, tekanetšo ya dikwano le mabaka a thwalo, dikholego tša thušo ya kalafo tša bathwalwa, le dikholego tša bona tša go rola modiro; le ditaelo tša di fapafapanego tseo di lego mabapi le boramotse.

Lekgotlapeomelao la Gauteng le BEA MOLAO ka tsela ye e latelago:

Go phumolwa ga dikarolo 16, 17, 18, 19, 20 le 21 tša Molao wa Tekanetšo ya Merero ya Pušo ya Selegae, 1998 (Molao wa Nomoro ya 10 wa 1998).

1. Dikarolo 16, 17, 18, 19, 20 le 21 tša Molao wa Tekanetšo ya Merero ya Pušo ya Selegae, 1998 (Molao wa Nomoro ya 10 wa 1998) di a phumolwa.

**Hlogo ye kopana le go Thoma**

2. Molao wo o bitšwa Molaophetošwa wa Tekanetšo ya Merero ya Pušo ya Selegae, 2003, gomme o thoma go šoma letšatšing leo le beilwego ke Tonakgolo ka kgoeletšo ka Kuranteng ya Mmušo.

**SEPEDI****PHETOŠO YA MOLAO WA TEKANETŠO YA MERERO YA PUŠO YA SELEGAE, 1998 (MOLAO WA NOMORO YA 10 WA 1998): GO PHUMOLWA GA KGAOLO YA 4****1. MEMORANTAMO WA TLHALOSO****1.1 BOTŠO**

1.1.1 Kgoro ya Peakanyo ya Tlhabollo le Pušo ya Selegae ("Kgoro") e lemošitšwe gore dikarolo (16, 17, 18, 19, 20, 21) bjalo ka ge di le ka go Kgaolo ya 4 ya Molao wa Tekanetšo ya Merero ya Pušo ya Selegae, 1998, di ka be di sa sepedišane le Molaotheo, 1996 (Molao wa 108 wa 1996).

1.1.2 Ka lebaka leo Kgoro e ile ya nyaka le go humana keletšo ya semolao go tšwa go Moemedimogolwane, Paul Kennedy, SC. Kgwekgwe ya keletšo yeo e bile gore dikarolo tše di boletšwego ka godimo di ka ba thaselong ya Molaotheo ka ge di le mabapi le merero yeo e sa welego ka tlase ga maatla a peomelao ya Profense ya Gauteng.

1.1.3 Ntle le dikarolo 18, 19 le 20, Molao (Molao wa Tekanetšo ya Merero ya Pušo ya Selegae, 1998) o na le ditaello tše di lego mabapi le go hlongwa ga bahlankediphethiši-bagolo le bašomedi ba bangwe (karolo a 16); maatla le maikarabelo a bahlankephethiši-bagolo (karolo ya 17); le diaello tše di fapafapanego tše di lego mabapi le boramotse (karolo ya 21). Go tšweleditšwe gore ditaello tša di tšeelwa sebaka ke Molao wa Distraktšhara tša Mmasepala: Pušo ya Selegae, 1998, le Molao wa Mananetshepedišo a Mmasepala: Pušo ya Selegae, 2000. Ka lebaka leo, Kgaolo ya 4 ya Molao wa Tekanetšo ya Merero ya Pušo ya Selegae e swanetše go phumolwa, gomme Molao wo o swanetše go fetošwa go ya le seo.

**SEPEDI****1.2 MORERO WA MOLAOKAKANYWA**

Morero wa Molaokakanywa wo ke go fetoša Molao wa Tekanetšo ya Merero ya Pušo ya Selegae, 1998, gore go phumolwe dikarolo tša Molao wo tše di šomago ka go hlongwa ga bahlankediphethiši-bagolo le bašomedi ba bangwe, maatla le maikarabelo a bahlankediphethiši-bagolo le ditaelo tše di fapafapanego tše di lego mabapi le boramotse, tše di tšeelwago sebaka ke peomolao ya bosetšhaba; Molao wa Distraktšhara tša Mmasepala: Mmušo wa Selegae, 1998, le Molao wa Mananetshepedišo a Mmasepala: Mmušo wa Selegae, 2000; le go phumola dikarolo tše di lego mabapi le mehlodi ya tša bašomi tše di bonalago di sa sepedišane le Molaotheo, 1996.

**2. DIKHUETŠO TŠA DITŠHELETE**

Ditshenyagalelo tše di lego mabapi le go fetišwa ga Molaokakanywa wo di akanyetšwa go R25 000,00. Tšhelete ye e balelwa go akaretša ditshenyagalelo tša diphetolelo le diphatlalatšo.

**3. DIKHUETŠO TŠA TIKOLOGO**

Ga di gona

**4. DIKGORO TŠE DINGWE/DIKAGO TŠE GO RERIŠANWEGO NATŠO**

Ga di gona

**5. DITLHALOSO TŠA TEMANA-KA-TEMANA****5.1 Temana ya 1**

**SEPEDI**

Temana ye e kgonagatša go phumolwa ga Kgaolo ya 4 ya Molao wa Tekanetšo ya Merero ya Pušo ya Selegae, 1998.

**5.2 Temana ya 2**

Temana ye e na le hlogo ye kopana ya Molaokakanywa.

**ISIZULU****UMTHETHOSIVIVINYO**

**Ukuguqula uMthetho wokuHlelwa kabuSha kwezikaHulumeni weNdawo ka-1998 - Rationalisation of Local Government Affairs Act (Umthetho 10 ka-1998) ukuze kuchithwe izigaba ezimayelana nokubekwa kweziphathimandla eziyinhloko eziphethe nabanye abasebenzi, amagunya nemisebenzi yeziphathimandla eziyinhloko eziphethe, ukuhlelwa kabusha kwezivumelwano nezimo zokuqashwa, ukuhlela izibonelelo ze-medical-aid, izibonelelo zomhlalaphansi, kanye namalungiselelo ehlukehlukehene aphaathelene nawomeya.**

**MAKUBEKWE** yisiShayamthetho sesiFundazwe saseGauteng njengoba kulandela:

**Ukuchithwa kwezigaba 16, 17, 18, 19, 20 nesama-21 soMthetho wokuHlelwa kabuSha kwezikaHulumeni weNdawo ka-1998 (Umthetho 10 ka-1998)**

1. Izigaba 16, 17, 18, 19, 20, 21 zoMthetho wokuHlelwa kabuSha kwezikaHulumeni weNdawo ka-1998 (Umthetho 10 ka-1998) ziyachithwa ngalokhu.

**Isihloko esifushane nokuqala**

2. Lo Mthetho ubizwa ngokuthi nguMthetho wokuGuqulwa kokuHlelwa kabuSha kwezikaHulumeni weNdawo ka-2003, futhi uqala ukusebenza ngosuku olubekwe nguNdunankulu ngesaziso eNcwadini yesiFundazwe yeZaziso zikaHulumeni.

**ISIZULU****UKUGUQULWA KOMTHETHO WOKUHLELWA KABUSHA KWEZIKAHULUMENI WENDAWO KA-1998, (UMTHETHO 100F KA-1998); UKUCHITHWA KWESAHLUKO 4****1. UMBIKO OLOTSHIWE OCHAZAYO****1.1 ISISEKELO**

- 1.1.1 Kuye kwaziswa uMnyango wezokuHlelwa kwezeNtuthuko nowoHulumeni bezeNdawo ("uMnyango") ukuthi izigaba (16, 17, 18, 19, 20, 21) njengoba ziqukethwe kuSahluko 4 soMthetho wokuHlelwa kabuSha kwezikaHulumeni weNdawo ka-1998, zingahle zingahambisani noMthethosisekelo, ka-1996 (Umthetho 108 ka-1996).
- 1.1.2 UMnyango ngemuva kwalokho wacela wase uthola umbono ngezomthetho kuMmeli oMkhulu, uPaul Kennedy SC. Inqikithi yalowo mbono ibandakanya ukuthi izigaba eziphawulwe ngenhla, zingahle zihlaselwe ngokomthethosisekelo ngoba ziphathelene nezindaba ezingageni ngaphakathi kokusebenza komthetho wesiFundazwe saseGauteng.
- 1.1.3 Ngaphandle kwezigaba 18, 19 nesama-20, uMthetho (Umthetho wokuHlelwa kabuSha kwezikaHulumeni weNdawo ka-1998) uqukethe amalungiselelo aphaathelene nokuqashwa kweziphathimandla eziyinhloko eziphethe nabanye abasebenzi (isigaba 16); amagunya nemisebenzi eziphathimandla eziyinhloko eziphethe (isigaba 17); kanye namalungiselelo aphaathelene nawomeya (isigaba 21). Kubekwa ukuthi lawa malungiselelo akhishwa esikhundleni nguMthetho weZakhiwo zoMasipala: oHulumeni beNdawo kanye noMthetho weziNhlelo zoMasipala: oHulumeni beNdawo ka-2000. Ngakho-ke iSahluko 4 soMthetho wokuHlelwa kabuSha kwezikaHulumeni weNdawo kumele sichithwe futhi noMthetho kumele uguqulwe ngokufanele.



## **ISIZULU**

### **1.2 INHLOSO YOMTHETHOSIVIVINYO**

Inhloso yoMthethosivinyo ukuguqula uMthetho wokuHlelwa kabuSha kwezikaHulumeni weNdawo ka-1998, ukuze kuchithwe izigaba zoMthetho eziphathelele nokuqashwa kweziphatimandla eziyinhloko eziphethe nabanye abasebenzi, amagunya nemisebenzi yeziphatimandla eziyinhloko eziphethe kanye namalungiselelo ehluhahlukene aphaathelene nawomeya, ezikhishwe esikhundleni ngumthetho kazwelonke, uMthetho weZakhiwo zikaMasipala: oHulumeni beNdawo ka-1998, kanye noMthetho weziNhlelo zikaMasipala: oHulumeni beNdawo ka-2000; nokuchitha izigaba eziphathelele nezemithombo yezabantu ezibukeka zingahambisani noMthethosisekelo, ka-1996.

### **2. IMIPHUMELA YEZEZIMALI**

Izindleko ezimayelana nokubekwa koMthethosivivinyo zilinganiselwa ku-R25 000,00. Leli nani libalelwe ukubonelela izindleko zokuhunyushwa nemibhalo ekhishwayo.

### **3. IMIPHUMELA YENDAWO OKUPHILWA KUYO**

Ayikho

### **4. EMINYE IMINYANGO NEZINHLANGANO OKUBONISWANE NAZO**

Azikho

### **5. INCAZELO YESITATIMENDE NGASINYE**

#### **5.1 ISITATIMENDE 1**

Lesi sitatimende senza amalungiselelo okuchithwa kweSahluko 4 soMthetho wokuHlelwa kabuSha kwezikaHulumeni weNdawo ka-1998.

#### **5.2 ISITATIMENDE 2**

Lesi sitatimende siqukethe isihloko esifushane soMthethosisekelo.





