



KWAZULU-NATAL PROVINCE
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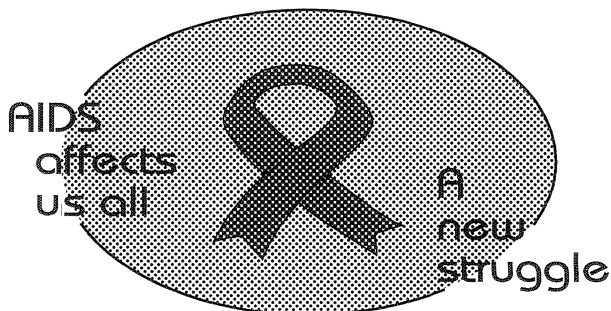
Vol. 5

PIETERMARITZBURG,

16 MAY 2011
16 MEI 2011
16 KUNHLABA 2011

No. 582

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**AIDS
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DEPARTMENT OF HEALTH

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PROVINCIAL NOTICE

- 49 Local Government: Municipal Structures Act (117/1998): Municipal Structures Act (117/1998): Re-determination of the municipal boundaries of the Hlabisa and Mtubatuba Municipalities and the regulation of the transfer of staff, assets, rights, liabilities and obligations of the Hlabisa Municipalities

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PROVINCIAL NOTICE

No. 49**16 May 2011****DEPARTMENT OF CO-OPERATIVE GOVERNANCE AND TRADITIONAL AFFAIRS****NOTICE IN TERMS OF SECTION 17 READ WITH SECTION 16(1)(g) OF THE LOCAL GOVERNMENT: MUNICIPAL STRUCTURES ACT, 1998: RE-DETERMINATION OF THE MUNICIPAL BOUNDARIES OF THE HLABISA AND MTUBATUBA MUNICIPALITIES AND THE REGULATION OF THE TRANSFER OF STAFF, ASSETS, RIGHTS, LIABILITIES AND OBLIGATIONS OF THE HLABISA MUNICIPALITY TO THE MTUBATUBA MUNICIPALITY**

I, N Dube, in my capacity as Member of the KwaZulu-Natal Executive Council responsible for local government, acting in terms of powers vested in me by section 17 read with section 16(1)(g) of the Local Government: Municipal Structures Act, 1998 (Act No. 117 of 1998), and to give effect to the decision of the Municipal Demarcation Board contained in General Notice No. 16 published in Extraordinary Provincial Gazette No. 104 on 28 May 2008, hereby amend Item 4 of Parts 6 and 7 and insert Part 2A of the Annexure to the Schedule to Provincial Notice No. 347 of 2000, published on 19 September 2000 in Provincial Gazette No. 5566, as contemplated in the Schedule hereto.

Given under my hand at Pietermaritzburg on this the 29th day of April, Two Thousand and Eleven

MS N DUBE, MPL

Member of the Executive Council of the Province of KwaZulu-Natal
responsible for local government

SCHEDULE

General Explanatory Note:

[] Words in bold type in square brackets indicate omissions from existing enactments

_____ Words underlined with a solid line indicate insertions in existing enactments

AMENDMENT OF ITEM 4 OF PART 6 OF THE SCHEDULE

1. Item 4 of Part 6 of the Schedule is hereby amended by the substitution for Item 4 of Part 7 of the following Item:

“Part 6

BOUNDARIES

4. The boundaries of the local municipality are as determined in [the demarcation notice for KZ 274] Notice No.1 in Provincial Gazette No. 68 published on 18 January 2008.”

AMENDMENT OF ITEM 4 OF PART 7 OF THE SCHEDULE

2. Item 4 of Part 7 of the Schedule is hereby amended by the substitution for Item 4 of Part 7 of the following Item:

“Part 7

BOUNDARIES

4. The boundaries of the local municipality are as determined in [the demarcation notice for KZ 275] Notice No.1 in Provincial Gazette No. 68 published on 18 January 2008.”

INSERTION OF PART 2A OF ANNEXURE

3. The Annexure to the Schedule is hereby amended by the insertion of Part 2A of the Annexure after Part 2:

"PART 2A

POLICY FRAMEWORK REGULATING THE TRANSFER OF ASSETS, RIGHTS, LIABILITIES, OBLIGATIONS AND STAFF OF THE HLABISA MUNICIPALITY TO THE MTUBATUBA MUNICIPALITY

1. The financial statement of each of the two municipalities as at 30 June 2010 is the date on which all calculations are to be based.

2. The transfer of assets, rights, liabilities, obligations and staff must–

(a) be completed on or before 18 May 2011, which for purposes of this notice will be the effective date; and

(b) occur in accordance with a ratio calculated in accordance with item 3 below.

3. The ratio contemplated in item 2(b) is calculated by dividing the total number of 96312 registered voters of both municipalities, by the number of registered voters in each municipality as a percentage–

(a) Hlabisa: 26710 registered voters = 27.7%

(b) Mtubatuba: 69602 registered voters = 73.3%

4. Both municipalities, prior to the effective date, must–

(a) settle all outstanding amounts due to its creditors; and

(b) collect all amounts due and payable by its debtors.

5. Assets and liabilities, both moveable and immovable, which are used exclusively within the boundaries of the Mtubatuba municipality after the boundary change, will be allocated to that municipality.

6. The municipalities must agree on the value of any asset that falls within the boundaries of one of the municipalities, but is used by both municipalities, and must allocate it to that municipality where it is most practical: Provided that–

(a) where the book value of a particular asset does not represent its true value, the two parties must agree on a fair value in the most practical way possible, having regard to the particular circumstances; and

(b) any further adjustment to result in a fair and equitable allocation, must be based on the agreed relative proportions of income derived from the asset by the municipality concerned.

7. Staff members must be identified and transferred subsequent to a consultative process involving the relevant staff members, Unions and Kwanaloga, and in accordance with the provisions of the Labour Relations Act, 1995 (Act No. 66 of 1995): Provided that—

(a) staff members who are employed exclusively in the newly incorporated area are to be deployed to that area and employed by the Mtubatuba Municipality;

(b) the salary budget in respect of the period from the date of deployment to the effective date will be allocated by the Hlabisa Municipality to the Mtubatuba Municipality from its own funds; and

(c) the leave pay provisions will be allocated to the Mtubatuba municipality where the staff members are deployed.

8. Funds received that have been earmarked for specific projects within the newly incorporated area of the Mtubatuba municipality are to be allocated to that municipality, irrespective of the source of such funding.

9. The unspent portion of the statutory equitable share must be allocated to those projects to which it has been committed.

10. Both municipal managers are required to ensure that National Treasury adjusts the equitable share allocation by means of application of the national formula.

11. The final distribution account must be approved by resolution of the councils of both municipalities and co-signed by the Mayors and Municipal Managers.

12. The final distribution account must be completed within 90 days of the effective date and must thereafter be reviewed by the Department of Co-operative Governance and Traditional Affairs prior to the submission to the MEC for approval.

13. In the event of the final distribution account not being finalised within the prescribed period the MEC must appoint professional consultants to finalise it: Provided that the costs associated therewith must be borne by the two municipalities in proportion to the ratio calculated in accordance with item 3 above.
