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| Cross-boundary Municipalities Laws Repeal and Related Matters Amendment Bill, 2008: For public comments | | |

GENERAL NOTICE**NOTICE 1538 OF 2008****MINISTRY FOR PROVINCIAL AND LOCAL GOVERNMENT****CROSS-BOUNDARY MUNICIPALITIES LAWS REPEAL AND
RELATED MATTERS AMENDMENT BILL, 2008**

1. I, Sicelo Shiceka, Minister for Provincial and Local Government, hereby, in terms of section 154(2) of the Constitution, publish the Cross-boundary Municipalities Laws Repeal and Related Matters Amendment Bill, 2008, for public comment.
2. Comments must be submitted in writing to -

The Director-General
Attention: Mr T Motlashuping
Department of Provincial and Local Government
Private Bag X804
PRETORIA
0001
3. Comments may also be faxed to (012) 334 4828 at the above address, or e-mailed to MCJackals@dplg.gov.za and TebogoMo@dplg.gov.za.
4. No comments which are received after 11 January 2009 will be considered.

GENERAL EXPLANATORY NOTE:

_____ Words underlined with a solid line indicates insertions in existing enactments.

BILL

To amend the Cross – boundary Municipalities Laws Repeal and Related Matters Act, 2005, so as to provide for consequential matters as a result of the re-determination of the geographical areas of certain provinces; and to provide for matters connected therewith.

BE IT ENACTED by the Parliament of the Republic of South Africa, as follows:-

Amendment of section 1 of Act 23 of 2005

1. The Cross- boundary Municipalities Laws Repeal and Related Matters Act, 2005 (hereinafter referred to as the principal Act), is hereby amended by the insertion of the following definition after the definition of “section 12 notice”:

“section 17 notice” means a notice contemplated in section 17 of the Local Government: Municipal Structures Act, 1998 (Act No. 117 of 1998).”

Amendment of section 1A of Act 23 of 2005, as inserted by section 1 of Act 24 of 2007

2. Section 1A of the principal Act is hereby substituted for of the following section:

“1A. In the application of this Act, as amended by the Cross-boundary Municipalities Laws Repeal and Related Matters Amendment Act, 2007, as well as the Cross-boundary Municipalities Laws Repeal and Related Matters Amendment Act, 2009, due regard must be had of the Provisions of the Constitution Thirteenth Amendment Act, of 2007 as well as the Constitution Sixteenth Amendment Act of 2009.”

Amendment of section 2 of Act 23 of 2005

3. Section 2 of the principal Act is hereby amended by the addition in subsection (4) of the following paragraphs:

“(e) Despite any applicable provision of the Local Government : Municipal Structures, Act, 1998, an MEC for local government, may reduce or increase, as the case may be, the number of councillors of a municipality referred to in the second column of Schedule 4, due to the demarcation of that municipality as contemplated in paragraph (a); and

(f) Despite the applicable provisions of the Local Government: Municipal Structures Act, 1998, the proposed section 17 notice referred to in the first column of Schedule 6 in respect of a disestablished municipality referred to in the second column of Schedule 6 is regarded as the notice –

- (i) repealing the section 12 notice that established the municipality referred to in the second column of schedule 6; and
- (ii) issued by the MEC for local government of the province indicated in the third column of Schedule 6.”.

Amendment of section 4 of Act 23 of 2005

4. Section 4 of the principal Act is hereby amended by the substitution for subsection (2) of the following subsection:

“(2) An MEC for Local government may, by way of an amendment of an applicable section 12 notice, regulate any legal, practical or other consequences of the relocation of an area referred to in subsection (1) in so far as such regulation is necessary to ensure the proper functioning of a municipality in whose area of jurisdiction such relocated area falls, or a municipality from whose area of jurisdiction such relocated area has been removed.”.

Amendment of Schedule 4 to Act 23 of 2005, as amended by section 2 of Act 24 of 2007

5. Schedule 4 to the principal Act is hereby amended by-

- (a) the substitution for all the expressions in the row relating to “**NW405** known as the Merafong City Local Municipality” of the following expressions:

| | | |
|---|--|----------------|
| <u>Identified by Map No 14 of General Notice 1490 of 2008</u> | <u>GT484 known as Merafong City Local Municipality</u> | <u>Gauteng</u> |
|---|--|----------------|

- (b) the substitution for all the expressions in the row relating to “**DC40** known as Southern District Municipality” of the following expressions:

| | | |
|--|--|-------------------|
| <u>Identified by Map No 5 of General Notice 1490 of 2008</u> | <u>DC40 known as Dr Kenneth Kaunda District Municipality</u> | <u>North West</u> |
|--|--|-------------------|

(c) the substitution for all the expressions in the row relating to “**DC48** known as West Rand District Municipality” of the following expressions:

| | | |
|---|--|----------------|
| <u>Identified by Map No. 4 of General Notice 1490 of 2008</u> | <u>DC48 known as West Rand District Municipality</u> | <u>Gauteng</u> |
|---|--|----------------|

Amendment of Schedule 5 of Act 23 of 2005, as amended by section 2 of Act 24 of 2007

6. Schedule 5 to the principal Act is hereby amended by-

(a) the substitution for all the expressions in the row relating to “**NW405** known as Merafong City Local Municipality” of the following expressions:

| | | | |
|--------------------------------------|--|----------------|--------------|
| <u>Notice 5321 of 2008 (Gauteng)</u> | <u>GT 484 known as Merafong City Local Municipality Map No.14 of General Notice 1490 of 2008</u> | <u>Gauteng</u> | <u>NW405</u> |
|--------------------------------------|--|----------------|--------------|

(b) the substitution for all the expressions in the row relating to “**DC40** known as Southern District Municipality” of the following expressions:

| | | | |
|--|---|-------------------|-------------|
| <u>Notice 670 of 2008 (North West)</u> | <u>DC40 known as Dr Kenneth Kaunda District Municipality Map No. 5 of General Notice 1490 of 2008</u> | <u>North West</u> | <u>DC40</u> |
|--|---|-------------------|-------------|

(c) the substitution for all the expressions in the row relating to “**DC48** known as West Rand District Municipality” of the following expressions:

| | | | |
|--------------------------------------|--|----------------|-------------|
| <u>Notice 5321 of 2008 (Gauteng)</u> | <u>DC48 known as West Rand District Municipality Map No.4 of General Notice 1490 of 2008</u> | <u>Gauteng</u> | <u>DC48</u> |
|--------------------------------------|--|----------------|-------------|

Insertion of Schedule 6 into Act 23 of 2005

7. The following Schedule is hereby inserted after Schedule 5 to the principal Act:

Schedule 6

Deemed disestablished municipalities in a province

| <u>Proposed section 17 notice</u> | <u>Designation of disestablished municipality</u> | <u>Province in which municipality is deemed to be disestablished</u> |
|--|--|--|
| <u>Notice 669 of 2008 (North West)</u> | <u>NW405 known as Merafong City Local Municipality (Map No. 14 of the Schedule to Notice 1257 of 2005)</u> | <u>North West</u> |

Application of Act 23 of 2005

8. (1) Section 2 (4), 4 and 5 of the principal Act applies to the Municipalities referred to in sections 4 and 5 of this Act in accordance with the Constitution Sixteenth Amendment Act, of 2009.

(2) For purposes of the application of this Act, the expression “sections 2 to 4 of the Constitution Twelfth Amendment Act of 2005” wherever it appears in section 5 of the principal Act, must be substituted by the expression “the Constitution Sixteenth Amendment Act of 2009”.

Short title and commencement

9. This Act is called the Cross-boundary Municipalities Laws Repeal and Related Matters Amendment Act, 2009, and takes effect on the same date as the commencement of the Constitution Sixteenth Amendment Act of 2009.

MEMORANDUM ON THE OBJECTS OF THE CROSS-BOUNDARY MUNICIPALITIES LAWS REPEAL AND RELATED MATTERS AMENDMENT BILL

1. Background

- 1.1 The Constitution Twelfth Amendment Act of 2005 (hereafter the “Constitution Twelfth Amendment”) and the Cross-boundary Municipalities Laws Repeal and Related Matters Act, 2005 (Act No. 23 of 2005) (hereafter the “Cross-boundary Laws Repeal Act”) were enacted during December 2005. The Constitution Twelfth Amendment amended the Constitution of the Republic of South Africa, 1996, by providing for the re-determination of the geographical areas of provinces. The Cross-boundary Laws Repeal Act supported and complemented the Constitution Twelfth Amendment by providing for transitional arrangements to ensure a smooth transition from the cross-boundary municipality dispensation where a municipality would only be located in one particular province.
- 1.2 One of the consequences of the Constitution Twelfth Amendment Act and the Cross-boundary Laws repeal Act was that the Merafong cross-boundary municipality was incorporated into the North West Province in its entirety and became part of the then Southern District Municipality.
- 1.3 Due to opposition that has been expressed by the residents of Merafong City local Municipality, and especially the resident of Khutsong, against their incorporation into the province of the North West, Government has decided that Merafong City Local Municipality must be incorporated into the Gauteng Province.
- 1.4 The relocation of Merafong from the North West province into the Gauteng province will require the re-determination of the geographical areas of the provinces of North West and Gauteng as well as the re-demarcation of the boundaries of the Dr Kenneth Kaunda and West Rand District Municipalities.
- 1.5 The re-determination of the geographical areas of provinces can only be effected by way of an amendment to the Constitution of the Republic of South Africa, 1996. The re-demarcation of the boundaries of the district municipalities and the consequences of such re-demarcation requires an amendment to the Cross-boundary Laws Repeal Act.
- 1.6 Although the Ministry of Justice and Constitutional Development will be processing the Constitutional Amendment Bill and the Ministry of Provincial and Local Government will be processing the Cross-boundary Municipalities Laws Repeal and Related Matters Amendment Bill, these two Bills must be read together.

2. Objects of the Bill

The Cross-boundary Municipalities Laws Repeal and Related Matters Amendment Bill, 2007 (hereafter “the Bill”), seeks to amend the Cross-boundary Repeal Act so as to provide for the re-demarcation of the Boundaries of the Dr Kenneth Kaunda and West Rand district municipalities and to provide for the consequences of such re-demarcation.
