

whether the right of the traditional leader to participate in the proceedings of the municipal council should be suspended or cancelled.

(5) The Commissions Act, 1947, may be applied to an investigation in terms of subitem (4).

(6) If the MEC is of the opinion that the traditional leader has breached a provision of this Code, and that such breach warrants a suspension or cancellation of the traditional leader's right to participate in the council's proceedings, the MEC may-

- (a) suspend that right for a period and on conditions determined by the MEC; or
- (b) cancel that right.

(7) Any investigation in terms of this item must be in accordance with the rules of natural justice.

(8) The suspension or cancellation of a traditional leader's right to participate in the proceedings of a council does not affect that traditional leader's right to address the council in terms of section 81 (3) of the Municipal Structures Act.

Schedule 2

CODE OF CONDUCT FOR MUNICIPAL STAFF MEMBERS

[Schedule 2 amended by s. 22 of Act 19 of 2008 (wef 13 October 2008).]

1 Definitions

In this Schedule '**partner**' means a person who permanently lives with another person in a manner as if married.

2 General conduct

A staff member of a municipality must at all times-

- (a) loyally execute the lawful policies of the municipal council;
- (b) perform the functions of office in good faith, diligently, honestly and in a transparent manner;
- (c) act in such a way that the spirit, purport and objects of section 50 are promoted;
- (d) act in the best interest of the municipality and in such a way that the credibility and integrity of the municipality are not compromised; and
- (e) act impartially and treat all people, including other staff members, equally without favour or prejudice.

3 Commitment to serving the public interest

A staff member of a municipality is a public servant in a developmental local system, and must accordingly-

- (a) implement the provisions of section 50 (2);
- (b) foster a culture of commitment to serving the public and a collective sense of responsibility for performance in terms of standards and targets;
- (c) promote and seek to implement the basic values and principles of public administration described in section 195 (1) of the Constitution;
- (d) obtain copies of or information about the municipality's integrated development plan, and as far as possible within the ambit of the staff member's job description, seek to implement the objectives set out in the

integrated development plan, and achieve the performance targets set for each performance indicator;

- (e) participate in the overall performance management system for the municipality, as well as the staff member's individual performance appraisal and reward system, if such exists, in order to maximise the ability of the municipality as a whole to achieve its objectives and improve the quality of life of its residents.

4 Personal gain

(1) A staff member of a municipality may not-

- (a) use the position or privileges of a staff member, or confidential information obtained as a staff member, for private gain or to improperly benefit another person; or
- (b) take a decision on behalf of the municipality concerning a matter in which that staff member, or that staff member's spouse, partner or business associate, has a direct or indirect personal or private business interest.

(2) Except with the prior consent of the council of a municipality a staff member of the municipality may not-

- (a) and (b)

[Items (a) and (b) deleted by s. 22 (a) of Act 19 of 2008 (wef 13 October 2008).]

- (c) be engaged in any business, trade or profession other than the work of the municipality.

(3) No staff member of a municipality may be a party to or beneficiary under a contract for the provision of goods or services to any municipality or any municipal entity established by a municipality.

[Subpara. (3) added by s. 22 (b) of Act 19 of 2008 (wef 13 October 2008).]

5 Disclosure of benefits

(1) A staff member of a municipality who, or whose spouse, partner, business associate or close family member, acquired or stands to acquire any direct benefit from a contract concluded with the municipality, must disclose in writing full particulars of the benefit to the council.

(2) This item does not apply to a benefit which a staff member, or a spouse, partner, business associate or close family member, has or acquires in common with all other residents of the municipality.

5A Declaration of interests

(1) A person appointed in terms of section 56 or a municipal manager must within 60 days after his or her appointment declare in writing to the chairperson of the municipal council the following interests held by that person or municipal manager:

- (a) Shares and securities in any company;
- (b) membership of any close corporation;
- (c) interest in any trust;
- (d) directorships;
- (e) partnerships;
- (f) other financial interests in any business undertaking;

- (g) interest in property; and
- (h) subsidies, grants and sponsorships by any organisation.

(2) Any change in the nature or detail of the financial interests of a staff member must be declared in writing quarterly to the chairperson of the municipal council.

(3) The municipal council must determine which of the financial interests referred to in sub-item (1) must be made public having regard to the need for confidentiality and the public interest for disclosure.

[Para. 5A inserted by s. 23 of Act 19 of 2008 (wef 13 October 2008).]

6 Unauthorised disclosure of information

(1) A staff member of a municipality may not without permission disclose any privileged or confidential information obtained as a staff member of the municipality to an unauthorised person.

(2) For the purpose of this item 'privileged or confidential information' includes any information-

- (a) determined by the municipal council or any structure or functionary of the municipality to be privileged or confidential;
- (b) discussed in closed session by the council or a committee of the council;
- (c) disclosure of which would violate a person's right to privacy; or
- (d) declared to be privileged, confidential or secret in terms of any law.

(3) This item does not derogate from a person's right of access to information in terms of national legislation.

7 Undue influence

A staff member of a municipality may not-

- (a) unduly influence or attempt to influence the council of the municipality, or a structure or functionary of the council, or a councillor, with a view to obtaining any appointment, promotion, privilege, advantage or benefit, or for a family member, friend or associate;
- (b) mislead or attempt to mislead the council, or a structure or functionary of the council, in its consideration of any matter; or
- (c) be involved in a business venture with a councillor without the prior written consent of the council of the municipality.

8 Rewards, gifts and favours

(1) A staff member of a municipality may not request, solicit or accept any reward, gift or favour for-

- (a) persuading the council of the municipality, or any structure or functionary of the council, with regard to the exercise of any power or the performance of any duty;
- (b) making a representation to the council, or any structure or functionary of the council;
- (c) disclosing any privileged or confidential information; or
- (d) doing or not doing anything within that staff member's powers or duties.

(2) A staff member must without delay report to a superior official or to the speaker of

the council any offer which, if accepted by the staff member, would constitute a breach of subitem (1).

9 Council property

A staff member of a municipality may not use, take, acquire, or benefit from any property or asset owned, controlled or managed by the municipality to which that staff member has no right.

10 Payment of arrears

A staff member of a municipality may not be in arrears to the municipality for rates and service charges for a period longer than 3 months, and a municipality may deduct any outstanding amounts from a staff member's salary after this period.

11 Participation in elections

A staff member of a municipality may not participate in an election of the council of the municipality, other than in an official capacity or pursuant to any constitutional right.

12 Sexual harassment

A staff member of a municipality may not embark on any action amounting to sexual harassment.

13 Reporting duty of staff members

Whenever a staff member of a municipality has reasonable grounds for believing that there has been a breach of this Code, the staff member must without delay report the matter to a superior officer or to the speaker of the council.

14 Breaches of Code

Breaches of this Code must be dealt with in terms of the disciplinary procedures of the municipality envisaged in section 67 (1) (h) of this Act.

14A Disciplinary steps

(1) A breach of this Code is a ground for dismissal or other disciplinary steps against a staff member who has been found guilty of such a breach.

(2) Such other disciplinary steps may include-

- (a) suspension without pay for no longer than three months;
- (b) demotion;
- (c) transfer to another post;
- (d) reduction in salary, allowances or other benefits; or
- (e) an appropriate fine.

[Para. 14A added by s. 29 of Act 44 of 2003 (wef 1 August 2004).]

Schedule 3 LEGISLATION AMENDED

1

Repeals sections 31 and 32 of, and Schedule 5 to, the Local Government: Municipal Structures Act 117 of 1998.

2

Amends section 27 of the Local Government: Municipal Structures Act 117 of 1998 by

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substituting paragraph (d).

3

Amends section 81 of the Local Government: Municipal Structures Act 117 of 1998 by substituting subsection (5).

4

Amends section 82 of the Local Government: Municipal Structures Act 117 of 1998 by adding subsection (2), the existing section becoming subsection (1).

5

Amends Schedule 4 of the Public Finance Management Act 1 of 1999 by adding item 2.

**LOCAL GOVERNMENT: MUNICIPAL SYSTEMS AMENDMENT ACT 44 OF
2003 ¹**

[ASSENTED TO 22 JANUARY 2004]

[DATE OF COMMENCEMENT: 1 AUGUST 2004]

(Unless otherwise indicated)

(English text signed by the President)

published in

GG 25960 of 30 January 2004

commencements

(see s. 32 of this Act)

provisions	date	refer to
whole Act, except s. 15	1 August 2004	Proc R40 in GG 26638 of 30 July 2004
s. 15	1 December 2004	Proc R40 in GG 26638 of 30 July 2004

ACT

To amend the Local Government: Municipal Systems Act, 2000, so as to delete certain definitions and insert others; to make new provision regarding the assignment of functions or powers to municipalities; to provide for the submission of annual performance reports by municipalities; to provide for the establishment of municipal entities; and to provide for matters connected therewith.

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

¹ This Act has been updated to include all available historical commencement details

1

Amends section 1 of the Local Government: Municipal Systems Act 32 of 2000, as follows: paragraph (a) inserts the definition of 'board of directors'; paragraph (b) inserts the definition of 'effective control'; paragraph (c) inserts the definition of 'external service provider'; paragraph (d) inserts the definition of 'multi-jurisdictional service utility'; paragraph (e) substitutes the definition of 'municipal entity'; paragraph (f) inserts the definition of 'Municipal Finance Management Act'; paragraph (g) inserts the definition of 'National Treasury'; paragraph (h) inserts the definition of 'parent municipality'; paragraph (i) deletes the definition of 'ownership control'; paragraph (j) inserts the definition of 'private company'; and paragraph (k) substitutes the definition of 'service utility'.

2 and 3

Substitute respectively sections 9 and 10 of the Local Government: Municipal Systems Act 32 of 2000.

4 and 5

Insert respectively sections 10A and 21A and 21B in the Local Government: Municipal Systems Act 32 of 2000.

6

Substitutes section 46 of the Local Government: Municipal Systems Act 32 of 2000.

7

Amends section 55 (2) of the Local Government: Municipal Systems Act 32 of 2000 by substituting paragraph (c).

8

Amends section 57 of the Local Government: Municipal Systems Act 32 of 2000 by inserting subsections (4A) and (4B).

9

Repeals section 58 of the Local Government: Municipal Systems Act 32 of 2000.

10

Amends section 74 of the Local Government: Municipal Systems Act 32 of 2000 by substituting subsection (1).

11

Amends section 78 of the Local Government: Municipal Systems Act 32 of 2000, as follows: paragraph (a) substitutes subsection (3); and paragraph (b) adds subsection (6).

12

Substitutes section 80 of the Local Government: Municipal Systems Act 32 of 2000.

13

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Amends section 81 (2) of the Local Government: Municipal Systems Act 32 of 2000, as follows: paragraph (a) substitutes paragraph (a) (v); and paragraph (b) inserts paragraph (bA).

14

Repeals section 82 of the Local Government: Municipal Systems Act 32 of 2000.

15

Amends section 83 (1) of the Local Government: Municipal Systems Act 32 of 2000 by substituting paragraph (a).

[Date of commencement of s. 15: 1 December 2004.]

16

Amends Part 4 of Chapter 8 of the Local Government: Municipal Systems Act 32 of 2000 by substituting the heading.

17

Amends Chapter 8 of the Local Government: Municipal Systems Act 32 of 2000 by inserting Part 4A (section 86A).

18

Inserts Chapter 8A Parts 1 (section 86B), 2 (sections 86C, 86D, 86E, 86F and 86G), and 3 (sections 86H, 86I, 86J and 86K) and the heading to Part 4 in the Local Government: Municipal Systems Act 32 of 2000.

19

Substitutes section 87 of the Local Government: Municipal Systems Act 32 of 2000.

20

Amends section 88 of the Local Government: Municipal Systems Act 32 of 2000, as follows: paragraph (a) substitutes the heading; and paragraph (b) substitutes subsection (1).

21 and 22

Substitute respectively sections 89 and 90 of the Local Government: Municipal Systems Act 32 of 2000.

23

Repeals section 91 of the Local Government: Municipal Systems Act 32 of 2000.

24 and 25

Substitute respectively sections 92 and 93 of the Local Government: Municipal Systems Act 32 of 2000.

26

Amends Chapter 8A of the Local Government: Municipal Systems Act 32 of 2000 by inserting Parts 5 (sections 93A, 93B, 93C and 93D), 6 (sections 93E, 93F, 93G, 93H, 93I and 93J) and 7 (sections 93K and 93L).

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27

Repeals section 94 and the Part-heading preceding section 94 of the Local Government: Municipal Systems Act 32 of 2000.

28

Amends section 120 (1) of the Local Government: Municipal Systems Act 32 of 2000 by substituting paragraph (a).

29

Amends Schedule 2 to the Local Government: Municipal Systems Act 32 of 2000 by inserting item 14A.

30

Amends the Table of Contents of the Local Government: Municipal Systems Act 32 of 2000, as follows: paragraph (a) substitutes the references to sections 9 and 10; paragraph (b) inserts the reference to section 10A; paragraph (c) inserts the reference to sections 21A and 21B; paragraph (d) substitutes the reference to section 46; paragraph (e) substitutes the reference to Part 4 of Chapter 8; paragraph (f) inserts the reference to Part 4A and Chapter 8A; paragraph (g) substitutes the references to sections 87, 88, 89 and 90; paragraph (h) deletes the reference to section 91; paragraph (i) substitutes the references to sections 92 and 93; paragraph (j) inserts the reference to Part 5; and paragraph (k) inserts the reference to item 14A of Schedule 2.

31 Transitional provisions

(1) If a municipality has established any corporate body, including a trust, under or in terms of applicable legislation before this Act took effect, such a corporate body continues to exist, despite the provisions of Chapter 8A of the principal Act, until such corporate body is disestablished or liquidated, as the case may be.

(2) A corporate body, including a trust, referred to in subsection (1) must be regarded as a municipal entity for the purposes of this Act, the principal Act and the Local Government: Municipal Finance Management Act, 2003, to the extent that the provisions of those Acts can be applied.

(3) A municipality that has established a corporate body referred to in subsection (1), must within three months after this Act takes effect, publish a list of all such corporate bodies in the relevant *Provincial Gazette* and make that list public in terms of section 21A of the principal Act.

(4) If, before this Act took effect-

- (a) a municipality or municipal entity has established a company referred to in section 21 of the Companies Act, 1973 (Act 61 of 1973), the municipality or the parent municipality of the municipal entity may, despite that Act, pass a by-law converting the company into a service utility under the sole control of the municipality or parent municipality; or
- (b) two or more municipalities have established a company referred to in section 21 of the Companies Act, 1973 (Act 61 of 1973), those municipalities may, despite that Act, enter into an agreement converting the company into a multi-jurisdictional service utility under the shared control of those

municipalities.

(5) A by-law referred to in subsection (4) (a) and an agreement referred to in subsection (4) (b)-

- (a) must substantially comply with sections 86H (2) and 89, respectively, of the principal Act; and
- (b) may provide for such transitional and other provisions as may be necessary to effectively convert the company into a service utility or multi-jurisdictional service utility, as the case may be.

32 Short title and commencement

This Act is called the Local Government: Municipal Systems Amendment Act, 2003, and takes effect on a date determined by the President by proclamation in the *Gazette*.

LOCAL GOVERNMENT: MUNICIPAL SYSTEMS AMENDMENT ACT 7 OF 2011

1 2

[ASSENTED TO 2 JULY 2011]

[DATE OF COMMENCEMENT: 5 JULY 2011]
(see s. 17 of this Act)

(English text signed by the President)

published in

GG 34433 of 5 July 2011

ACT

To amend the Local Government: Municipal Systems Act, 2000, so as to insert and amend certain definitions; to make further provision for the appointment of municipal managers and managers directly accountable to municipal managers; to provide for procedures and competency criteria for such appointments, and for the consequences of appointments made otherwise than in accordance with such procedures and criteria; to determine timeframes within which performance agreements of municipal managers and managers directly accountable to municipal managers must be concluded; to make further provision for the evaluation of the performance of municipal managers and managers directly accountable to municipal managers; to require employment contracts and performance agreements of municipal managers and managers directly accountable to municipal managers to be consistent with the Act and any regulations made by the Minister; to require all staff systems and procedures of a municipality to be consistent with uniform standards determined by the Minister by regulation; to bar municipal managers and managers directly accountable to municipal managers from holding political office in political parties; to regulate the employment of municipal employees who have been dismissed; to provide for the Minister to make regulations relating to the duties, remuneration, benefits and other terms and conditions of employment of municipal managers and managers directly accountable to municipal managers; to provide for the approval of staff establishments of municipalities by the respective municipal councils; to prohibit the employment

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of a person in a municipality if the post to which he or she is appointed is not provided for in the staff establishment of that municipality; to enable the Minister to prescribe frameworks to regulate human resource management systems for local government and mandates for organised local government; to extend the Minister's powers to make regulations relating to municipal staff matters; to make a consequential amendment to the Local Government: Municipal Structures Act, 1998, by deleting the provision dealing with the appointment of municipal managers; and to provide for matters connected therewith.

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

- ¹ This Act has been updated to include all available historical commencement details
- ² In *South African Municipal Workers' Union v Minister of Co-Operative Governance and Traditional Affairs* 2017 JDR 0459 (CC) of 9 March 2017 the Local Government: Municipal Systems Amendment Act 7 of 2011 was declared invalid. The declaration of invalidity was suspended for a period of 24 months to allow the Legislature an opportunity to correct the defect.

1

Amends section 1 of the Local Government: Municipal Systems Act 32 of 2000, as follows: paragraph (a) substitutes the definition of 'municipal manager'; and paragraph (b) inserts the definition of 'political office'.

2

Inserts section 54A in the Local Government: Municipal Systems Act 32 of 2000.

3

Substitutes section 56 of the Local Government: Municipal Systems Act 32 of 2000.

4

Amends sections 54A and 56 in the Local Government: Municipal Systems Act 32 of 2000 by substituting the words 'municipal council' for the word 'municipality', wherever it occurs.

5

Inserts section 56A in the Local Government: Municipal Systems Act 32 of 2000.

6

(1) Amends section 57 of the Local Government: Municipal Systems Act 32 of 2000, as follows: paragraph (a) substitutes subsection (2) (a); paragraph (b) substitutes subsection (3); paragraph (c) inserts subsection (3A); paragraph (d) deletes subsection (4) (b); paragraph (e) inserts subsection (4C); and paragraph (f) deletes subsection (7).

(2) The deletion of section 57 (7) of the principal Act does not affect the continuation or validity of a fixed-term employment contract of a manager directly accountable to the municipal manager which is in force when this Act takes effect.

7

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Inserts section 57A in the Local Government: Municipal Systems Act 32 of 2000.

8

Amends section 66 of the Local Government: Municipal Systems Act 32 of 2000, as follows: paragraph (a) substitutes subsection (1) (a); and paragraph (b) adds subsections (3), (4) and (5).

9

Amends section 67 of the Local Government: Municipal Systems Act 32 of 2000, as follows: paragraph (a) substitutes in subsection (1) the words preceding paragraph (a); and paragraph (b) substitutes subsection (3).

10

Substitutes section 71 of the Local Government: Municipal Systems Act 32 of 2000.

11

Amends section 72 of the Local Government: Municipal Systems Act 32 of 2000, as follows: paragraph (a) substitutes subsection (1) (c) (ii); paragraph (b) substitutes subsection (1) (e); paragraph (c) inserts subsection (1) (gA), (gB) and (gC); paragraph (d) deletes the word 'and' at the end of subsection (2) (a); paragraph (e) inserts the word ';' and 'and' at the end of subsection (2) (b); paragraph (f) adds subsection (2) (c); and paragraph (g) inserts subsection (2A).

12

Amends section 106 of the Local Government: Municipal Systems Act 32 of 2000 by inserting subsection (5).

13

Amends section 120 (1) of the Local Government: Municipal Systems Act 32 of 2000 by substituting paragraph (a).

14

Amends Schedule 1 to the Local Government: Municipal Systems Act 32 of 2000 by inserting paragraph 2A.

15

Repeals section 82 of the Local Government: Municipal Structures Act 117 of 1998.

16 Transitional arrangements

This Act does not affect the employment contract of a municipal manager or a manager directly accountable to the municipal manager entered into before this Act took effect, and such contract continues until it lapses or is terminated.

17 Short title

This Act is called the Local Government: Municipal Systems Amendment Act, 2011.
