

**LOCAL GOVERNMENT: MUNICIPAL STRUCTURES AMENDMENT ACT 20  
OF 2002**

[ASSENTED TO 19 JUNE 2002]

[DATE OF COMMENCEMENT: 20 JUNE 2002]

(Unless otherwise indicated)

*(English text signed by the President)*

**as amended by**

Constitution Tenth Amendment Act of 2003

**ACT**

**To amend the Local Government: Municipal Structures Act, 1998, in order to enable a member of a municipal council to become a member of another party whilst retaining membership of that council; to enable an existing party to merge with another party, or to subdivide into more than one party, or to subdivide and any one of the subdivisions to merge with another party, whilst allowing a member of a council affected by such changes to retain membership of that council; to provide for the convening of meetings after the composition of a municipal council has changed as a result of the provisions of Schedule 6A to the Constitution; to provide for the reconstitution of metropolitan subcouncils; to provide for special measures for the application of Schedule 6A to the Constitution; to further regulate the submission of lists of candidates; and to provide for matters connected therewith.**

**Preamble**

WHEREAS section 46 (1) (d) of the Constitution requires an electoral system for the National Assembly that results, in general, in proportional representation;

AND WHEREAS section 105 (1) (d) of the Constitution requires an electoral system for provincial legislatures that results, in general, in proportional representation;

AND WHEREAS section 157 (2) of the Constitution requires an electoral system for local government comprising either proportional representation or proportional representation combined with a system of ward representation;

AND WHEREAS the Local Government: Municipal Structures Act, 1998, provides for an electoral system for local government comprising proportional representation combined with a system of ward representation;

AND WHEREAS item 23A of Schedule 2 to the Constitution of the Republic of South Africa, 1993, provides that an Act of Parliament may, within a reasonable period after the new Constitution took effect, be passed in accordance with section 76 (1) of the new Constitution to amend that item and item 23 in order to provide for-

- \* the manner in which it will be possible for a member of a legislature who ceases to be a member of the party which nominated that member, to retain membership of such legislature; and
- \* any existing party to merge with another party, or any party to subdivide into more than one party, whilst allowing a member of a legislature affected by such changes, to retain membership of such legislature;

AND WHEREAS provision has been made by Schedule 6A to the Constitution in respect of local government for-

- \* a councillor to retain membership of a municipal council where such councillor ceases to be a member of the party which nominated that councillor; and
- \* any existing party to merge with another party, or any party to subdivide into more than one party, or to subdivide and any one of the subdivisions to merge

with another party, whilst allowing a member of a council affected by such changes to retain membership of that council;

AND WHEREAS the need exists for uniformity within the three spheres of government regarding loss or retention of membership of any legislature or municipal council in the event of a change of party membership, or mergers or subdivision or subdivision and merger of parties,

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

**1** Amends section 26 (1) of the Local Government: Municipal Structures Act 117 of 1998 by substituting paragraph (b).

**2** Amends section 27 of the Local Government: Municipal Structures Act 117 of 1998 by deleting paragraphs (c) and (f).

**3** Amends section 29 of the Local Government: Municipal Structures Act 117 of 1998 by adding subsection (3).

**4** Amends section 62 (1) of the Local Government: Municipal Structures Act 117 of 1998 by inserting paragraph (cA).

[Date of commencement of s. 4: 5 August 2002.]

**5 and 6** Substitute respectively sections 63 and 66 of the Local Government: Municipal Structures Act 117 of 1998.

**7** Inserts sections 93A and 93B in the Local Government: Municipal Structures Act 117 of 1998.

**8** Amends Schedule 1 to the Local Government: Municipal Structures Act 117 of 1998 by substituting item 10.

**9** Amends Schedule 2 to the Local Government: Municipal Structures Act 117 of 1998 by substituting item 4.

**10** Substitutes Schedule 4 to the Local Government: Municipal Structures Act 117 of 1998.

**11** Amends the Table of Contents of the Local Government: Municipal Structures Act 117 of 1998, as follows: paragraph (a) substitutes the reference to Schedule 4; and paragraph (b) inserts references to sections 93A and 93B.

**12 Registration of new parties for purposes of Schedule 6B to Constitution**

(1) A party which has not been registered in terms of any law applicable to the registration of political parties will be regarded as a party for the purposes of item 7 of Schedule 6B to the Constitution, but such a party must apply for registration as a party in accordance with applicable law within the period referred to in item 7 of Schedule 6B to the Constitution. If the party is not registered accordingly within four months after the expiry of that period, it is regarded as having ceased to exist as a party, and the seats in question must be allocated to the remaining parties, with the necessary changes, as if such seats were forfeited seats in terms of applicable law.

(2) For the purposes of items 2 and 3 of Schedule 6B to the Constitution, 'party' means a party duly registered as a political party in accordance with applicable law, including a party so registered during a period referred to in item 4 (1) (a) (i) or (ii) of Schedule 6B to the Constitution.

[S. 12 amended by s. 9 of Act 2 of 2003.]

**13 Transitional arrangement**

Despite section 14 (2), a metro council may determine the mechanism referred to

in section 62 (1) (cA) of the Local Government: Municipal Structures Act, 1998, by way of resolution until a period of 30 days following the period referred to in item 7 of Schedule 6A to the Constitution, has expired.

**14 Short title and commencement**

(1) This Act is called the Local Government: Municipal Structures Amendment Act, 2002, and with the exception of section 4, comes into operation on the date that the Constitution of the Republic of South Africa Amendment Act, 2002, comes into operation.

(2) Section 4 comes into operation after a period of 30 days following the period of 15 days referred to in item 7 of Schedule 6A to the Constitution, has expired.