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Plaaslike Regering



Republiek van Suid-Afrika / Republic of South Africa

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DEKBLAD VIR FAKS
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DATUM/DATE: 1993. 11. 23.

AAN/TO: THE TECHNICAL COMMITTEE ON
CONSTITUTIONAL ISSUES
WORLD TRADE CENTRE

FAKS NO/FAX NR: (011) 3972211.

VAN/FROM: MR Y. M. MAKDA MP
DEPUTY MINISTER OF LOCAL GOVERNMENT.

AANTAL BLADSYE (INSLUITENDE DEKBLAD) :
NUMBER OF PAGES (INCLUDING COVERING PAGE):

ONDERWERP/SUBJECT

CHAPTER 10 - LOCAL GOVERNMENT.

BOODSKAP/MESSAGE

THE DISCUSSION BETWEEN MR BASIL MOONSDAY
AND GILLIAN HATTING REFERS.
KINDLY AMEND THE DOCUMENTS AS
PER THE DOCUMENTS FAXED NOW.
THANK YOU.
Basil

INDIEN U NIE AL DIE BLADSY ONTVANG HET NIE:
IF ALL PAGES ARE NOT RECEIVED:
SKAKEL ASSEBLIEF/PLEASE PHONE
(021) 461-6909/ 461-3571
GENIET U DAG/HAVE A NICE DAY

MULTI-PARTY NEGOTIATING PROCESS

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TO : *Answer from 40 Basil*
FAX NO : *021-453-610*
FROM : *GUYANA HERALD*
DATE : *20/11/1993*
PAGES : *6*
RE : *LOCAL GOVERNMENT - Chapter 10.*

IF THE MESSAGE OR COPY YOU RECEIVE IS INCOMPLETE OR INDISTINCT, PLEASE ADVISE US IMMEDIATELY AT THE ABOVE NUMBER.

Following is the document - Final - As we

use it.

Re: 105

Guyana.

① *Connections as noted on Page 4*

② *Clause 2(c) (i) has to be checked for technical/legal correctness*

J.P.

Chapter 10 Local Government

Establishment and status of local government

140. (1) Local government shall be established for residents of areas demarcated by law.
- (2) Any law passed by a competent legislature providing for or relating to local government may make provision for categories of metropolitan, urban and rural governments with the differentiated powers, functions and structures according to considerations of demography, economy, physical and environmental conditions and other factors which justify or necessitate such categories.
- (3) A local government shall be autonomous and within the limits prescribed by law, shall be entitled to regulate its affairs.
- (4) A competent legislature shall not encroach on the powers, functions and structure of a local government to such an extent as to compromise the fundamental status, purpose and character of local government.
- (5) A bill of a competent legislature which materially affects the status, boundaries, powers and functions of local government shall be published for comment in the Government Gazette or the Provincial Gazette as the case may be, and a local government, interested persons or groups of persons affected thereby, including organised local government shall be given a reasonable opportunity to make written representations in regard thereto to the legislature concerned.

Powers and functions of local government

141. (1) The powers, functions and structures of local government shall be determined by law.
- (2) A local government shall have powers and functions to provide such services as may be necessary to maintain and promote the wellbeing of all persons within the area of the local government.

- (3) A local government shall to the extent determined in any applicable law make provision for access by all persons residing within its area of jurisdiction to water, sanitation, transportation facilities, electricity, primary health, education, housing and security, within a safe and healthy environment: provided that such services and amenities are rendered in a sustainable manner and are financially and physically practicable.
- (4) A local government shall have the power to make by laws not inconsistent with an Act of Parliament or a provincial law.
- (5) A local government shall have executive powers which shall allow it to function effectively.
- (6) A local government may, in its discretion by means of a council resolution, provide for the delegation of specified functions to local bodies or submunicipal entities within its area of jurisdiction as prescribed and regulated in law where, in the opinion of the council, such delegation shall facilitate or enhance the provision or administration of services, the adherence to municipal by laws or, more generally, further good governance in the public interest: Provided that:-
 - (a) such delegation shall not be inconsistent with provincial and or national legislation; and
 - (b) such delegation shall not constitute the abrogation by the local authority of its primary political responsibilities.

142. Council resolutions

A resolution of a council of a local government pertaining to the budget shall be taken by a two-thirds majority, and a resolution of such council pertaining to town planning shall be taken by an absolute majority of all councillors.

143. Executive Committee

A council of a local government shall elect according to a system of proportional representation from amongst its members an executive committee to exercise such powers and perform such duties and functions determined by such council: Provided that -

- (a) the council shall determine the number of members of and the quorum for the

Brackets

- (2)(a)
- (2)(b)
- (2)(c)

The electoral system for a local government shall include both proportional and ward representation and shall be regulated by a competent legislature.

For the purposes of the first election for members of a local government, the area of jurisdiction of such local government shall be divided into wards in accordance with the applicable law.

Forty percent of the members of local government shall be elected according to the system of proportional representation applying at the national level and sixty percent of the members shall be elected on the basis that each such member shall represent a ward as contemplated in paragraph (b): Provided that where the area of jurisdiction of the local government includes -

(i) the area of jurisdiction of any institution or body contemplated in section 84 (1) (f) of the Provincial Government Act, 1961 (Act No 32 of 1961); and

(ii) any other area not falling within the area of jurisdiction of the institution or body referred to in subparagraph (i);

ⁿ No area referred to in subparagraphs (i) and (ii) shall be allocated less than half of the total number of wards of the local government concerned

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(3) A voter for the election of a local government shall be -

(a) a natural person who -

(i) is eligible to vote in terms of section 6 of this Constitution ;

(ii) is ordinarily resident within the area of jurisdiction of the local government for which such election is held, or under law is liable for the ~~payment~~ payment of assessment rates, rent, service charges or levies to the local government concerned;

Payment

(iii) is registered on the voter's role of the local government.

(4) A voter shall not have more than one vote per local government.

(5) No person shall be elected a member of a local government if he or she -

(a) is not eligible to vote in terms of subsection (3); and

- (b) is an elected member of the National Assembly or the Senate; or
 - (c) does not qualify to be elected as a member of the National Assembly under this Constitution; or
 - (d) is an employee of a local government unless, with due regard to the public interest, exemption of disqualification is given by the executive council of the province and proof of such exemption accompanies the nomination of such person; and
- ... of any other law.

Code of conduct

146. An enforceable code of conduct for members and officials of local government shall be provided for by law.

Transitional arrangement

- 147. (1) Until elections have been held in terms of the Local Government Transition Act, 1993, restructuring of local government shall not take place otherwise than in accordance with the provisions of that Act.
- (2) Restructuring of local government which takes place as a result of legislation enacted by a competent authority after the election referred to in subsection (1) have been held, shall be effected in accordance with the principles embodied in this chapter and the Constitution as a whole.