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OCT 12 '93 15:02 LOCAL GOVERNMENT 0123438936

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NON-status document . Not for^{P.2}
October 12, 1993 distribution

CHAPTER 10Proposals to the Multi Party Negotiating Forum from the MANCOM of the LGNF

- 140 Subject to the other matters contained in this constitution and Schedule 7 thereto pertaining to local government, the following principles shall be adhered to:
- (1)
 - (a) The third tier of government shall consist of autonomous local governments in various categories and models for metropolitan, urban and rural areas not inconsistent with national and/or SPR legislation.
 - (b) The local electoral system shall make provision for both proportional representation and ward representation.
 - (2) Every local government shall be a body corporate with perpetual succession capable in law of doing all those things and performing all those acts which a local government may and shall by law do and perform.
 - (3)
 - (a) The powers and functions of local government shall be set out in national statute, and/or SPR legislation: Provided that the said powers and functions shall not be less than the existing powers and functions of local governments.
 - (b) The SPR government shall not exercise their powers so as to encroach upon the geographical, functional or institutional integrity of the local governments.
 - (4) Local government shall have appropriate and adequate legislative powers to make by-laws not inconsistent with laws at national and SPR levels as well as executive powers to function effectively.
 - (5) The council of a local government shall ensure that its administration is based on sound principles of public administration so as to render efficient and effective services to the inhabitants within its area of jurisdiction.

OCT 12 '93 15:03 LOCAL GOVERNMENT 0123438936

P.3

PROB.2\20

-2-

- (6) Existing laws applicable to local government shall continue to be in existence until they are amended or repealed by the competent legislature and references in such laws to any government shall be deemed to be references mutatis mutandis to the national or the SPR government.
- (7) The council of every local government shall govern and represent the residents within its area of jurisdiction and act generally for the maintenance of good rule and government as well as for the convenience, safety and comfort of the afore-said areas of jurisdiction.
- (8) The members of the Council of a local government shall be elected democratically according to SPR legislation which must be consistent with the National Electoral Act.
- (9) The members of a council of a local government shall be elected at intervals of not less than three and not more than five years, provided that the first elections take place on the same date.
- (10) No person may become a member of a council of a local government if he is disqualified to become a member of the National Assembly, in terms of clause 42 of the Constitution. Provided that such member shall not be a member of another tier of government.
- (11) Every -
- (a) natural person who is:
- (i) a South African citizen;
 - (ii) of or over the age of 18 years;
 - (iii) resident within or the owner of immovable property within the area of jurisdiction of a local government;
 - (iv) registered on the voters' roll of that local government; and
 - (v) not subject to any of the disqualification set out in the Electoral Act, 1993; and

OCT 12 '93 15:03 LOCAL GOVERNMENT 0123438936

P.4

PROB.2\21

-3-

(b) juristic person who is:

- (i) the owner of immovable property within the area of jurisdiction of a local government; and
- (ii) registered on the voters roll of that local government,

shall be entitled to vote in an election for members of the council of such a local government: Provided that a natural and/or a juristic person shall only exercise one vote per local government.

- (12) There shall be an enforceable ethical code of conduct for councillors and officials of local governments.
- (13) The council of a local government shall be accountable to the registered voters within the area of jurisdiction of such local government and the SPR for the effective and efficient administration of its affairs.
- (14)
 - (a) The Finance and Fiscal Commission shall recommend equitable and assured fiscal and financial allocations to local government.
 - (b) Each SPR legislature shall be responsible for local government, and shall provide for equitable fiscal and financial allocations to supplement local government income from revenue collected at SPR level.
 - (c) Each local government shall be competent to levy such property rates, levies, fees, taxes, tariffs and charges as may be necessary to enable it to exercise its powers and to perform its duties and functions, and to levy and recover such property rates, levies, fees, taxes, tariffs and charges.
 - (d) Each local government shall have a uniform tax and tariff structure for its area of jurisdiction.

OCT 12 '93 15:04 LOCAL GOVERNMENT 0123438936

P.5

PROB.2\22

-4-

15. (a) The primary political responsibility for providing and ensuring the availability of all essential services shall be vested in local government. The financing, planning and implementation may be a local and/or regional and/or national government responsibility.
- (b) All citizens shall be entitled to access to water, sanitation, transportation facilities, electricity, primary health, education, housing and security providing that it is financially, physically and practically possible for such services to be rendered in an environmental sustainable manner.
- (c) The immediate priority is to provide services to all level that meets basics health and functional requirements for each person.
16. National or regional policies and legislation affecting local government shall not be developed adopted or implemented without prior consultation with organized local government and local government stakeholders.
17. The Local Government Transition Act shall regulate restructuring at the local government level until after elections at local level have taken place in terms of the said act where after the function of restructuring local government shall vest in national and/or SPR legislatures and such legislatures may amend, supplement or repeal the said act: Provided that such legislatures shall maintain the principles contained in this Chapter and Schedule 7 of the Constitutional Act when amending supplementing or repealing the Local Government transition Act.