

REPUBLIC
OF
SOUTH AFRICA



REPUBLIEK
VAN
SUID-AFRIKA

**NORTH-WEST
NOORDWES**

**PROVINCIAL GAZETTE
PROVINSIALE KOERANT**

Price

Prys

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No.

NOTICE NO. 223

It is hereby notified that the Premier has
assented to the following Act which is
hereby published for general information:

**Act No. 3 of 2000 : North West Municipal
Structures Act, 2000**

Hierby word bekend gemaak dat die Premier
sy goedkeuring geheg het aan
die onderstaande Wet wat hierby ter
algemene inligting gepubliseer word:

**Wet No. 3 van 2000: Noordwes Wet Op
Munisipale Strukture, 2000**

ACT

To provide for the determination of the different types of municipality that may be established for each category of municipality in the Province of the North-West; to regulate the privilege and immunity of members of municipal councils; and to provide for incidental matters. (English text signed by the Premier on 22 June 2000)

PREAMBLE

WHEREAS section 155(1) of the Constitution, 1996, defines the different categories of municipalities which may established;

AND WHEREAS section 155(2) of the Constitution, 1996, requires national legislation to define the different types of municipality which may be established within each category of municipality;

AND WHEREAS Part 2 of Chapter 1 of the Local Government: Municipal Structures Act, 1998 (Act No. 117 of 1998), in compliance with section 155(2) of the Constitution, 1996, has defined the different types of municipality that may be established within each category of municipality;

AND WHEREAS section 155(5) of the Constitution, 1996, requires provincial legislation to determine which of the defined types of municipality may be established in the province;

AND WHEREAS section 161 of the Constitution, 1996, requires provincial legislation within the framework of national legislation to provide for privileges and immunities of Municipal Councils and their members;

AND WHEREAS section 28(1) of the Local Government: Municipal Structures Act, 1998 (Act No. 117 of 1998), provides such national framework legislation in respect of privileges and immunities of Municipal Councils and their members within which a provincial legislature must legislate;

BE IT THEREFORE ENACTED by the Legislature of the Province of the North-West, as follows:-

Definitions

1. In this Act any word or expression to which a meaning has been assigned in the Local Government: Municipal Structures Act, 1998 (Act No. 117 of 1998), shall, unless clearly inappropriate, bear that meaning, and, unless the context otherwise indicates -

"**responsible Member**" means that Member of the Executive Council of the Province of the North-West responsible for local government.

Determination of types of municipalities that may be established

2.(1) In accordance with the provisions of section 155(5) of the Constitution of the Republic of South Africa, 1996 (Act No. 108 of 1996), and sections 11 and 12 of the Local Government: Municipal Structures Act, 1998 (Act No. 117 of 1998), the responsible Member may-

(a) establish the following types of local municipality:

(i) a local municipality with a collective executive system contemplated in section 9(a) of the Local Government: Municipal Structures Act, 1998 (Act No. 117 of 1998), which allows for the exercise of executive authority through an executive committee in which the executive leadership of the municipality is collectively vested;

(ii) a local municipality with a collective executive system combined with a ward participatory system contemplated in section 9(b) of the Local Government: Municipal Structures Act, 1998, which allows for matters of local concern to wards to be dealt with by committees established for wards;

(iii) a local municipality with a mayoral executive system contemplated in section 9(c) of the Local Government: Municipal Structures Act, 1998, which allows for the exercise of executive authority through an executive mayor in whom the executive leadership of the municipality is vested and who is assisted by a mayoral committee;

(iv) a local municipality with a mayoral executive system combined with a ward participatory system contemplated in section 9(d) of the Local Government: Municipal Structures Act, 1998, which allows for matters of local concern to

wards to be dealt with by committees established for wards;

(v) a local municipality with a plenary executive system contemplated in section 9(e) of the Local Government: Municipal Structures Act, 1998, which limits the exercise of executive authority to the municipal council itself;

(vi) a local municipality with a plenary executive system combined with a ward participatory system contemplated in section 9(f) of the Local Government: Municipal Structures Act, 1998, which allows for matters of local concern to wards to be dealt with by committees established for wards; and

(b) establish the following types of district municipality:

(i) a district municipality with a collective executive system contemplated in section 10(a) of the Local Government: Municipal Structures Act, 1998 (Act No. 117 of 1998), which allows for the exercise of executive authority through an executive committee in which the executive leadership of the municipality is collectively vested;

(ii) a district municipality with a mayoral executive system contemplated in section 10(b) of the Local Government: Municipal Structures Act, 1998, which allows for the exercise of executive authority through an executive mayor in whom the executive leadership of the municipality is vested and who is assisted by a mayoral committee;

(iii) a district municipality with a plenary executive system contemplated in section 10(c) of the Local Government: Municipal Structures Act, 1998, which limits the exercise of executive authority to the municipal council itself.

(2) Subsection (1) binds the responsible Member when –

(a) determining the type of municipality to be established in terms of section 12 of the Local Government Municipal Structures Act, 1998 (Act No. 117 of 1998);

(b) changing the municipality from one type to another in terms of section 16 of that Act; and

(c) amending or replacing an establishment notice in terms of section 17 of that Act.

Privilege and immunity of members of municipal councils

3. In accordance with the provisions of section 161 of the Constitution of the Republic of South Africa, 1996 (Act No. 108 of 1996), and section 28(1) of the Local

Government: Municipal Structures Act, 1998 (Act No. 117 of 1998), a councillor -

(a) has, subject to the rules and orders of that council as envisaged in section 160(6) of the Constitution of the Republic of South Africa, 1996, freedom of speech in a municipal council of which he or she is a member and in any committee of such council; and

(b) shall not be liable to civil or criminal proceedings, arrest, imprisonment or damages for -

(i) anything he or she has said in, produced before or submitted to the council of which he or she is a member or any committee of such council; or

(ii) anything revealed as a result of anything that he or she has said in, produced before or submitted to the council of which he or she is a member or any committee of such council.

Short title and commencement

4. This Act shall be called the North-West Municipal Structures Act, 2000, and takes effect on the date of commencement of the Local Government: Municipal Structures Act, 1998 (Act No. 117 of 1998).

**MEMORANDUM ON THE OBJECTS
OF THE
NORTH-WEST MUNICIPAL STRUCTURES BILL, 2000**

This legislation has become necessary as a result of the provisions of sections 155(5) and 161 of the Constitution, 1996, and sections 11, 12 and 28 of the national Local Government: Municipal Structures Act, 1998 (Act No. 117 of 1998) published on 18 December 1998. These sections compel Provinces to legislate in relation to the determination of the types of municipality that may be established for each category of municipality in the Province, as well as in relation to the privilege and immunity of members of municipal councils.

Due to the detail of the wording of the national Act and the fact that the provincial legislation must be enacted in accordance with the national framework, the provincial Bill at first glance seems to be virtually a restatement of the relevant provisions in the national Act. This is, however, necessary to comply with the Constitution, 1996, and the national Act.

In relation to the determination of the types of municipality that may be established in the Province, the Bill in clause 2(1) proposes that the full range of options available in the national legislation, that is, either the *executive committee*, the *executive mayor* or the *plenary* types of municipality, either with or without wards, may be established by the responsible MEC after the required consultation. Clause 2(2) expressly binds the responsible MEC to the listed menu of types of municipality where municipalities in the province are established, changed from one type to another or where an establishment notice in respect of a municipality is amended or replaced.

Clause 3 regulates the privilege and immunity of members of municipal councils and closely follows the wording of the national legislation in this regard (section 28(1) of the Local Government: Municipal Structures Act, 1998). Sections 58(1) and 117(1) of the Constitution of the Republic of South Africa, 1996, contain identical provisions in respect of the privilege and immunity of members of the National Assembly and the provincial legislatures.

Clause 1 of the Bill contains a definition and Clause 4 contains the short title and

commencement of the Bill. Both these clauses are self-explanatory.

Organised local government (NORWELOGA) was consulted in the drafting of the Bill.