

**AD HOC COMMITTEE ESTABLISHED BY THE NORTH WEST PROVINCIAL LEGISLATURE TO
INQUIRE INTO THE AUTHENTICITY OF THE ALLEGATIONS MADE BY THE MAYOR OF
NALEDI LOCAL MUNICIPALITY**

INDEX: MR MOTHUSI MONTHWEDI'S AFFIDAVIT

WITNESS BUNDLE No.3: "WB3"

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BEFORE THE AD HOC COMMITTEE.

HON MOTHUSI MONTHWEDI SWORN STATEMENT

I the undersigned: -

HON MOTHUSI MONTHWEDI

do hereby swear under oath and state that: -

1. I am an adult male member of parliament with my chosen address for purposes of service being that of my attorneys of record.

1.1. The contents of this affidavit fall within my own personal knowledge, unless explicitly stated to the contrary, and are to the best of my knowledge and belief both true and correct.

1.2. Where averments of a legal nature, I do so on the advice of my legal representatives which advice I accept as being true position of our law.

BACKGROUND.

2. In August 2021, I was approached by former councilor of Naledi Local Municipality, the late Mvuyo Ncobo. He wanted me to connect him with the legal representative

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who had helped with my legal issues when I was still a councilor of Forum For Service Delivery (F4SD).

3. I had a lengthy legal battle with the leadership of Forum For Service Delivery since I took office as a Councilor in 2016. At the then time I was represented by Mashoko attorneys who briefed Adv Clinton Muza on all my matters. Adv Muza had done exceptionally well in all my matters.
4. Upon recommending Mabapa Attorneys and Adv Muza, Lorato Setlhake being one of the Applicants indicated that he had already approached Adv Muza whom she knew very well after he represented Dr Ruth Segomotsi Mompoti Municipality whilst she was acting as the Speaker of Council thereat.
5. The late Mr. Ncobo, Mr. Appolus, Lorato Setlhake and their co – applicants arranged consultation with Adv Muza and Mabapa Attorneys. Initially, they had intended to instruct Zisiwe Attorneys but they ended up instructing Mabapa Attorneys with Adv Muza and Adv Maropoeng Mpya on brief. At the then time, Mr Appolus was the director for corporate services at the Naledi Local Municipality. The narration above reflects on how I have come to know parties in the case of Appolus and Others v Naledi Local Municipality and Others.
6. On or about the 19th September 2023, Mr. Ncobo sent me the judgment as handed down by the North-West High Court under the hand of by Judge Reid which reviewed and set aside the appointment of Mr Segapo as the Municipal Manager.

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7. I also remember discussing the judgment with the Mayor and he mentioned to me that they had decided to appeal. He stated further that in his own observation the judge had been bought/bribed by the applicants and a lot of things just did not make sense on how they lost the matter. The Mayor also stated that he was going to report the judge to the JSC as he had proof that she had been bribed. This was not the first time Mr Groep has made unsubstantiated allegations against other people including a sitting judge of the Northwest Division. Mr Groep must tell this committee if he reported the bribery, he alleged against Judge Reid to the JSC and the progress of the matter; Otherwise he is guilty of scandalizing the court.
8. I must put it on record that I have known both the mayor and the municipal manager for more than 15 years and I have had that open relationship with them. These are people I could call at any time for anything. My recommendation of a lawyer to Mr Appolus and co – applicants must never be construed as an act of hostility. However, this now seems to be the case hence the personal attacks directed towards me.
9. To demonstrate my close proximity to the Mr Groep and Mr Segapo, I recently phoned Mr Groep and requested him to drop food for my son who was playing soccer at Colridge stadium. The stadium is next to where the Mayor is residing, and he did assist me with that. I state these facts to demonstrate that there was nothing sinister about any interaction with the two.
10. The municipality lost successive urgent interlocutory applications which were instituted before the hearing of the main appeal at the SCA. I need not deal with

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the details thereof for brevity. The Municipality also brought successive applications for leave to appeal which were never prosecuted further. It was clear that these appeals were lodged as a dilatory tactic to hinder the implementation of the judgment. Mr. Apolus shared with me some of the judgements which were in any event on the public domain as this matter has been and remains of public interest.

11. I learned that the municipality had been granted leave to appeal the matter to Supreme Court of Appeal. The applicants also brought an application for contempt since Mr Segapo remained in office despite an order having been granted in terms of section 18 (3) of the Act. The municipality had failed or refused to implement the judgement (s) as handed down. Whereas Mr Groep and his compatriots claimed to have brought an appeal in terms of sec 18 (4), the same also remained unprosecuted for several months.

12. I was concerned about the cost implications since the Municipality was losing incessantly with costs. It appeared to me that the litigation was being used as strategy to enrich the lawyers representing the Municipality and Mr Segapo. **I invite the Committee to probe into the legal fees which the Municipality has spent on this case since its inception.** I asked Mr Mabapa, how much they estimated the municipality had spent thus far on legal fees. He stated that he cannot speak for the other parties but he estimated their invoices, (Two Counsel, attorneys ;including correspondence attorneys) to be +/- 7 to 8 million at that time. I then estimated the Municipality's legal fees to be much more as it has

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at all material times been represented by an SC and a Junior who is also quite senior.

13. Counsel stated that all judgments were on appeal and their bill of costs cannot be taxed without the appeal being finally determined. I sat down and concluded that by the time this matter is finalized by the SCA, the bill to be settled would be sitting at almost +/- 20 million to be paid from taxpayer's money. My worries have been vindicated by the SCA judgment which has ordered Mr Groep, Mr Segapo and Mr Gulane to pay the costs of the appeal from their personal pockets. The court clearly frowned upon the abuse of the court process.
14. I phoned the Municipal manager Mr. Segapo and asked him why they cannot settle this matter out of court and avoid any further legal fees being incurred by the municipality. The money which is supposed to be channeled towards service delivery is being used for senseless and endless litigation. I am a member of Parliament, and I will confront any rot in the public sector wherever I see it.
15. I told Mr Segapo that this matter will affect him very badly as the Applicants indicated that they were going to persist with the issue of his qualifications on the hearing of the appeal. I also told him that if the SCA makes an adverse finding on his qualifications, he has a lot to lose. It would mean that he misrepresented his qualifications and occupied a position he was not qualified to hold. Ultimately, all the money he earned as a result of that would have to be paid back. All decisions he took purporting to be a qualified Municipal manager may also not survive the review axe. I also advised him that if he believed he is qualified, he should let the

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recruitment process start de novo. He then could stand a chance of being reappointed than fight senseless and loosing battles.

16. The MM was adamant that he had not done anything wrong on his side but was amenable try to get the matter settled out of court. On or around end of March 2025 or thereabout I called Adv Muza and Mr Mabapa to enquire if their clients were amenable for settlement. They indicated the following: -
- 16.1. Settlement was impossible at this stage as there is a judgment and an appeal to the SCA.
 - 16.2. The appeal cannot be left idle without being prosecuted. Being a legality review, any member of the public can prosecute it further.
 - 16.3. Settlement means there should be a withdrawal of the appeal with wasted costs being tendered.
 - 16.4. Enforcement means Mr Segapo must vacate office, and the recruitment process commence de novo. Only then can legal costs be taxed and paid.
 - 16.5. Costs could be settled when the appeal had not been withdrawn and the legal battle still on.
17. I relayed the response to Mr Segapo and encouraged him to withdraw the appeal to allow the recruitment process to start de novo. Unhappy with the response, Mr

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Segapo indicated that he was not prepared to withdraw the appeal as he was confident that the appeal at the SCA would succeed.

18. After the interaction with the Mr Segapo, I also engaged the Mayor (Mr Groep). I raised the same concerns and proposed settling the matter out of court to avoid any unnecessary further spending of taxpayer's money defending the municipal manager whose appointment had been set aside.
19. I also raised the concerns of having Mr Segapo's qualifications scrutinized by the second highest Court. The mayor indicated that he was confident of the appeal and the qualifications of Mr Segapo. Judges in the northwest had been bribed, and the judgments contained a lot errors which will be dealt with by the SCA. He also reiterated that SCA judges still have integrity and cannot be bribed by politicians backing up the applicants.
20. On a separate incident, I also happened to physically meet the mayor at Engen Garage in Vryburg driving in his Toyota Fortuner on his way to a party meeting in Potchefstroom. He was travelling with the speaker and the chief whip of council. I raised the same issue again with them and they all said that the issue of the qualifications of the Municipal manager is not before the SCA and will not be raised. They stated that they are not worried about that issue. They were confident that they were going to win the appeal with costs at the SCA. The Municipality was going to recover all the costs from the applicants.

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21. It is unfortunate that the SCA judgment has remained mum on the qualifications of Mr Segapo. I hope that this committee will not act blind to this burning and pressing issues. **I BELIEVE THAT MR SEGAPO IS NOT QUALIFIED AND INVITE HIM TO FURNISH THIS COMMITTEE WITH COPIES OF HIS QUALIFICATIONS AND PROOF OF VERIFICATION. I ALSO INVITE THIS COMMITTEE TO VERIFY THE QUALIFICATIONS INDEPENDENTLY.**
22. Mr Groep stated that the Applicants were going to be drained financially, and they would soon give up the litigation. He stated further that the dismissal of Mr Appolus was intended to close the taps so that he will not be able to pay his lawyers. I told Mr Groep that the legal team of the Applicants are not motivated by money, they fight for the vulnerable until the bitter end. I spoke this from experience as Adv Muza once represented me and other Councilors when I was still with Forum 4 Service Delivery, as pleaded supra, in about 6 urgent applications at a time we were impecunious and unable to pay for his fees. He expressed shock that the Applicant's legal team was still representing the applicants without being paid.
23. Suddenly before the Parliamentary Portfolio Committee, Mr Groep expressed our interaction as follows: -

"In the letter, maybe I must also make mentioned, I was called by a member of parliament from the EFF, Mr Mothusi Montwedi, asking myself as the Mayor to please withdraw the case from the SCA because, he said the Advocate has not been paid, that he has recommended to the Premier for this case...."

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24. I never recommended any Advocate to the Premier as the Premier was never party to the proceedings in question. The reason for *please withdraw the case* as alleged is strange coming from Mr Groep a qualified lawyer. The level of Mr Groep's bootlicking Mr Segapo cements the adverse findings of nepotism against him in the SCA judgment. The implicit level of his indebtedness to Mr Segapo warrants this ad hoc committee's investigation.
25. After my engagements with Mr Segapo and Mr Groep, they started spreading rumors that:
- 25.1. I was proposing out of settlement to save the Applicants from losing at the Supreme Court of Appeal.
 - 25.2. That the said settlement proposal was at the behest of the Premier.
 - 25.3. They had refused the proposal to settle out of court which was aimed at manipulating them politically.
 - 25.4. These rumors have now permeated into the Parliamentary Portfolio Committee thus resulting in the establishment of this ad hoc committee.
26. These rumors unsettled some Applicants like Mr Appolus who accused me of having taken money from the Municipal Manager and now trying to mess up with their matter. Mr Appolus vowed that this case will only be determined by the Supreme

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Court of Appeal not at the behest of any political animal and would confront any political interference and manipulation. I learnt from the Premier that he had been attacked verbally by Mr Thabo Appolus via whats app where he accused him of interfering with his case by trying to settle it without his knowledge. I explained my attempts to intervene was in good faith as I sought to save the public purse and apologized to him.

27. The Applicants sought a preferential date which was granted by the SCA. Matter, did finally sit at the SCA on the 21st of August 2025. The issue of the qualifications of the Municipal manager was raised in court and as predicted the only qualification of the municipal manager that was verified by MEI that he obtained was matric as per the report issued to the municipality in 2022 November 17.
28. This report served before the panel that was responsible for the appointment of the Municipal manager and was overlooked by the panel. This has resulted in the current situation and embarrassment. I phoned the mayor and asked him if what I am hearing is true and he confirmed that indeed its true. The Mayor then went on to make bold allegations against me and the other parties he mentioned before the portfolio committee.
29. If it's not judges who were bribed, it is every other person's fault for having committed fraud. The real issue being covered up is Mr Segapo's qualifications and how he has defied court orders which removed him from office for two years. Surely there is someone powerful persons and or politician who has been aiding and abating the criminality of contempt and non-existing qualifications. This ad

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hoc committee is being used a smoke screen to cover up these real issues which must be interrogated.

30. Mr Segapo does not qualify and never qualified to hold the office he is holding. Allegations of nepotism between Mr Segapo and Mr Groep were made and confirmed by the SCA. Mr Groep has remained resolute to defend Mr Segapo using Tax Payers money. On the 17th of November 2025, the Speaker convened a meeting tabling the SCA judgment. One of the items was the declaration of vacancy. I am informed by EFF Councilors that during the meeting, the Speaker indicated that he had just received a letter from Mr Segapo's lawyers indicating that he wants to appeal to the Constitutional Court. The Speaker then announced that the agenda item on the declaration of vacancy was now being withdrawn. I annex hereto a copy of the Notice of the meeting and the agenda as Annexure "A."

31. Once again, the Speaker and the mayor failed to recuse themselves in a matter where a damning judgment was handed down against them. They presided over a meeting which has extended the tenure of Mr Segapo because of an intended appeal in circumstances where an enforcement order was granted and the 18 (4) appeal which they solely relied on was relegated to the trenches. What says the ad hoc committee to this ongoing contempt whilst focusing on visible targeting of the Premier?

32. **Now that everyone has been gathered here can Mr. Groep explain what is happening in the Municipality that he leads? Can he now answer the**

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question that he dodged last time? Can he explain why all the senior managers are resigning from Naledi? Can he explain Segapo's status after the release of the judgement and the 17th of November 2025's special council meeting? Can he explain why he removed item number 2 and 3 on the agenda attached supra?. Can he explain on who applied for leave of absence? Can he explain the nexus between the letter which he allegedly received from Segapo during the meeting which prompted him to remove item 1 and 2 and enforcement of judgement? Can he be requested to table that letter, and the council's resolution for the meeting of the 17th of November 2025? Can he produce Segapo's qualification which he uses to apply for this senior management post? Can he explain Mr. Segapo's status vis-a vis the letter he received during the meeting and the subsequent removal of the agenda item of declaration of vacancy?

33. No ad hoc committee was constituted to investigate why Mr Segapo remained in office on the face of about +/- 8 judgments against him. immediately after Mr Groep makes allegations not supported by any evidence before a forum which was supposed to hold him accountable, the proceedings were terminated paving way to this ad hoc committee. Once again, Mr Segapo digs into the public purse to save his skin. This should not be allowed. I contend that he must pay the legal costs associated with this ad hoc committee from his personal coffers.

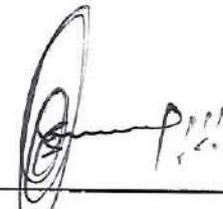
34. On the 16th of November 2025, I once again called Mr Groep urging him to respect the court order and allow the province to implement the judgment and preside

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irregularity, I will call him again, confront misgovernance and call it by its name. I am not afraid of beating the dog as that is only then will the owner show up.

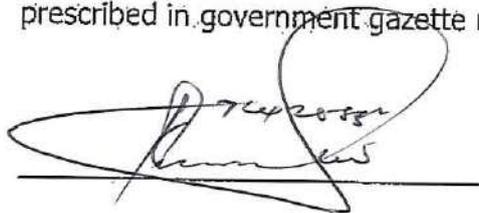
35. I am a public official with an obligation to prevent and condemn irregular, fruitless and wasteful expenditure. The whole litigation was unnecessary, and the public purse was and continues to be needlessly wasted to protect an individual whose appointment is marred with a volley of irregularities. I don't regret the role I played and if I go back in time, I will do it all over again.



DEPONENT

Thus signed and sworn to before me at Muskratso on the 18 day of November 2025, the deponent having acknowledged that he knows and understands the contents of this affidavit, and that it is both true and correct to the best of his knowledge and belief, that he has no objection to taking the prescribed oath and considers the prescribed oath binding on his conscience.

This administration of the prescribed oath having complied with the Regulations as prescribed in government gazette number 1972.



Commissioner of oaths

Full names and surname:

Leandro Jones

Address:

105 BATHURST STREET 2025-11-18

Capacity:

Cp 124 2025



M. Jones

Area:

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NALEDI LOCAL MUNICIPALITY



URGENT SPECIAL COUNCIL IN COMMITTEE MEETING AGENDA

DATE: 17 NOVEMBER 2025

TIME: 14:00

VENUE: COUNCIL CHAMBER

NOTICE IS HEREBY GIVEN OF THE *URGENT SPECIAL COUNCIL IN-COMMITTEE MEETING* OF THE NALEDI LOCAL MUNICIPALITY COUNCIL TO BE HELD ON *MONDAY, 17 NOVEMBER 2025 AT 14:00*


CLLR P G C GULANE
SPEAKER

MEMBERS OF COUNCIL

CLLR C J GROEP – MAYOR

CLLR P G G GULANE – SPEAKER

CLLR J A ADONIS

CLLR C LE ROUX

CLLR J G BRAND

CLLR D O KOEPILE

CLLR B S MOKOMELE

CLLR L C JACOBS

CLLR R MOLEHE

CLLR F D MGIDA

CLLR M LENTSHWENE

CLLR V R MORAKILE

CLLR H VAN HYUSSTEEN

CLLR P I SELOTLEGO

CLLR L V SETLHAKE

CLLR M M MAPHALLE

CLLR K D TSHITE

CLLR K S WILSON

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A G E N D A

(Special Council Meeting – Agenda 17/11/2025)

1. OPENING AND WELCOME

(Special Council Meeting – Agenda 17/11/2025)

2. APPLICATION FOR LEAVE OF ABSENCE

(Special Council Meeting – Agenda 17/11/2025)

3. DECLARING OF ANY DIRECT OR INDIRECT PECUNIARY INTEREST (3/4/2)

Councillors and officials are required to declare any direct or indirect pecuniary interest in any item on this agenda in terms of Clause 5 of the Code of Conduct for Councillors as well as the Code of Conduct for Municipal staff members as respectively contained in Schedule 1 and 2 of the Municipal Systems Act 32 of 2000.

(Special Council Meeting – Agenda 17/11/2025)

4. ADOPTION OF THE AGENDA

5. **COUNCIL MATTER: DECLARING OF THE VACANCY “MUNICIPAL MANAGER POSITION”. (4/1/2)**

ATTACHMENTS

1. Annexure A – The Supreme Court Of Appeal Of South Africa Order

PURPOSE

To report to Council about the Court Order, ordering Naledi Local Municipality Council to Re-Advertise the Municipal Manager Position.

BACKGROUND

Mr M.T Segapo's appointment as the Municipal Manager of Naledi Local Municipality appointed by Naledi Local Municipality Council was challenged at by Mr T N Appolus, Cllr L Setlhake, Cllr L Jacobs and Cllr V Morakile at Mmabatho High Court Mmabatho High Court.

Subsequent to the Mmabatho High Court Order, Naledi Local Municipality Council resolved to appeal the order of the Mmabatho High Court at The Supreme Court Of Appeal Of South Africa.

The Supreme Court Of Appeal Of South Africa has Ordered as stipulated on the attached order Delivered on the 14th November 2025

The position of the Municipal Manager became vacant as of the date the court order was delivered.

In-terms of 7.1 Local Government Regulations on Recruitment, selection and appointment of Senior Managers, when the post of a senior manager become vacant, or due to become vacant, the mayor in the case of a municipal manager, or the municipal manager in the official notification that the post of a senior manager will become vacant, obtain approval from the municipal council for the filling of such post.

Senior Manager Vacancy must be advertised as stipulated in Regulations on Appointment and Conditions of employment of Senior Managers dated 17 January 2014.

RECOMMENDATIONS

1. That Council takes note the order of The Supreme Court Of Appeal Of South Africa delivered on 14 November 2025.
2. That Council declare a vacancy and approve the filling of the position of Municipal Manager which became vacant on 14 November 2025.

3. That the Mayor must within 14 days of receipt of the approval from the Municipal Council for the filling position ensure that the vacant position is advertised.
4. That the advertisement be placed in the National Newspaper as soon as possible.
5. That Council appoint a Selection Panel.
6. That Council takes note that the employment of Municipal Manager must be on a contract basis.
7. That Council approve to challenge the order on (Legal advice, costs order and MM appointment)

Department: Speakers Office

SUBMITTED FOR CONSIDERATION



THE SUPREME COURT OF APPEAL OF SOUTH AFRICA
JUDGMENT

Reportable
Case no: 122/2024

In the matter between:

NALEDI LOCAL MUNICIPALITY	FIRST APPELLANT
NALEDI LOCAL MUNICIPAL COUNCIL	SECOND APPELLANT
CLLR PG GULANE N O	THIRD APPELLANT
CLLR GROEF N O	FOURTH APPELLANT
MR MODISENYANE SEGAPO N O	FIFTH APPELLANT

and

THABO APPOLUS	FIRST RESPONDENT
CLLR LORATO SETHLAKE	SECOND RESPONDENT
CLLR LEBOGANG JACOBS	THIRD RESPONDENT
CLLR VUYISWA MORAKILE	FOURTH RESPONDENT
THE MEC FOR COOPERATION OVERNANCE HUMAN SETTLEMENT AND TRADITIONAL AFFAIRS, NORTHWEST PROVINCE	FIFTH RESPONDENT

Neutral citation: *Naledi Local Municipality and Others v Appolus and Others*
(122/2024) [2025] ZASCA 171 (14 November 2025)

Coram: MOTHLE, KGOELE, BAARTMAN JJA and HENNEY and CHILI
AJJA

Heard: 21 August 2025

Delivered: 14 November 2025

Summary: Local Government: Municipal Systems Act 32 of 2000 – interpretation of s 54A – review of the appointment of a Municipal Manager – whether grounds for review established – principles of legality applicable.

ORDER

On appeal from: North West Division of the High Court, Mafikeng (Reid J, sitting as court of first instance):

- 1 The appeal is dismissed.
- 2 The third to fifth appellants are ordered to personally pay the costs of this appeal, including the costs of the application for leave to appeal on a party and party scale, jointly and severally, the one paying the others to be absolved. Such costs to include costs of two counsel where so employed.

JUDGMENT

Kgoele JA (Mothle and Baartman JJA, Henney and Chili AJJA concurring)

[1] This appeal is against the judgment and order of the North West Division of the High Court, Mafikeng (the high court), which reviewed and set aside the appointment of the fifth appellant, Mr Modisenyané Segapo N O (Mr Segapo) who had been appointed as a Municipal Manager. The high court ordered the first appellant, the Naledi Local Municipality (the Municipality), and the second appellant, the Naledi Local Municipal Council (the Council), to initiate a new recruitment process for the appointment of a Municipal Manager. The appeal is with leave of the high court.

[2] The appeal originates from an urgent application that was initiated by the first to fourth respondents. The first respondent, Mr Thabo Appolus (Mr Appolus), serves as a Director of Corporate Services in the employ of the Municipality. The second to fourth respondents, Ms Lorato Sethlake, Mr Lebogang Jacobs and Ms Vuyiswa Morakile, are Councillors of the Municipality. For convenience, the first to fifth appellants and the first to fifth respondents will be collectively referred to as appellants and respondents respectively, except where the context dictates otherwise. When the urgent application served before the high court, the former Acting Municipal Manager, Mr Nelson Mongale; the Speaker, Mr P G C Gulane; the Mayor, Mr Clifton John Groep; the Member of the Executive Council for the Department of Co-operative Governance Human Settlement and Traditional Affairs, North West Province (the MEC); the South African Local Government Association (SALGA) and the Provincial Treasury, North West Province (Treasury) were also cited as the respondents.

[3] The urgent application sought the setting aside of the appointment of Mr Segapo as the Municipal Manager. Among other ancillary relief, the respondents also sought a declaration that the meeting of 10 March 2023 (the Special Council meeting), at which a resolution to appoint Mr Segapo was passed, was unlawful and invalid.

[4] The impugned appointment was Mr Segapo's third term as a Municipal Manager. His initial appointment spanned from 2011 to 2016, followed by a reappointment on 1 September 2021. The second tenure was limited to one year. It was terminated by the election of the new Council, which legally brought his appointment to an end. The process regarding his third tenure commenced in October 2022, when the Council declared a vacancy that initiated a recruitment

process. Eight candidates submitted applications to fill the vacancy advertised on 4 September 2022.

[5] Mr Segapo and Mr Appolus were the only candidates shortlisted out of the eight applicants. Mr Appolus subsequently withdrew his candidacy. Since Mr Segapo was still the Municipality's Accounting Officer when the position was advertised, he sought a legal opinion from Modiboa Attorneys Inc. on the legitimacy of interviewing only one candidate. The legal opinion advised the Municipality to re-advertise the vacancy to prevent the process from appearing biased, unfair, or anti-competitive. It also recommended the appointment of an Acting Municipal Manager in the interim.

[6] The legal opinion received led to a Council meeting that was held on 20 October 2022, during which a resolution was passed to re-advertise the position. It was further resolved that the panel appointed for the recruitment process of the initial advertisement be reinstated. The panel comprised of the Mayor, Councillor Hendriette Van Huysteen, Mr Katlego Gabanakgosi, who was the Municipal Manager from Greater Taung Local Municipality (Mr Gabankosi), Provincial Treasurer Mr L-Mokoena, and Mrs Desiree Tlhoale from SALGA. Mr Gabanakgosi was subsequently replaced by Mr Rantsho Gincane. A total of 13 applications were received, and five candidates were shortlisted. Mr Segapo was amongst the five shortlisted. Following the interviews conducted, Mr Segapo was recommended for appointment as the Municipal Manager. On 10 March 2023, a Special Council meeting resolved to appoint him.

[7] According to the respondents, as the recruitment process unfolded, they became aware of certain irregularities during the recruitment process. The initial

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irregularities pertained to the involvement of the Mayor in the panel, in violation of Regulation 12(5) and (6) of the Local Government: Regulations on Appointment and Conditions of Employment of Senior Managers (the regulations),¹ which regulates the disclosure by panel members, of 'any interest or relationship with shortlisted candidates during the shortlisting process'. The second set of irregularities concerned the procedures followed during the interview process. The irregularities form the crux of this appeal, the specifics of which will be addressed later in the judgment. It is sufficient to note that, dissatisfied with these irregularities, the second respondent sent an email to the Mayor on 10 November 2022 detailing the specifics of the irregularities. Nonetheless, the Mayor proceeded with the recruitment process, which ultimately resulted in Mr Segapo being recommended for the position of the new Municipal Manager at the Special Council meeting.

[8] The Special Council meeting and the resolution adopted during that meeting are what broke the camel's back. This prompted the respondents to file an urgent application, alleging that the entire recruitment process, including Mr Segapo's appointment, was riddled with apparent irregularities that could not withstand legal scrutiny. I pause here to note that, there is no need to summarise the particulars of the irregularities the respondents complained about relating to the Special Council meeting in this judgment, since the high court declined to grant the relief sought that was aimed at setting aside the said meeting inclusive of the related resolutions. Furthermore, the respondents did not pursue a cross-appeal of that order. Nothing more will be said about them in this judgment.

¹ Local Government: Regulations on Appointment and Conditions of Employment of Senior Managers published in No 21, published *Government Gazette* 37245 on 17 January 2014.

[9] The urgent application to nullify Mr Segapo's appointment was initially filed in the high court, prior to the MEC being provided with a recruitment report pursuant to s 54A(7)(a) and (b)² of the Local Government: Municipal Systems Act 32 of 2000 (the Municipal Systems Act). For that reason, it was struck from the roll. After the MEC received the report and declined to grant approval for the appointment, the application was re-enrolled and heard by Reid J. The respondents argued that the recruitment process was fundamentally flawed from the outset, both procedurally and substantively, due to the irregularities that were highlighted in the correspondence sent to the Municipality. They further relied on a letter from the MEC, which outlined numerous irregularities in the appointment process and wherein he declined to sanction the appointment.

[10] In opposition, the appellants contended that the matter was not urgent and that the respondents failed to establish grounds for review to sustain their application. Three preliminary points were also raised: that the respondents lacked the requisite *locus standi* to challenge the appointment; that the MEC's inaction rendered the respondents' application premature; and that the MEC's concerns had already been addressed.

[11] On 19 September 2023, Reid J dismissed the appellants' opposition together with the preliminary points raised and set aside Mr Segapo's appointment. The dismissal sparked a litany of applications and counter-applications that culminated in a two-stream appeal process: the application for leave to appeal against the main judgment and order (the regular appeal stream), and an automatic appeal (the s.18(4)

² This section provides that:

(7)(a) The municipal council must, within 14 days, inform the MEC for local government of the appointment process and outcome, as may be prescribed.

(b) The MEC for local government must, within 14 days of receipt of the information referred to in paragraph (a), submit a copy thereof to the Minister.

appeal stream). The details of the latter are fully dealt with hereunder. Some of these applications were finalised and others remained active until the hearing of this matter. The appellants were first to apply for leave to appeal Reid J's order on 29 September 2023. On 17 October 2023, the respondents reacted and filed an enforcement application under s 18(3) of the Superior Courts Act 10 of 2013 (the Superior Courts Act),³ which Reid J granted on 17 November 2023. Leave to appeal to this Court was only granted on 26 January 2024. In response to the enforcement order granted, the appellants initiated an automatic right of appeal, pursuant to s 18(4)(a)(ii) of the Superior Courts Act.⁴ On 28 April 2024, the respondents issued a writ to put into operation the enforcement order by removing Mr Segapo from his office, as he continued to report for work. The writ was executed, and he was consequently removed from his position.

[12] As if that was not enough, the appellants filed an urgent application to set aside the writ of execution. This application was eventually dismissed. Mr Segapo

³ Section 18 of the Superior Courts Act 10 of 2013 (the Superior Courts Act) provides:

'Suspension of decision pending appeal'

(1) Subject to subsections (2) and (3), and unless the court under exceptional circumstances orders otherwise, the operation and execution of a decision which is the subject of an application for leave to appeal or of an appeal, is suspended pending the decision of the application or appeal.

(2) Subject to subsection (3), unless the court under exceptional circumstances orders otherwise, the operation and execution of a decision that is an interlocutory order not having the effect of a final judgment, which is the subject of an application for leave to appeal or of an appeal, is not suspended pending the decision of the application or appeal.

(3) A court may only order otherwise as contemplated in subsection (1) or (2), if the party who applied to the court to order otherwise, in addition proves on a balance of probabilities that he or she will suffer irreparable harm if the court does not so order and that the other party will not suffer irreparable harm if the court so orders.

(4)(a) If a court orders otherwise, as contemplated in subsection (1)-

(i) the court must immediately record its reasons for doing so;

(ii) the aggrieved party has an automatic right of appeal to the next highest court;

(iii) the court hearing such an appeal must deal with it as a matter of extreme urgency; and

(iv) such order will be automatically suspended, pending the outcome of such appeal.

(b) Next highest court⁴, for purposes of paragraph (a) (ii), means-

(i) a full court of that Division, if the appeal is against a decision of a single judge of the Division; or

(ii) the Supreme Court of Appeal, if the appeal is against a decision of two judges or the full court of the Division.

(5) For the purposes of subsections (1) and (2), a decision becomes the subject of an application for leave to appeal or of an appeal, as soon as an application for leave to appeal or a notice of appeal is lodged with the registrar in terms of the rules.¹

⁴ Ibid footnote 3.

nevertheless continued with his duties as a Municipal Manager during these applications. When the papers were filed in this Court, the respondents were also preparing a contempt of court application against the appellants, which, as we were informed during oral arguments, Djadje DJP, dismissed on 06 June 2025. Additionally, we were told that Mr Segapo is still reporting for duty.

[13] Although these litany of applications are not part of the current appeal, the respondents raised the status of the s 18 appeal stream in their oral arguments, to the extent that it had a bearing on the regular appeal against the main judgment and order of Reid J. The conundrum is created by the fact that it remains pending in the office of the Judge President of that Division. I will thus divert to briefly refer to the status of the s 18 appeal and thereafter return to deal with the appeal before us.

[14] Section 18(4)(a)(ii) is a distinct provision establishing a unique category of appeals, designed explicitly for orders made under s 18(3). Moreover, the application in terms of s 18(3) serves, by its nature, to regulate the interim position between litigants from the time that an order is issued until the final judgment on appeal is handed down. In addition, the s 18(4) appeal specifically allows for a single right of appeal, indicating that multiple appeals are not permitted under the section.⁵ In my view, once the judgment of this Court on the main appeal is handed down, irrespective of the outcome thereof, the s 18(3) order and the automatic appeal in terms of s 18(4)(a)(ii) will automatically fall away. I now revert to the appeal in this Court.

⁵ *Tshwane Metropolitan Municipality v Vresthena (Pty) Ltd and Others* [2023] ZASCA 104; 2023 (6) SA 434 (SCA) paras 14-16, 18 and 21-23.

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[15] The crisp issue before this Court is whether the respondents established review grounds for setting aside the appointment of Mr Segapo. The appellants' main contention is that on a proper interpretation of s 54A(7)(a) and (b), (8), (9), and (10) of the Municipal Systems Act, the respondents failed to establish the grounds to set aside the impugned appointment. To bring context to this argument, it is necessary to skim through the section and its subsections.

[16] The first point of reference is s 54A (1) of the Municipal Systems Act, which provides for the appointment of a Municipal Manager as head of the Council's administration.⁶ Sections 54A (7)-(10) of the Municipal Systems Act provides that:

'(7)(a) The municipal council must, within 14 days, inform the MEC for local government of the appointment process and outcome, as may be prescribed.

(b) The MEC for local government must, within 14 days of receipt of the information referred to in paragraph (a), submit a copy thereof to the Minister.

(8) If a person is appointed as municipal manager in contravention of this section, the MEC for local government must, within 14 days of receiving the information provided for in section (7), take appropriate steps to enforce compliance by the municipal council with this section, which may include an application to a court for a declaration order on the validity of the appointment, or any other legal action against the municipal council.

(9) Where an MEC for local government fails to take appropriate steps referred to in subsection (8), the Minister may take the steps contemplated in that subsection.

(10) If the MEC for local government fails to respond to the appointment process and outcome within the timeframe, as contemplated in subsection (8), or the Minister fails to respond as contemplated in subsection (9), the appointment of the municipal manager will be deemed to be in compliance with this Act: Provided the municipal council submitted all relevant documents, as prescribed.'

⁶ Section 54A(1) of the Municipal Systems Act provides:

'The municipal council must appoint –

(a) a municipal manager as head of the administration of the municipal council; or

(b) an acting municipal manager under circumstances and for a period as prescribed.'

[17] Whilst the appellants pin the colours of their mast in the Municipal Systems Act, sight should not be lost of the fact that it is trite that an appointment of a Municipal Manager is a constitutional issue.⁷ The Constitutional Court confirmed that any exercise of public power, as in the present instance, must be within the confines of the law and that a court is entitled, relying on the principle of legality, to review the exercise by a functionary of public power.⁸ This principle applies to the exercise of all public power and is not limited to the narrow realm of administrative action.⁹ Therefore, s 172(1) of the Constitution serves as the second relevant point of reference to be considered in this matter, which provides:

‘When deciding a constitutional matter within its power, a court-
(a) must declare that any law or conduct that is inconsistent with the constitution is invalid to the extent of its inconsistency; and

.....’

[18] To substantiate their grounds of appeal, the appellants argue that the respondents, as municipal employees and councillors, lacked the standing to challenge the Municipal Manager’s appointment. They contend that the statutory enforcement under s 54A (7)-(9) is exclusive to the MEC, then the Minister. Further that, the Municipality notified the MEC about the appointment of Mr Segapo but failed to take appropriate steps to enforce compliance within 14 days after raising concerns as required by s 54A (8). The appellants also claim that the MEC’s inaction

⁷ *Member of the Executive Council for the Department of Cooperative Governance and Traditional Affairs, KwaZulu-Natal v Nkandla Local Municipality and Others* [2021] ZACC 46; (2022) 43 ILJ 505 (CC); 2022 (8) BCLR 959 (CC) para 10. See also *Notyawa v Makana Municipality* [2019] ZACC 43; (2020) 41 ILJ 1069 (CC); 2020 (2) BCLR 136 (CC); [2020] 4 BLLR 337 (CC) para 31.

⁸ *Pharmaceutical Manufacturers Association of SA and Another: In re Ex parte, President of the Republic of South Africa and Others* 2000 (2) SA 674 (CC); 2000 (3) BCLR 241 (CC); 2000 (2) SA 674 (CC) paras 17 and 20.

⁹ See *Judicial Service Commission and Another v Cape Bar Council and Another* [2012] ZASCA 115; 2013 (1) SA 170 (SCA); [2013] 1 All SA 40 (SCA); 2012 (11) BCLR 1239 (SCA) para 21.

rendered the appointment compliant with the presumption in s 54A (10) and the respondents' attempt to bypass this process was premature and unlawful.

[19] The appellants further challenge the validity of the review grounds upon which the high court relied to dismiss their opposition. They contend that the MEC's initial objections articulated in his correspondence, such as the purported delays in candidate screening and incomplete documentation, were thoroughly addressed by the Mayor in the response letter dated 10 May 2023, which the high court failed to consider. Concerning the irregularities associated with nepotism, the appellants assert that the respondents' case was founded on speculative assertions rather than substantiated irregularities, and that the high court erred in neglecting to consider the Mayor's rebuttal of same.

[20] I choose to promptly dismiss the grounds of appeal concerning the preliminary points raised by the appellants first, which primarily concern section 54A of the Municipal Systems Act. Firstly, the appellants' assertion that the correct interpretation of sections 54A (7) and (8) is that only the MEC has the legal standing to initiate proceedings to nullify the appointment of the Municipal Manager is unfounded. Section 34 of the Constitution affirms the right of every individual to have disputes resolved by a court of law. This matter relates to the principle of legality; therefore, constraining the Municipal Systems Act to imply that only the MEC has the standing to file a review application would lead to absurdity. The Constitution overrides the Municipal Systems Act. This conclusion also effectively addresses the appellant's delegated argument that the respondents lacked the authority to act on behalf of the MEC. An interpretation that strips the respondents of their standing to challenge a principle of legality cannot be sanctioned by our courts.

[21] The appellants' contention that the MEC's failure to act under s 54A (10) renders the review premature, is unpersuasive. Likewise, the assertion that the Mayor's letter dated 10 May 2023 fully addressed the irregularities, is unfounded. In my view, the high court was justified in intervening solely based on the MEC's failure to approve Mr Segapo's appointment. The MEC's failure to respond to the appellants' delayed submissions could not constitute an absolute obstacle to the high court's examination of significant statutory violations within the recruitment process. Additionally, there are other significant irregularities that will be discussed later, requiring urgent judicial intervention despite the high court's failure to address them explicitly. Neither the councillors nor the community should passively allow bureaucracy to override legality in their oversight role.

[22] I now address the key issue before this Court, which is whether the respondents succeeded in establishing review grounds to sustain their application before the high court. In my view, this question must be answered in the affirmative. As it will be apparent below, the respondents achieved this within the confines of the statutory, regulatory, and constitutional frameworks governing the local government.

[23] As already indicated, beyond the irregularities identified by the MEC, there are additional significant irregularities in the respondents' founding affidavit submitted to the high court, which this Court must consider. They originate from a letter written by the second respondent to the Mayor, in which she raised concerns about nepotism. The allegations involved the Mayor's close relatives and questioned his impartiality in the recruitment process. Central to these allegations is that Mr Segapo promoted the Mayor's twin brother, Mr. Arthur Groep, from swimming pool

attendant to finance clerk on 2 November 2012, and shortly thereafter, to a debt collector. Furthermore, Mr Segapo hired the Mayor's sister-in-law within a year of his tenure. These promotions occurred while the Mayor was serving as the ANC's Chief Whip. The letter also urged the Mayor to recuse himself from the recruitment process. A similar letter was sent to the Acting Municipal Manager, the Mayor, MMC Finance and Corporate Services, and the Chief Whip, outlining these irregularities. To ensure fairness and prevent conflicts of interest, the letter suggested the appointment of a recruitment agency to oversee the process, as required by Regulation 10(4).¹⁰ However, as indicated earlier, these letters were ignored, and the Mayor proceeded with the process despite these concerns.

[24] Notably, in their answering affidavit, the appellants did not challenge the allegations made regarding these appointments. Instead, they characterised the concern raised by the respondents as 'a perceived indebtedness' and dismissed it as 'pure malice' and 'speculation'. Additionally, the appellants completely overlooked the issue raised regarding the perceived conflict of interest and recusal, which, on its own, casts an unsavoury light on the recruitment process as a whole.

[25] Regulation 12(5) and (6) provides:

(5) A panel member must disclose any interest or relationship with shortlisted candidates during the shortlisting process.

(6) A panel member contemplated in sub-regulations (3) and (4)¹¹ must recuse himself or herself from the selection panel if-

¹⁰ It provides that:

'A municipality may utilise a recruitment agency to identify candidates for posts: Provided that the advertising, recruitment and selection procedures comply with these regulations.'

¹¹ These sub regulations provide as follows:

(3) The selection panel for the appointment of a municipal manager must consist of at least three and not more than five members, constituted as follows-

(a) the mayor, who will be the chairperson, or his or her delegate;

(b) a councillor designated by the municipal council; and

- (a) his or her spouse, partner, close family member or close friend has been shortlisted for the post;
- (b) the panel member has some form of indebtedness to a short-listed candidate or *vice versa*; or
- (c) he or she has any other conflict of interest.⁷

[26] What we observe from the above, indicates a legitimate concern regarding a possible conflict of interest involving the Mayor and Mr Segapo. The Mayor's attempt to dismiss these allegations by asserting in the papers filed by the appellants that he did not reciprocate any favours to Mr Segapo, is inadequate to counter the undisputed claims of nepotistic appointments. According to the *Plascon-Evans* principle,¹² such denial does not satisfy the requirement of a genuine factual dispute. The reasonable perceived conflict of interest, as envisioned by the regulation, warranted a recusal or, at the least, disclosure by the Mayor. This inept conduct, regrettably, tarnished the entire recruitment process far beyond the irregularities identified by the MEC, raising eyebrows about the Mayor's impartiality in his role as a member of the recruitment panel that appointed Mr Segapo. These irregularities are within the personal knowledge of the respondents in their capacity as councillors and can be legally challenged or raised by them. In my view, the respondents were correct to persist in their argument that the Mayor's apparent indebtedness to Mr Segapo, stemming from these appointments, was an important factor that must not be overlooked.

(c) at least one other person, who is not a councillor or a staff member of the municipality, and who has expertise or experience in the area of the advertised post.

(4) The selection panel for the appointment of a manager directly accountable to a municipal manager must consist of at least three and not more than five members, constituted as follows-

- (a) the municipal manager, who will be the chairperson;
- (b) a member of the mayoral committee or councillor who is the portfolio head of the relevant portfolio; and
- (c) at least one other person, who is not a councillor or a staff member of the municipality, and who has expertise or experience in the area of the advertised post.⁷

¹² *Plascon-Evans Paints (TVL) Ltd v Van Riebeck Paints (Pty) Ltd* 1984 (3) SA 623 (A); [1984] 2 ALL SA 366 (A); 1984 (3) SA 623; 1984 (3) SA 620.

M.K.M

[27] A sum total of all the above is that the appellants didn't have a leg to stand on for this Court to overturn the high court's order. In fact, the high court had ample reasons to set aside the appointment of Mr Segapo. Therefore, the appeal must fail.

[28] Regarding costs, this Court notes that the respondents argued for a punitive costs order but on an ordinary scale due to the protracted and unnecessary litigation between the parties. However, this Court acknowledges that awarding costs is a discretionary matter. While the reasons provided by the respondents for a punitive costs order have merit, this Court cannot be oblivious to the fact that the Municipality will effectively bear the costs on behalf of the other appellants if the respondents' submission is granted. There are several significant concerns aside from those expressed by the respondents that merit consideration. These are:

- (a) The high court urgently issued the order, recognising that it involves a matter of public interest.
- (b) The high court's order was minimally burdensome, merely directing the Municipality to re-advertise.
- (c) It is clear that the Municipality has been using public funds since 2023 to date to support the indefensible.
- (d) The third to fifth appellants are clinging to the benefit of the fees paid by the Municipality on their behalf, while funds that could be used by the Municipality for service delivery are clearly being drained by ongoing litigation. On the other hand, the respondents have been covering expenses out of their own pockets so far.
- (e) The Municipality and the other appellants are committed to supporting an appointment that the MEC did not approve.
- (f) The inaction of the MEC, which the appellants are clinging on to avoid addressing the ongoing occupation of the Municipal Manager's office by Mr Segapo up to this date, even after the enforcement order was granted, including their failure

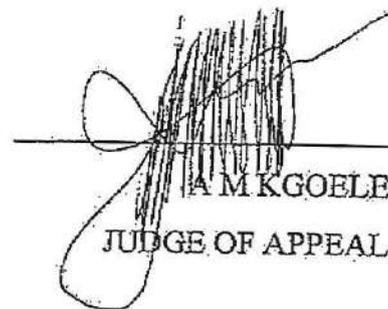
to withdraw or prosecute the appeal under s 18(4)(a)(ii), serves as a sticking point that leaves a distasteful impression of their approach to resolving the disputes.

(g) This conduct is reprehensible as it indicates a flagrant abuse of office or positions by public officials, who are acutely aware of the egregious breaches of the legal frameworks governing the local government sphere.

[29] In light of the foregoing considerations, this Court is of the view that it would be fair and consistent with the interests of justice, including the welfare of the general public, to safeguard the public purse by ordering the third to fifth appellants to personally bear the costs of this appeal and that of the application for leave to appeal. The costs should be on a party and party scale.

[30] The following order is thus made:

- 1 The appeal is dismissed.
- 2 The third to fifth appellants are ordered to personally pay the costs of this appeal, including the costs of the application for leave to appeal on a party and party scale, jointly and severally, the one paying the other to be absolved. Such costs to include costs of two counsel where so employed.


A M KGOELE
JUDGE OF APPEAL

Appearances

For the appellants: E Mokuu SC (with J H Mollentze)
Instructed by: Du Plessis Viviers Inc., Mahikeng
Phatshoane Henney Incorporated,
Bloemfontein

For the first to fourth respondents: C Z Muza (with B J Maboea)
Instructed by: Mabapa Attorneys Inc., Pretoria
Matlho Attorneys Inc., Bloemfontein.

6. **COUNCIL MATTER: APPOINTMENT OF THE ACTING MUNICIPAL MANAGER (4/1/2)**

ATTACHMENT

1. Annexure A: Government Gazette 46740: Local Government: Municipal Systems Amendment Act, 2022

PURPOSE

To request Council to appoint an Acting Municipal Manager

BACKGROUND

Section 54A of the Municipal Systems Act, as amended states:

“Appointment of municipal managers and acting municipal managers

54A. (1) The municipal council must appoint—

(a) a municipal manager as head of the administration of the municipal council; or

(b) an acting municipal manager under circumstances and for a period as prescribed.

(2) A person appointed as municipal manager or acting municipal manager in terms of subsection (1) must at least have the skills, expertise, competencies and qualifications as prescribed.

(2A) (a) A person appointed in terms of subsection (1)(b) may not be appointed to act for a period that exceeds three months.

(b) A municipal council may, in special circumstances and on good cause shown, apply in writing to the MEC for local government to extend the period of appointment contemplated in paragraph (a), for a further period that does not exceed three months.

(3) A decision to appoint a person as municipal manager, and any contract concluded between the municipal council and that person in consequence of the decision, is null and void if—

(a) the person appointed does not have the prescribed skills, expertise, competencies or qualifications; or

(b) the appointment was otherwise made in contravention of this Act.

(4) If the post of municipal manager becomes vacant, the municipal council must—

(a) advertise the post nationally to attract a pool of candidates nationwide; and

(b) select from the pool of candidates a suitable person who complies with the prescribed requirements for appointment to the post

(5) The municipal council must re-advertise the post if there is no suitable candidate who complies with the prescribed requirements.

(6) (a) The municipal council may request the MEC for local government to second a suitable person, on such conditions as prescribed, to act in the advertised position until such time as a suitable candidate has been appointed.

As The Supreme Court Of Appeal Of South Africa ordered Naledi Local Municipality Council on the 14th November 2025, the appointment of an acting Municipal Manager by Council is required.

DISCUSSION

In reference to the above clauses, Council is thus obligated to appoint an Acting Municipal Manager as of 17 November 2025 for a period not exceeding three months. The re-advertisement of the position has been approved and thus the recruitment process will be finalized within the three months.

RECOMMENDATION

1. That Council appoints _____ as Acting Municipal Manager as of 17th November 2025.
2. That the Acting Appointment will be valid until the appointment of a substantive Municipal Manager, but not exceeding three months.
3. That the Acting Municipal Manger must replace and continue with the Recruitment of The Director: Community Services appointment.
4. That the Acting Municipal Manger must replace and continue with the Recruitment of The Director: Corporate Services appointment.

Department: Speakers Office

SUBMITTED FOR APPROVAL



Government Gazette

REPUBLIC OF SOUTH AFRICA

Vol. 686

Cape Town
Kaapstad

17 August 2022

No. 46740

THE PRESIDENCY

No. 1233 17 August 2022

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

Act No. 3 of 2022: Local Government: Municipal Systems Amendment Act, 2022

DIE PRESIDENSIE

No. 1233 17 Augustus 2022

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

Wet No. 3 van 2022: Wysigingswet op Plaaslike Regering: Munisipale Stelsels, 2022

ISSN 1682-5845



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M. K. M.

GENERAL EXPLANATORY NOTE:

- [] Words in bold type in square brackets indicate omissions from existing enactments.
- _____ Words underlined with a solid line indicate insertions in existing enactments.

(English text signed by the President)
(Assented to 16 August 2022)

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 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.

ALGEMENE VERDUIDELIKENDE NOTA:

- [] Woorde in vet druk tussen vierkantige hake dui skrapings uit bestaande verordenings aan.
- _____ Woorde met 'n volstreep daaronder dui invoegings in bestaande verordenings aan.

 (Engelse teks deur die President geteken)
 (Goedgekeur op 16 Augustus 2022)

WET

Tot wysiging van die Wet op Plaaslike Regering: Munisipale Stelsels, 2000, ten einde sekere omskrywings in te voeg en te wysig; verder voorsiening te maak vir die aanstelling van munisipale bestuurders en bestuurders wat regstreeks aan munisipale bestuurders verantwoordbaar is; voorsiening te maak vir prosedures en bevoegdheidmaatstawwe vir sodanige aanstellings, en vir die gevolge van aanstellings gemaak wat nie in lyn is met sodanige prosedures en maatstawwe nie; tydsbestekke te bepaal waarbinne prestasie-ooreenkomste van munisipale bestuurders en bestuurders wat regstreeks aan munisipale bestuurders verantwoordbaar is, aangegaan moet word; verder voorsiening te maak vir die evaluasie van die prestasie van munisipale bestuurders en bestuurders wat regstreeks aan munisipale bestuurders verantwoordbaar is; te vereis dat dienskontrakte en prestasie-ooreenkomste van munisipale bestuurders en bestuurders wat regstreeks aan die munisipale bestuurder verantwoordbaar is, bestaanbaar is met die Wet en enige regulasies deur die Minister gemaak; te vereis dat alle personeelstelsels en -prosedures van 'n munisipaliteit bestaanbaar is met die eenvormige standaarde by regulasie deur die Minister bepaal; munisipale bestuurders en bestuurders wat regstreeks aan munisipale bestuurders aanspreeklik is, te belet om politieke ampte in politieke partye te beklee; die aanstelling van munisipale werknemers wat afgedank is, te reguleer; voorsiening te maak vir die Minister om regulasies te maak oor die pligte, vergoeding, voordele en ander bepalinge en voorwaardes van indiensneming van munisipale bestuurders en bestuurders wat regstreeks aan munisipale bestuurders verantwoordbaar is; voorsiening te maak vir die goedkeuring van diensstate van munisipaliteite deur die onderskeie munisipale rade; die indiensneming van 'n persoon in 'n munisipaliteit te belet as die diensstaat van daardie munisipaliteit nie voorsiening maak vir die pos waarin hy of sy aangestel word nie; die Minister in staat te stel om tydsbestekke voor te skryf om menslikelshulpbronsbestuurstelsels vir plaaslike regering en opdragte vir georganiseerde plaaslike regering te reguleer; die Minister se bevoegdhede om regulasies oor munisipale personeel-aanleenthede te maak; uit te lei; 'n gevolglike wysiging aan die Wet op Plaaslike Regering: Munisipale Strukture, 1998, aan te bring deur die bepaling te skrap wat oor die aanstelling van munisipale bestuurders handel; en om voorsiening te maak vir aanleenthede wat daarmee in verband staan.

B E IT ENACTED by the Parliament of the Republic of South Africa, as follows:—

Amendment of section 1 of Act 32 of 2000, as amended by section 1 of Act 44 of 2003, section 35 of Act 51 of 2002 and section 1 of Act 7 of 2011

1. Section 1 of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000) (hereinafter referred to as the "principal Act"), is hereby amended—

(a) by the substitution for the definition of "municipal manager" of the following definition:

"**'municipal manager'** means a person appointed in terms of section 54A";

(b) by the substitution for the definition of "political office" of the following definition:

"**'political office'**, in relation to a political party or structure thereof, means—

(a) the position of chairperson, deputy chairperson, secretary, deputy secretary, treasurer or an elected or appointed decision-making position of a political party nationally or in any province, region or other area in which the party operates; or

(b) any position in the party equivalent to a position referred to in paragraph (a), irrespective of the title designated to the position";

(c) by the insertion after the definition of "resident" of the following definition:

"**'secondment'** means an employee who perform duties in terms of an agreement between their employer and the relevant official in organ of state receiving the employee";

Substitution of section 54A of Act 32 of 2000, as inserted by section 2 of Act 7 of 2011 and amended by section 4 of Act 7 of 2011

2. The following section is hereby substituted for section 54A of the principal Act:

"Appointment of municipal managers and acting municipal managers

54A. (1) The municipal council must appoint—

(a) a municipal manager as head of the administration of the municipal council; or

(b) an acting municipal manager under circumstances and for a period as prescribed.

(2) A person appointed as municipal manager or acting municipal manager in terms of subsection (1) must at least have the skills, expertise, competencies and qualifications as prescribed.

(2A) (a) A person appointed in terms of subsection (1)(b) may not be appointed to act for a period that exceeds three months.

(b) A municipal council may, in special circumstances and on good cause shown, apply in writing to the MEC for local government to extend the period of appointment contemplated in paragraph (a), for a further period that does not exceed three months.

(3) A decision to appoint a person as municipal manager, and any contract concluded between the municipal council and that person in consequence of the decision, is null and void if—

(a) the person appointed does not have the prescribed skills, expertise, competencies or qualifications; or

(b) the appointment was otherwise made in contravention of this Act.

(4) If the post of municipal manager becomes vacant, the municipal council must—

(a) advertise the post nationally to attract a pool of candidates nationwide; and

(b) select from the pool of candidates a suitable person who complies with the prescribed requirements for appointment to the post.

M. K. M

DAAR WORD BEPAAL deur die Parlement van die Republiek van Suid-Afrika, soos volg:—

Wysiging van artikel 1 van Wet 32 van 2000, soos gewysig deur artikel 1 van Wet 44 van 2003, artikel 35 van Wet 51 van 2002 en artikel 1 van Wet 7 van 2011

1. Artikel 1 van die Wet op Plaaslike Regering: Munisipale Stelsels, 2000 (Wet No. 32 van 2000) (hierna die "Hooftwet" genoem), word hierby gewysig—

- (a) deur die omskrywing van munisipale bestuurder" deur die volgende omskrywing te vervang:
- "munisipale bestuurder" 'n persoon ingevolge artikel 54A aangestel;
- (b) deur die omskrywing van "politieke amp" deur die volgende omskrywing te vervang:
- "politieke amp", ten opsigte van 'n politieke party of struktuur daarvan—
- (a) die amp van voorsitter, ondervoorsitter, sekretaris, ondersekretaris, tesourier of 'n verkose of aangestelde besluitnemende amp van die party op nasionale vlak of in enige provinsie, streek of ander area waarin die party werksaam is; of
- (b) enige amp in die party gelykstaande aan 'n amp in paragraaf (a) bedoel, ongeag die titel wat aan die amp toegeken is;"
- (c) deur die volgende omskrywing na die omskrywing van "registrator van aktes" in te voeg:
- "sekondering" 'n werknemer wat pligte verrig ingevolge 'n ooreenkoms tussen hulle werknemer en die tersaaklike beampte in die staatsorgaan wat die werknemer ontvang;"

Vervanging van artikel 54A van Wet 32 van 2000, soos ingevoeg deur artikel 2 van Wet 7 van 2011 en gewysig deur artikel 4 van Wet 7 van 2011

2. Artikel 54A van die Hooftwet word hierby deur die volgende artikel vervang:

Aanstelling van munisipale bestuurders en waarnemende munisipale bestuurders

54A. (1) Die munisipale raad moet—

- (a) 'n munisipale bestuurder as hoof van die administrasie van die munisipale raad aanstel; of
- (b) 'n waarnemende munisipale bestuurder onder die voorgeskrewe omstandighede en vir 'n voorgeskrewe tydperk aanstel.
- (2) 'n Persoon ingevolge subartikel (1)(b) as munisipale bestuurder of waarnemende munisipale bestuurder aangestel, moet ten minste die voorgeskrewe vaardighede, kundigheid, bevoegdheid en kwalifikasies hê.
- (2A) (a) 'n Persoon ingevolge subartikel (1)(b) aangestel, mag nie aangestel word om vir 'n tydperk van langer as drie maande waar te neem nie.
- (b) 'n Munisipale raad kan, in spesiale omstandighede en by die aanvoer van goeie gronde, skriftelik by die LUR vir plaaslike regering aansoek doen om die tydperk van aanstelling in paragraaf (a) beoog, vir 'n verdere tydperk van hoogstens drie maande te verleng.
- (3) 'n Besluit om 'n persoon as 'n munisipale bestuurder aan te stel, en enige kontrak tussen die munisipale raad en daardie persoon aangegaan as gevolg van die besluit, is van nul en gener waarde indien—
- (a) die aangestelde persoon nie die voorgeskrewe vaardighede, kundigheid, bevoegdheid of kwalifikasies het nie; of
- (b) die aanstelling andersins in stryd met hierdie Wet gemaak is.
- (4) Indien die pos van munisipale bestuurder vakant word, moet die munisipale raad—
- (a) die pos landwyd adverteer om 'n pool van kandidate van regoor die land te trek; en
- (b) 'n geskikte kandidaat uit die pool kandidate kies wat aan die voorgeskrewe vereistes vir aanstelling in die pos voldoen.

(5) The municipal council must re-advertise the post if there is no suitable candidate who complies with the prescribed requirements.

(6) (a) The municipal council may request the MEC for local government to second a suitable person, on such conditions as prescribed, to act in the advertised position until such time as a suitable candidate has been appointed.

(b) If the MEC for local government has not seconded a suitable person within a period of 60 days after receipt of the request referred to in paragraph (a), the municipal council may request the Minister to second a suitable person, on such conditions as prescribed, until such time as a suitable candidate has been appointed.

(7) (a) The municipal council must, within 14 days, inform the MEC for local government of the appointment process and outcome, as may be prescribed.

(b) The MEC for local government must, within 14 days of receipt of the information referred to in paragraph (a), submit a copy thereof to the Minister.

(8) If a person is appointed as municipal manager in contravention of this section, the MEC for local government must, within 14 days of receiving the information provided for in subsection (7), take appropriate steps to enforce compliance by the municipal council with this section, which may include an application to a court for a declaratory order on the validity of the appointment, or any other legal action against the municipal council.

(9) Where an MEC for local government fails to take appropriate steps referred to in subsection (8), the Minister may take the steps contemplated in that subsection.

(10) If the MEC for local government fails to respond to the appointment process and outcome within the timeframes, as contemplated in subsection (8), or the Minister fails to respond as contemplated in subsection (9), the appointment of the municipal manager or acting municipal manager will be deemed to be in compliance with this Act: Provided the municipal council submitted all relevant documents, as prescribed.

(11) A municipal council may, in special circumstances and on good cause shown, apply in writing to the Minister to waive any of the requirements listed in subsection (2) if it is unable to attract suitable candidates.

(12) A person who has been appointed as acting municipal manager before this section took effect, must be regarded as having been appointed in accordance with this section for the period of the acting appointment.

(13) Any pending legal or disciplinary action in connection with an appointment made before this section took effect, will not be affected by this section after it took effect.

Substitution of section 56 of Act 32 of 2000, as substituted by section 3 of Act 7 of 2011 and amended by section 4 of Act 7 of 2011

3. The following section is hereby substituted for section 56 of the principal Act:

“Appointment of managers directly accountable to municipal managers

56. (1) (a) A municipal council, after consultation with the municipal manager, must appoint—

- (i) a manager directly accountable to the municipal manager; or
- (ii) an acting manager directly accountable to the municipal manager under circumstances and for a period as prescribed.

(5) Die munisipale raad moet die pos heradvertiseer as daar geen geskikte kandidaat is wat aan die voorgeskrywe vereistes voldoen nie.

(6) (a) Die munisipale raad kan die LUR vir plaaslike regering versoek om 'n geskikte persoon, op sodanige voorwaardes wat voorgeskryf word, te sekondeer om in die geadverteerde posisie waar te neem totdat 'n geskikte kandidaat aangestel is.

(b) Indien die LUR vir plaaslike regering binne 'n tydperk van 60 dae ná ontvangs van die versoek in paragraaf (a) bedoel nie 'n geskikte persoon sekondeer het nie, kan die munisipale raad versoek dat die Minister 'n geskikte persoon, op sodanige voorwaardes soos voorgeskryf, sekondeer om in die geadverteerde posisie waar te neem totdat 'n geskikte kandidaat aangestel is.

(7) (a) Die munisipale raad moet die LUR vir plaaslike regering binne 14 dae inlig van die aanstellingsproses en die resultaat daarvan, soos voorgeskryf.

(b) Die LUR vir plaaslike regering moet, binne 14 dae van ontvangs van die inligting in paragraaf (a) bedoel, 'n afskrif daarvan aan die Minister voorleë.

(8) Indien 'n persoon in stryd met hierdie artikel as munisipale bestuurder aangestel word, moet die LUR vir plaaslike regering, binne 14 dae van ontvangs van die inligting waarvoor in subartikel (7) voorsiening gemaak word, gepaste stappe doen om nakoming van hierdie artikel deur die munisipale raad af te dwing, wat 'n aansoek by 'n hof om 'n verklarende bevel oor die geldigheid van die aanstelling, of enige ander geregtelike aksie teen die munisipale raad, kan insluit.

(9) Indien 'n LUR vir plaaslike regering versuim om die gepaste stappe in subartikel (8) bedoel, te doen, kan die Minister die stappe beoog in daardie subartikel doen.

(10) Indien die LUR vir plaaslike regering versuim om binne die tydsbestekke op die aanstellingsproses en uitslag te reageer, soos in subartikel (8) beoog, of die Minister versuim om te reageer soos in subartikel (9) beoog, sal die aanstelling van die munisipale bestuurder of waarnemende munisipale bestuurder geag word aan hierdie Wet te voldoen. Met dien verstande dat die munisipale raad alle tersaaklike dokumente, soos voorgeskryf, ingedien het.

(11) 'n Munisipale raad kan, onder spesiale omstandighede en by die aanvoer van goeie gronde, skriftelik by die Minister aansoek doen om kwytskolding van enige van die vereistes in subartikel (2) gelys as die raad nie geskikte kandidate kan trek nie.

(12) 'n Persoon wat as 'n waarnemende munisipale bestuurder aangestel is voordat hierdie artikel in werking getree het, moet geag word ooreenkomstig hierdie artikel aangestel te wees vir die tydperk van die waarnemende aanstelling.

(13) Enige hangende geregtelike aksie of dissiplinêre aksie in verband met 'n aanstelling wat gemaak is voordat hierdie artikel in werking getree het, sal nie deur hierdie artikel geraak word nadat dit in werking getree het nie.

Vervanging van artikel 56 van Wet 32 van 2000, soos vervang deur artikel 3 van Wet 7 van 2011 en gewysig deur artikel 4 van Wet 7 van 2011

3. Artikel 56 van die Hoofwet word hierby deur die volgende artikel vervang:

"Aanstelling van bestuurders wat registreerds aan munisipale bestuurders verantwoordbaar is

56. (1)(a) 'n Munisipale raad, na oorleg met die munisipale bestuurder, moet—

(i) 'n bestuurder aanstel wat registreerds aan die munisipale bestuurder verantwoordbaar is; of

(ii) 'n waarnemende bestuurder aanstel wat registreerds aan die munisipale bestuurder verantwoordbaar is onder voorgeskrywe omstandighede en vir 'n voorgeskrywe tydperk.

(b) A person appointed in terms of paragraph (a)(i) or (ii) must at least have the skills, expertise, competencies and qualifications as prescribed.

(c) A person appointed in terms of paragraph (a)(ii) may not be appointed to act for a period that exceeds three months: Provided that a municipal council may, in special circumstances and on good cause shown, apply in writing to the MEC for local government to extend the period of appointment contemplated in paragraph (a), for a further period that does not exceed three months.

(2) A decision to appoint a person referred to in subsection (1)(a)(i) or (ii), and any contract concluded between the municipal council and that person in consequence of the decision, is null and void if—

(a) the person appointed does not have the prescribed skills, expertise, competencies or qualifications; or

(b) the appointment was otherwise made in contravention of this Act, unless the Minister, in terms of subsection (6), has waived any of the requirements listed in subsection (1)(b).

(3) If a post referred to in subsection (1)(a)(i) becomes vacant, the municipal council must—

(a) advertise the post nationally to attract a pool of candidates nationwide; and

(b) select from the pool of candidates a suitable person who complies with the prescribed requirements for appointment to the post.

(4) The municipal council must re-advertise the post if there is no suitable candidate who complies with the prescribed requirements.

(5) (a) The municipal council must, within 14 days of the date of appointment, inform the MEC for local government of the appointment process and outcome, as may be prescribed.

(b) The MEC for local government must, within 14 days of receipt of the information referred to in paragraph (a), submit a copy thereof to the Minister.

(6) If a person is appointed to a post referred to in subsection (1)(a) in contravention of this Act, the MEC for local government must, within 14 days of becoming aware of such appointment, take appropriate steps to enforce compliance by the municipal council with this Act, which steps may include an application to a court for a declaratory order on the validity of the appointment or any other legal action against the municipal council.

(7) A municipal council may, in special circumstances and on good cause shown, apply in writing to the Minister to waive any of the requirements listed in subsection (1)(b) if it is unable to attract suitable candidates.

(8) A person appointed in a permanent capacity as a manager directly accountable to the municipal manager when this section takes effect, must be regarded as having been appointed in accordance with this section.

(9) A person appointed as an acting manager directly accountable to the municipal manager when this section takes effect, must be regarded as having been appointed in accordance with this section only for the period of the acting appointment.

(10) Any pending legal or disciplinary action in connection with an appointment made before this section took effect, will not be affected by this section after it took effect.

Amendment of section 57 of Act 32 of 2000, as amended by section 8 of Act 44 of 2003, section 12 of Act 19 of 2008 and section 6 of Act 7 of 2011

4. Section 57 of the principal Act is hereby amended—

(a) by the substitution in subsection (2) for paragraph (a) of the following paragraph:

“(a) (i) be concluded within 60 days after commencement of service, failing which the appointment lapses: Provided that, upon good cause shown by such person to the satisfaction of the municipal council, the appointment shall not lapse; and

(b) 'n Persoon wat ingevolge paragraaf (a)(i) of (ii) aangestel is, moet ten minste die voorgeskrewe vaardighede, kundigheid, bevoegdhe en kwalifikasies hê.

(c) 'n Persoon wat ingevolge paragraaf (a)(ii) aangestel is, mag nie aangestel word om waar te neem vir 'n tydperk wat drie maande oorskry nie. Met dien verstande dat 'n munisipale raad, onder spesiale omstandighede en by die aanvoer van goeie gronde, skriftelik by die LUR vir plaaslike regering kan aansoek doen om die tydperk van aanstelling in paragraaf (a) beoog vir 'n verdere tydperk van hoogstens drie maande te verleng.

(2) 'n Besluit om 'n persoon in subartikel (1)(a)(i) of (ii) bedoel aan te stel, en enige kontrak op grond van daardie besluit tussen die munisipale raad en daardie persoon aangegaan, is van nul en géen waarde indien—

(a) die aangestelde persoon nie die voorgeskrewe vaardighede, kundigheid, bevoegdhe of kwalifikasies het nie; of

(b) die aanstelling andersins in stryd met hierdie Wet gemaak is, tensy die Minister, ingevolge subartikel (6); kwytskelding toegestaan het van enige van die vereistes in subartikel (1)(b) genoem.

(3) As 'n pos bedoel in subartikel (1)(a)(i) vakant word, moet die munisipale raad—

(a) die pos landwyd adverteer om 'n poel van kandidate van regoor die land te trek; en

(b) 'n geskikte persoon uit die poel kandidate kies wat aan die voorgeskrewe vereistes vir aanstelling in die pos voldoen.

(4) Die munisipale raad moet die pos heradverteer indien daar geen geskikte kandidaat is wat aan die voorgeskrewe vereistes voldoen nie.

(5) (a) Die munisipale raad moet, binne 14 dae van die datum van aanstelling, die LUR vir plaaslike regering inlig van die aanstellingsproses en uitslag, soos voorgeskryf.

(b) Die LUR vir plaaslike regering moet, binne 14 dae van ontvangs van die inligting in paragraaf (a) bedoel, 'n afskrif daarvan aan die Minister voorleë.

(6) Indien 'n persoon in stryd met hierdie Wet in 'n pos bedoel in subartikel (1)(a) aangestel word, moet die LUR vir plaaslike regering, binne 14 dae sedert bewuswording van sodanige aanstelling, gepaste stappe doen om nakoming deur die munisipale raad met hierdie Wet af te dwing, welke stappe 'n aansoek by 'n hof om 'n verklarende bevel oor die geldigheid van die aanstelling of enige ander geregtelike aksie teen die munisipale raad kan insluit.

(7) 'n Munisipale raad kan, onder spesiale omstandighede en by die aanvoer van goeie gronde, skriftelik by die Minister aansoek doen om kwytskelding van enige van die vereistes gelys in subartikel (1)(b) as die munisipale raad nie geskikte kandidate kan trek nie.

(8) 'n Persoon wat in 'n permanente hoedanigheid as bestuurder wat regstreeks aan die munisipale bestuurder verantwoordbaar is, aangestel is wanneer hierdie artikel in werking tree, moet geag word ooreenkomstig hierdie artikel aangestel te wees.

(9) 'n Persoon wat as 'n waarnemende bestuurder wat regstreeks aan die munisipale bestuurder verantwoordbaar is, aangestel is wanneer hierdie artikel in werking tree, moet geag word ooreenkomstig hierdie artikel aangestel te wees slegs vir die tydperk van die waarnemende aanstelling.

(10) Enige hangende of dissiplinêre aksie in verband met 'n aanstelling gemaak voordat hierdie artikel in werking getree het, sal nie deur hierdie artikel geraak word nadat dit in werking getree het nie."

Wysiging van artikel 57 van Wet 32 van 2000, soos gewysig deur artikel 8 van Wet 44 van 2003, artikel 12 van Wet 19 van 2008 en artikel 6 van Wet 7 van 2011

4. Artikel 57 van die Hoofwet word hierby gewysig—

(a) deur in subartikel (2) paragraaf (a) deur die volgende paragraaf te vervang:

"(a) (i) binne 60 dae vanaf aanvang van diens, by gebruke waarvan die aanstelling verval. Met dien verstande dat, by die aanvoer van goeie gronde deur sodanige persoon tot die ontuiging van die munisipaliteit, die aanstelling nie sal verstryk nie; en

- (i) be concluded annually, thereafter, within one month after the beginning of each financial year of the municipality.”;
- (b) by the substitution for subsection (3) of the following subsection:
“(3) The employment contract referred to in subsection (1)(a) must—
- (a) include details of duties, remuneration, benefits and other terms and conditions of employment, as agreed to by the parties, subject to consistency with—
- (i) this Act;
- (ii) any regulations as may be prescribed that are applicable to municipal managers or managers directly accountable to municipal managers; and
- (iii) any applicable labour legislation; and
- (b) be signed by both parties before the commencement of service.”;
- (c) by the substitution for subsection (3A) of the following subsection:
“(3A) Any regulations that relate to the duties, remuneration, benefits and other terms and conditions of employment of municipal managers or managers directly accountable to municipal managers, must be regarded as forming part of an employment contract referred to in subsection (1)(a).”;
- (d) by the deletion in subsection (4) of paragraph (b);
- (e) by the substitution for subsection (4C) of the following subsection:
“(4C) Any regulations that relate to standards and procedures for evaluating performance of municipal managers or managers directly accountable to municipal managers, and intervals for evaluation, must be regarded as forming part of a performance agreement referred to in subsection (1)(b).”;
- (f) by the substitution for subsection (6) of the following subsection:
“(6) The employment contract for a municipal manager must —
- (a) be for a non-renewable fixed term of employment up to a maximum of five years, not exceeding a period ending one year after the election of the next council of the municipality;
- (b) include a provision for cancellation of the contract, in the case of non-compliance with the employment contract or, where applicable, the performance agreement; and
- (c) stipulate the terms of the renewal of the employment contract, but only by agreement between the parties; and
- (d) reflect the values and principles referred to in section 50, the Code of Conduct set out in Schedule 2, and the management standards and practices contained in section 51.”; and
- (g) by the substitution for subsection (7) of the following subsection:
“(7) The contract of employment of a manager directly accountable to the municipal manager must be on a permanent basis.”.

Substitution of section 57A in Act 32 of 2000, as inserted by section 7 of Act 7 of 2011

5. The following section is hereby substituted for section 57A of the principal Act:

“Employment of dismissed staff and record of disciplinary proceedings

- 57A. (1) Any staff member dismissed for misconduct may only be re-employed in any municipality after the expiry of a prescribed period.
- (2) The Minister must prescribe different periods of expiry, as contemplated in subsection (1), for different categories of misconduct.
- (3) Notwithstanding subsections (1) and (2), a staff member dismissed for financial misconduct contemplated in section 171 of the Municipal Finance Management Act, corruption or fraud, may not be re-employed in any municipality for a period of 10 years.

- (ii) daarna jaarliks aangegeen word binne een maand ná die begin |
van elke finansiële jaar van die munisipale raad.”;
- (b) deur subartikel (3) deur die volgende subartikel te vervang: 5
“(3) Die dienskontrak bedoel in subartikel (1)(a) moet—
- (a) besonderhede van pligte, besoldiging, voordele en ander diens- 5
voorwaardes insluit soos waarop die partye ooreengekom het,
behoudens bestaanbaarheid met—
- (i) hierdie Wet;
- (ii) enige regulasies wat voorgeskryf kan word wat van toepassing 10
is op munisipale bestuurders of bestuurders wat regstreeks aan
munisipale bestuurders verantwoordbaar is; en
- (iii) enige toepaslike arbeidswetgewing; en
- (b) deur beide partye onderteken word voordat diens begin word.”;
- (c) deur subartikel (3A) deur die volgende subartikel te vervang: 15
“(3A) Enige regulasies wat verband hou met die pligte, besoldiging,
voordele en ander diensvoorwaardes van munisipale bestuurders of
bestuurders wat regstreeks aan munisipale bestuurders verantwoordbaar
is, word geag deel van ’n dienskontrak bedoel in subartikel (1)(a) te
wees.”;
- (d) deur paragraaf (b) in subartikel (4) te skrap; 20
- (e) deur subartikel (4C) deur die volgende subartikel te vervang: 25
“(4C) Enige regulasies wat verband hou met standarde en prosedures
vir die evaluering van die prestasie van munisipale bestuurders of
bestuurders wat regstreeks aan munisipale bestuurders verantwoordbaar
is, en tussenposes tussen evaluering; word deel van ’n prestasie-
ooreenkoms bedoel in subartikel (1)(b).”;
- (f) deur subartikel (6) deur die volgende subartikel te vervang: 30
“(6) Die dienskontrak vir ’n munisipale bestuurder moet—
- (a) vir ’n nie-hermubare vaste dien tydperk wees tot ’n maksimum van 30
vyf jaar wat nie ’n tydperk oorskry nie wat een jaar na die verkiesing
van die volgende raad van die munisipaliteit verstrik;
- (b) ’n bepaling insluit vir kansellering van die kontrak in die geval van
nie-nakoming van die dienskontrak of, waar toepaslik, die
prestasie-ooreenkoms; en
- (c) die bepalinge vir die hernuwing van die dienskontrak uiteensit, 35
maar slegs by ooreenkoms tussen die partye; en]
- (d) die waardes en beginsels bedoel in artikel 50, die gedragskode
uiteengesit in Bylae 2, en die bestuurstandarde en -gebruike vervat
in artikel 51 weergee.”; en
- (g) deur subartikel (7) deur die volgende subartikel te vervang: 40
“(7) Die dienskontrak van ’n bestuurder wat regstreeks aan die
munisipale bestuurder verantwoordbaar is, moet permanent wees.”;

Vervanging van artikel 57A in Wet 32 van 2000, soos ingevoeg deur artikel 7 van
Wet 7 van 2011

5. Artikel 57A van die Hoofwet word hierby deur die volgende artikel vervang: 45

“Indiensneming van ontskuande personeel en rekord van dissiplinêre
verrigtinge

- 57A. (1) Enige personeelid wat weens wangedrag ontslaan is, kan slegs
weer deur die munisipaliteit in diens geneem word nadat ’n voorgeskrewe
tydperk verstrik het. 50
- (2) Die Minister moet verskillende tydperke vir verstrikking, soos in
subartikel (1) bedoel, vir verskillende kategorieë van wangedrag voorskryf.
- (3) Ondanks subartikels (1) en (2), kan ’n personeelid wat vir finansiële
wangedrag bedoel in artikel 127 van die Munisipale Finansiële Bestuurswet
korruptsie of bedrog ontslaan is, mag vir ’n tydperk van 10 jaar nie weer in
enige munisipaliteit in diens geneem word nie. 55

(4) Notwithstanding subsection (1), the Minister may prescribe acts of misconduct in respect of which no period need expire before a person may again be employed in any municipality.

(5) Subject to subsection (1), a decision to employ a person dismissed for misconduct must be taken with due regard to the nature of the misconduct concerned. 5

(6) A municipality must maintain a record that contains the prescribed information regarding the disciplinary proceedings of staff members dismissed for misconduct and who resigned prior to finalisation of the disciplinary proceedings. 10

(7) A copy of the record referred to in subsection (6) must be submitted to the MEC for local government on a quarterly basis.

(8) The MEC for local government must, within 14 days of receipt of the record referred to in subsection (6), submit a copy thereof to the Minister.

(9) The Minister must maintain a record of all staff members that have— 15

(a) been dismissed for misconduct; or
(b) resigned prior to the finalisation of the disciplinary proceedings,
which record must be made available to municipalities as prescribed.”

Amendment of section 66 of Act 32 of 2000, as amended by section 8 of Act 7 of 2011

6. Section 66 of the principal Act is hereby amended— 20

(a) by the substitution in subsection (1) for paragraph (a) of the following paragraph:

“(a) develop a staff establishment for the municipality, and submit the staff establishment to the municipal council for approval;” and

(b) by the substitution for subsections (3), (4) and (5) of the following 25 subsections, respectively:

“(3) No person may be employed in a municipality unless the post to which he or she is appointed, is provided for in the staff establishment of that municipality.

(4) A decision to employ a person in a municipality, and any contract concluded between the municipality and that person in consequence of the decision, is null and void if the appointment was made in contravention of subsection (3). 30

(5) Any person who takes a decision contemplated in subsection (4), knowing that the decision is in contravention of subsection (3), may be held personally liable for any irregular or fruitless and wasteful expenditure that the municipality may incur as a result of the invalid decision.” 35

Amendment of section 67 of Act 32 of 2000, as amended by section 38 of Act 51 of 2002 and section 9 of Act 7 of 2011 40

7. Section 67 of the principal Act is hereby amended—

(a) by the substitution in subsection (1) for the words preceding paragraph (a) of the following words:

“A municipality, in accordance with applicable law and subject to any applicable collective agreement, must develop and adopt appropriate systems and procedures, consistent with any uniform standards prescribed in terms of section 72(1)(c), to ensure fair, efficient, effective and transparent personnel administration, including—” and 45

(b) by the substitution for subsection (3) of the following subsection:

“(3) Systems and procedures adopted in terms of subsection (1) apply also to a person referred to in section 57.” 50

Substitution of section 71 of Act 32 of 2000, as substituted by section 10 of Act 7 of 2011

8. The following section is hereby substituted for section 71 of the principal Act:

(4) Ondanks subartikel (1), kan die Minister wangedrag voorskryf ten opsigte waarvan geen tydperk hoef te verstrek voordat 'n persoon weer in enige munisipaliteit in diens geneem kan word nie.

(5) Behoudens subartikel (1), moet 'n besluit om 'n persoon wat weens wangedrag afgedank is, weer aan te stel, met die nodige inagneming van die aard van die betrokke wangedrag geneem word.

(6) 'n Munisipaliteit moet 'n rekord hou wat die voorgeskrewe inligting bevat oor die dissiplinêre verrigtinge van personeellede wat weens wangedrag ontslaan is en wat bedank het voordat die dissiplinêre verrigtinge afgehandel is.

(7) 'n Afskrif van die rekord bedoel in subartikel (6) moet kwartaaliks aan die LUR vir plaaslike regering voorgelê word.

(8) Die LUR vir plaaslike regering moet, binne 14 dae vanaf ontvangs van die rekord in artikel (6) bedoel, 'n afskrif daarvan aan die Minister voorlê.

(9) Die Minister moet 'n rekord hou van alle personeellede wat—

- (a) weens wangedrag ontslaan is; of
(b) voor die afhandeling van dissiplinêre verrigtinge bedank het, welke rekord soos voorgeskryf aan munisipaliteite beskikbaar gestel moet word."

Wysiging van artikel 66 van Wet 32 van 2000, soos gewysig deur artikel 8 van Wet 7 van 2011

6. Artikel 66 van die Hoofwet word hierby gewysig—

(a) deur in subartikel (1) paragraaf (a) deur die volgende paragraaf te vervang:

"(a) 'n diensstaat vir die munisipaliteit ontwikkel, en die diensstaat aan die munisipale raad vir goedkeuring voorlê;" en

(b) deur subartikels (3), (4) en (5) onderskeidelik deur die volgende subartikels te vervang:

(3) Geen persoon kan in 'n munisipaliteit in diens geneem word tensy voorsiening in die diensstaat van daardie munisipaliteit gemaak word vir die pos waarin hy of sy aangestel word nie.

(4) 'n Besluit om 'n persoon in 'n munisipaliteit in diens te neem, en enige kontrak wat ten gevolge van die besluit tussen die munisipaliteit en daardie persoon aangegaan word, is van nul en gener waarde indien die aanstelling in stryd met subartikel (3) gemaak is.

(5) 'n Persoon wat 'n besluit beoog in subartikel (4) neem, wetend dat die besluit in stryd met subartikel (3) is, kan persoonlik aanspreeklik gehou word vir enige onreëlmatige of vrugtelose en verkwistende uitgawes wat die munisipaliteit as gevolg van die ongeldige besluit mag gegaan."

Wysiging van artikel 67 van Wet 32 van 2000, soos gewysig deur artikel 38 van Wet 51 van 2002 en artikel 9 van Wet 7 van 2011

7. Artikel 67 van die Hoofwet word hierby gewysig—

(a) deur in subartikel (1) die woorde wat paragraaf (a) voorafgaan deur die volgende woorde te vervang:

"'n Munisipaliteit moet, ooreenkomstig toepaslike wetgewing en behoudens enige toepaslike kollektiewe ooreenkoms, toepaslike stelsels en prosedures ontwikkel en aanneem wat bestaanbaar is met oëwettige standaarde ingevolge artikel 72(1)(c) voorgeskryf ten einde billike, doeltreffende, effektiewe en deursigtige personeeladministrasie te verseker, insluitende—" en

(b) deur subartikel (3) deur die volgende subartikel te vervang:

"(3) Stelsels en prosedures wat ingevolge subartikel (1) aangeneem word, is ook op 'n persoon bedoel in artikel 57 van toepassing."

Vervanging van artikel 71 van Wet 32 van 2000, soos vervang deur artikel 10 van Wet 7 van 2011

8. Artikel 71 van die Hoofwet word hierby deur die volgende artikel vervang:

"Bargaining council agreements"

71. (1) Organised local government must, before embarking on any negotiations with parties in the bargaining council established for municipalities, consult—

- (a) the Financial and Fiscal Commission established in terms of section 220 of the Constitution;
- (b) the Minister; and
- (c) any other parties as may be prescribed.

(2) Organised local government must, in concluding any collective agreement resulting from negotiations contemplated in subsection (1), take into account—

- (a) the budgets of municipalities;
- (b) the fiscal capacity and efficiency of municipalities; and
- (c) national economic policies.

(3) Municipalities must comply with any collective agreements concluded by organised local government within its mandate on behalf of local government in the bargaining council established for municipalities."

Insertion of section 71B in Act 32 of 2000

9. The following section is hereby inserted in the principal Act after section 71A:

"Limitation of political rights"

71B. (1) A staff member may not hold political office in a political party, whether in a permanent, temporary or acting capacity.

(2) A person who has been appointed as a staff member before subsection (1) takes effect, must comply with subsection (1) within one year of the commencement of subsection (1)."

Amendment of section 72 of Act 32 of 2000, as amended by section 15 of Act 19 of 2008 and section 11 of Act 7 of 2011

10. Section 72 of the principal Act is hereby amended—

(a) by the substitution in subsection (1) for subparagraph (ii) of paragraph (c) of the following subparagraph:

"(ii) municipal staff systems and procedures referred to in section 67(1) and the matters that must be dealt with in such systems and procedures, including—
(aa) transfers; and
(bb) termination of service; and"

(b) by the substitution in subsection (1) for paragraph (e) of the following paragraph:

"(e) training, competency and skills development of staff members of municipalities, including in-house training, subject to the requirements of the Skills Development Act, 1998 (Act No. 81 of 1998), the Skills Development Levies Act, 1999 (Act No. 28 of 1999), and the Municipal Finance Management Act;"

(c) by the substitution in subsection (1) for paragraphs (gA), (gB) and (gC) of the following paragraphs, respectively:

"(gA) subject to applicable labour legislation, the regulation of medical aid and pension, after consultation with the Minister of Health and the Minister of Finance;

(gB) the level of skills, expertise and competency that municipal managers and managers directly accountable to municipal managers must have;

(gC) prohibiting the performance of remunerative work outside the municipality;"

(d) by the deletion in subsection (2) at the end of paragraph (a) of the word "and";

Bedingsraadbesluite

71. (1) Georganiseerde plaaslike regering moet, voor in enige onderhandelinge met partye in die bedingsraad ingestel vir munisipaliteite getref word, ooreë kom met—
- (a) die Finansiële en Fiskale Kommissie ingestel ingevolge artikel 220 van die Grondwet;
 - (b) die Minister; en
 - (c) enige ander partye wat voorgeskryf mag word.
- (2) Georganiseerde plaaslike regering moet in die aangaan van enige kollektiewe ooreë komms wat die gevolg is van onderhandelinge in subartikel (1) bedoel—
- (a) die begrotings van munisipaliteite;
 - (b) die fiskale kapasiteit en doeltreffendheid van munisipaliteite; en
 - (c) nasionale ekonomiese beleid, in ag neem.
- (3) Munisipaliteite moet voldoen aan enige kollektiewe ooreë komms aangegaan deur georganiseerde plaaslike regering binne sy mandaat namens plaaslike regering in die bedingsraad wat vir munisipaliteite ingestel is.”

Invoeging van artikel 71B in Wet 32 van 2000

9. Die volgende artikel word hierby ná artikel 71A in die Hoofwet ingevoeg:

Beperking van politieke regte

- 71B. (1) 'n Personeë lid mag nie 'n politieke amp in 'n politieke party beklee nie, hetsy in 'n permanente, tydelike of waarnemende hoedanigheid.
- (2) 'n Persoon wat as 'n personeë lid aangestel is voordat subartikel (1) in werking tree, moet binne een jaar van die invoering van subartikel (1) daaraan voldoen.”

Wysiging van artikel 72 van Wet 32 van 2000, soos gewysig deur artikel 15 van Wet 19 van 2008 en artikel 11 van Wet 7 van 2011

10. Artikel 72 van die Hoofwet word hierby gewysig—
- (a) deur in subartikel (1) subparagraaf (ii) van paragraaf (c) deur die volgende subparagraaf te vervang:
 - (ii) munisipale personeelstelsels en -prosedures in artikel 67(1) bedoel en die aangeleentehede wat in sodanige stelsels en prosedures gehanteer moet word, insluitend—
 - (aa) oorplassings; en
 - (bb) diensbeëindiging; en”;
 - (b) deur in subartikel (1) paragraaf (e) deur die volgende paragraaf te vervang:

“(e) die opleiding en die ontwikkeling van die bevoegdheid en vaardighede van personeë lede van munisipaliteite, insluitende interne opleiding, behoudens die vereistes van die ‘Skills Development Act, 1998’ (Wet No. 81 van 1998), die ‘Skills Development Levies Act, 1999’ (Wet No. 28 van 1999), en die Munisipale Finansiële Bestuurswet;”
 - (c) deur in subartikel (1) paragrafe (gA), (gB) en (gC) onderskeidelik deur die volgende paragrafe te vervang:
 - (gA) behoudens toepaslike arbeidswetgewing, die reëling van mediese fondse en pensioen, na ooreë kom met die Minister van Gesondheid en die Minister van Finansies;
 - (gB) die vlak van vaardighede, kundigheid en bevoegdheid wat munisipale bestuurders en bestuurders wat geregistreer aan munisipale-bestuurders verantwoordbaar is, moet hê;
 - (gC) wat die vermindering van besoldigde werk buite die munisipaliteit verbied;”;
 - (d) deur in subartikel (2) aan die einde van paragraaf (a) die woord “en” te skrap;

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- (e) by the substitution in subsection (2) at the end of paragraph (b) for the word "and" of the word "and";
- (f) by the substitution in subsection (2) for paragraph (c) of the following paragraph:
"(c) when necessary, differentiate between different categories of municipal staff members."; and
- (g) by the substitution for subsection (2A) of the following subsection:
"(2A) The Minister may, subject to applicable labour legislation and after consultation with the Minister of Public Service and Administration, 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."

Amendment of section 106 of Act 32 of 2000, as amended by section 18 of Act 19 of 2008 and section 12 of Act 7 of 2011

11. Section 106 of the principal Act is hereby amended—
- (a) by the insertion after subsection (1) of the following subsection:
"(1A) The MEC must table a report detailing the outcome of the investigation in the relevant provincial legislature within 90 days from the date on which the MEC designated a person or persons to investigate the matter and must simultaneously send a copy of such report to the Minister, the Minister of Finance and the National Council of Provinces,"
- (b) by the substitution for subsection (5) of the following subsection:
"(5) (a) Where an MEC fails to conduct an investigation within 90 days, notwithstanding a request from the Minister in terms of subsection (4)(a), the Minister may in terms of this section conduct such investigation.
(b) The Minister must send a report detailing the outcome of the investigation referred to in paragraph (a) to the President."; and
- (c) by the addition of the following subsection:
"(6) If an investigation warrants such a step, the municipality must institute disciplinary proceedings against the person or persons implicated in the report in accordance with the systems and procedures referred to in section 67, read with Schedule 2, and report the outcome to the MEC or the Minister, as the case may be, within 14 days of finalisation."

Amendment of section 120 of Act 32 of 2000, as amended by section 28 of Act 44 of 2003 and section 13 of Act 7 of 2011

12. Section 120 of the principal Act is hereby amended by the substitution in subsection (1) for paragraph (a) of the following paragraph:
"(a) the matters listed in sections 22, 37, 49, 57(3)(a)(ii), 54A(2), 54A(3)(a), 54A(4)(b), 54A(6), 54A(7)(a), 56(1)(b), 56(4A)(a), 57A(1), 57A(6), 57A(9)(b), 67(1), 71(1)(c), 72, 86A and 104;"

Amendment of Schedule 1 to Act 32 of 2000, as inserted by section 14 of Act 13 of 2011

13. Schedule 1 to the principal Act is hereby amended by the substitution for item 2A of the following item:

"Voting at meetings"

2A. A councillor may not vote in favour of or agree to a resolution which is before the council or a committee of the council which conflicts with any legislation applicable to local government."

- (e) deur in subartikel (2) aan die einde van paragraaf (b) die woord "en" deur die woord "en" te vervang;
- (f) deur in subartikel (2) paragraaf (c) deur die volgende paragraaf te vervang: "(c) wanneer nodig, onderskeid tref tussen verskillende kategorieë munisipale personelede."; en
- (g) deur subartikel (2A) deur die volgende subartikel te vervang: "(2A) Die Minister kan, behoudens toepaslike arbeidswetgewing en ná oorleg met die Minister van Staatsdiens en Administrasie, regulasies uitvaardig oor die pligte, besoldiging, voordele en ander diensvoorwaardes van munisipale bestuurders en bestuurders wat regstreeks aan munisipale bestuurders verantwoordbaar is."

Wysiging van artikel 106 van Wet 32 van 2000, soos gewysig deur artikel 18 van Wet 19 van 2008 en artikel 12 van Wet 7 van 2011

11. Artikel 106 van die Hoofwet word hierby gewysig—
- (a) deur na subartikel (1) die volgende subartikel in te voeg: "(1A) Die LUR moet 'n verslag wat die uitslag van die ondersoek uiteensit in die tersaaklike provinsiale wetgewer ter tafel lê binne 90 dae van die datum waarop die LUR die persoon of persone aangewys het om die aangeleentheid te ondersoek en moet terselfdertyd 'n afskrif van sodanige verslag aan die Minister, die Minister van Finansies en die Nasionale Raad van Provinsies stuur."
 - (b) deur subartikel (5) deur die volgende subartikel te vervang: "(5) (a) Waar 'n LUR versuim om 'n ondersoek binne 90 dae te doen, ondanks 'n versoek van die Minister ingevolge subartikel (4)(a), kan die Minister ingevolge hierdie artikel die ondersoek doen.
(b) Die Minister moet 'n verslag waarin die resultaat van die ondersoek in paragraaf (a) bedoel uitengesit word, aan die President stuur."; en
 - (c) deur die volgende subartikel by te voeg: "(6) Indien 'n ondersoek so 'n stap regverdig, moet die munisipaliteit ingevolge die stelsels en prosedures bedoel in artikel 67, geloes met Bylae 2, dissiplinêre verrigtinge teen die persoon of persone instel wat in die verslag geïmpliseer is en die uitslag binne 14 dae vanaf afhandeling aan die LUR of die Minister, na gelang van die geval, rapporteer."

Wysiging van artikel 120 van Wet 32 van 2000, soos gewysig deur artikel 28 van Wet 44 van 2003 en artikel 13 van Wet 7 van 2011

12. Artikel 120 van die Hoofwet word hierby gewysig deur in subartikel (1) paragraaf (a) deur die volgende paragraaf te vervang: "(a) die aangeleenthede in artikels 22, 37, 49, 57(3)(a)(ii), 54A(2), 54A(3)(a), 54A(4)(b), 54A(6), 54A(7)(a), 56(1)(b), 56(4A)(a), 57A(1), 57A(6), 57A(9)(b), 67(1), 71(1)(c), 72, 86A en 104 gelys."

Wysiging van Bylae 1 by Wet 32 van 2000, soos ingevoeg deur artikel 14 van Wet 13 van 2011

13. Bylae 1 by die Hoofwet word hierby gewysig deur item 2A deur die volgende item te vervang: "Stemming by vergaderings

2A. 'n Raadslid kan nie stem ten gunste van of instem tot 'n resoluie wat voor die raad of 'n komitee van die raad dien en wat teenstrydig is met enige wetgewing wat op plaaslike regering van toepassing is nie."

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Transitional provisions

14. 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.

Repeal of laws

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15. The following laws are hereby repealed:

(a) Act No. 7 of 2011; and

(b) section 82 of the Local Government: Municipal Structures Act, 1998 (Act No. 117 of 1998).

Short title and commencement

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16. This Act is called the Local Government: Municipal Systems Amendment Act, 2022; and comes into operation on a date fixed by the President by proclamation in the *Government Gazette*.

Oorgangsmaatreëls

14. Hierdie Wet raak nie die dienskontrak van 'n munisipale bestuurder of 'n bestuurder wat regstreeks aan die munisipale bestuurder verantwoordbaar is, wat aangegaan is voordat hierdie Wet in werking getree het nie, en sodanige kontrak gaan voort totdat dit verstryk of totdat dit beëindig word.

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Herroeping van wette

15. Die volgende wette word hierby herroep:

(a) Wet No. 7 van 2011; en

(b) artikel 82 van die Wet op Plaaslike Regering: Munisipale Strukture, 1998 (Wet No. 117 van 1998).

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Kort titel en inwerkingtreding

16. Hierdie Wet heet die Wysigingswet op Plaaslike Regering: Munisipale Stelsels, 2022, en tree in werking op 'n datum deur die President by proklamasie in die *Staatskoerant* vasgestel.