

GAUTENG PROVINCIAL LEGISLATURE

**RATIONALISATION OF LOCAL
GOVERNMENT AFFAIRS
AMENDMENT BILL, 2003**

(As introduced)

BY

(MEMBER OF THE EXECUTIVE COUNCIL FOR DEVELOPMENT PLANNING AND LOCAL GOVERNMENT)

[G001—2003]

BILL

To amend the Rationalisation of Local Government Affairs Act, 1998 (Act No. 10 of 1998) in order to repeal sections pertaining to the appointment of chief executive officers and other personnel, powers and duties of the chief executive officers, rationalisation of terms and conditions of employment, medical aid benefits of the employees, and their retirement benefits; and miscellaneous provisions relating to mayors.

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BE IT ENACTED by the Provincial Legislature of Gauteng as follows:—

Repeal of sections 16, 17, 18, 19, 20 and 21 of the Rationalisation of Local Government Affairs Act, 1998 (Act No. 10 of 1998)

1. Sections 16, 17, 18, 19, 20, 21 of the Rationalisation of Local Government Affairs Act, 1998 (Act No. 10 of 1998) are hereby repealed. 5

Short Title and Commencement

2. This Act is called the Rationalisation of Local Government Affairs Amendment Act, 2003, and comes into operation on a date fixed by the Premier by proclamation in the *Provincial Gazette*. 10

**AMENDMENT OF THE RATIONALISATION OF
LOCAL GOVERNMENT AFFAIRS ACT, 1998 (ACT NO. 10 OF 1998):
REPEAL OF CHAPTER 4**

1. EXPLANATORY MEMORANDUM

1.1 BACKGROUND 5

1.1.1 It was brought to the attention of the Department of Development Planning and Local Government (“the Department”) that sections (16, 17, 18, 19, 20, 21) as contained in Chapter 4 of the Rationalisation of Local Government Affairs Act, 1998, may be inconsistent with the Constitution, 1996 (Act 108 of 1996). 10

1.1.2 The Department subsequently solicited and obtained a legal opinion from Senior Counsel, Paul Kennedy SC. The opinion in essence entails that the sections referred to above, are vulnerable to constitutional attack in that they relate to matters which do not fall within the legislative competence of the Gauteng Province. 15

1.1.3 Apart from sections 18, 19 and 20, the Act (Rationalisation of Local Government Affairs Act, 1998) contains provisions pertaining to the appointment of chief executive officers and other personnel (section 16); powers and duties of chief executive officers (section 17); and miscellaneous provisions relating to mayors (section 21). It is submitted that these provisions are superseded by the Local Government: Municipal Structures Act, 1998 and the Local Government: Municipal Systems Act, 2000. Therefore, Chapter 4 of the Rationalisation of Local Government Affairs Act has to be repealed, and the Act has to be amended accordingly. 20
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1.2 PURPOSE OF THE BILL

The purpose of the Bill is to amend the Rationalisation of Local Government Affairs Act, 1998, in order to repeal sections of the Act dealing with the appointment of the chief executive officers and other personnel, powers and duties of chief executive officers and miscellaneous provisions relating to mayors which are superseded by national legislation, the Local Government : Municipal Structures Act, 1998, and the Local Government: Municipal Systems Act, 2000; and to repeal sections pertaining to human resources which appear to be inconsistent with the Constitution, 1996. 30

2. FINANCIAL IMPLICATIONS 35

The costs in connection with the passing of the Bill are estimated at R25 000,00. This amount is calculated to cover the costs of translations and publications.

3. ENVIRONMENTAL IMPLICATIONS

None 40

4. OTHER DEPARTMENTS/INSTITUTIONS CONSULTED

None

5. CLAUSE BY CLAUSE DESCRIPTION

5.1 Clause 1

This clause makes provision for the repeal of Chapter 4 of the Rationalisation of Local Government Affairs Act, 1998.

5.2 Clause 2

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This clause contains the short title of the Bill.