

GAUTENG PROVINCIAL LEGISLATURE

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**LOCAL GOVERNMENT LAWS  
AMENDMENT BILL, 2005**

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*(As introduced by the Leader of Government Business)*

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**[G003—2005]**

# BILL

To amend certain laws of the Province pertaining to local government so as to eliminate references to defunct institutions and inconsistencies with other legislation; to repeal certain laws that are contrary to the Constitution of the Republic of South Africa 1996, or no longer serve any useful purpose; and to provide for matters connected therewith.

**B**E IT ENACTED by the Provincial Legislature of Gauteng, as follows:—

## **Amendment of the Preamble to Ordinance 44 of 1904**

1. The Preamble to the Local Authorities Roads Ordinance, 1904 (Ordinance No. 44 of 1904) is hereby amended by the substitution for the first paragraph of the following paragraph: 5

“WHEREAS all original titles to farms in this [**Colony**] Province as granted by the Government of the late South African Republic are made subject to the conditions that all roads leading over such farms made by lawful authority shall remain free and unobstructed.”. 10

## **Amendment of section 1 of Ordinance 44 of 1904, as amended by section 1 of Ordinance 8 of 1930 and section 1 of Ordinance 7 of 1954**

2. Section 1 of the Local Authorities Roads Ordinance, 1904 (Ordinance No. 44 of 1904) is hereby amended—

(a) by the deletion of the definition of “local authority”; 15

(b) by the insertion before the definition of “public road” of the following definitions:

“ ‘MEC’ means the Member of the Executive Council responsible for local government in the Province;

‘municipality’ means a local, district or metropolitan municipality as defined in section 1 of the Local Government: Municipal Structures Act, 1998 (Act No. 117 of 1998);” and 20

(c) by the substitution for the definition of “public road” of the following definition:

“ ‘Public road’ shall mean any road vested in any [**local authority**] municipality.”. 25

## **Substitution of section 2 of Ordinance 44 of 1904**

3. The following section is hereby substituted for section 2 of the Local Authorities Roads Ordinance, 1904 (Ordinance No. 44 of 1904):

“**Notices** 30

2. Where any notice, order or other document is required by this Ordinance to be served on or given to any person, it shall either be served personally on such person or left at or sent by post to his or her last usual place of abode or business; and in case any such person shall be absent from this [**Colony**] Province, any such notice, order or document shall be served on any agent of such person.”. 35

**Amendment of section 7 of Ordinance 44 of 1904, as amended by section 4 of Ordinance 8 of 1930 and substituted by section 1 of Ordinance 7 of 1951**

4. Section 7 of the Local Authorities Roads Ordinance, 1904 (Ordinance No. 44 of 1904) is hereby amended by the substitution for subsection (2) of the following subsection:

“Any such **[local authority]** municipality shall within fourteen days of the publication of such proclamation, publish a notice thereof in at least one English and one **[Afrikaans]** other official language in newspapers circulating in the area of jurisdiction of the **[local authority]** municipality.”.

**Substitution of section 11 of Ordinance 44 of 1904**

5. The following section is hereby substituted for section 11 of the Local Authorities Roads Ordinance, 1904 (Ordinance No. 44 of 1904):

**“Arbitration**

11. The **[Supreme]** High Court shall upon application by **[the local authority]** a municipality appoint three arbitrators in the manner hereinafter provided to whom shall be referred all questions of disputed compensation under this Ordinance in respect of any new or existing public road and the decision of the majority of whom shall be final. At least thirty days before making such application as aforesaid, the **[local authority]** municipality shall give notice of its intention to do so in the *Gazette* and in one or more daily newspapers circulating with the area of the **[local authority]** municipality and shall publish in such notice a list of one or more persons whose names shall be submitted to the **[Supreme]** High Court for appointments as arbitrators and any other party interested in the arbitration may appear on such application and propose any other person or persons to the **[Supreme]** High Court as arbitrators and the **[Supreme]** High Court shall appoint one arbitrator from the list submitted by the **[local authority]** municipality and one from among the persons proposed by the other parties interested and the persons so appointed shall select a third arbitrator; provided that if upon such application the **[local authority]** municipality or the other parties interested do not propose any fit person or arbitrators or if the arbitrators appointed do not within fourteen days of such appointment select a third arbitrator the **[Supreme]** High Court shall make the necessary appointments so that the number of arbitrators shall be three and no more; and provided further that in any case in which the compensation claimed shall be under **[one hundred pounds]** one hundred thousand Rand or in which the **[local authority]** municipality and the claimant shall so agree the amount of compensation shall be determined by a single arbitrator to be appointed by the **[Supreme]** High Court upon application by the **[local authority]** municipality after fourteen days notice in writing to the claimant.”.

**Substitution of section 12 of Ordinance 44 of 1904**

6. The following section is hereby substituted for section 12 of the Local Authorities Roads Ordinance, 1904 (Ordinance No. 44 of 1904):

**“Death or incapacity of any arbitrator**

12. If any arbitrator appointed for the purpose of this Ordinance dies or becomes incapable to act or fails to act within fourteen days after his appointment it shall be lawful for the **[Supreme]** High Court on the application of the party by whom he was proposed after similar notice to that required in the last preceding section to appoint some other person as arbitrator in place of the person so dying or becoming incapable or failing to act as aforesaid.”.

#### Substitution of section 16 of Ordinance 44 of 1904

7. The following section is hereby substituted for section 16 of the Local Authorities Roads Ordinance, 1904 (Ordinance No. 44 of 1904):

**“Provisions of [Commissions’ Powers Ordinance 1902] Arbitration Act, 1965 to apply to proceedings** 5

16. The provisions of the [Commissions’ Powers Ordinance 1902] Arbitration Act, 1965 (Act 42 of 1965) shall *mutatis mutandis* apply to all proceedings before any arbitrator or arbitrators appointed under this Ordinance **[as if he or they were a Commission appointed by the Lieutenant-Governor for the purpose of enquiring into the matters referred to him or them under this Ordinance; the summonses for the attendance of witnesses or the production of documents may be signed by any arbitrator].”** 10

#### Substitution of section 18 of Ordinance 44 of 1904

8. The following section is hereby substituted for section 18 of the Local Authorities Roads Ordinance, 1904 (Ordinance No. 44 of 1904): 15

**“Appearance of parties**

18. Upon all proceedings before any arbitrator or arbitrators each party may appear in person or represented by [counsel solicitor or admitted law agent] a practicing advocate or attorney, and may produce such witnesses and documentary evidence as the arbitrator or arbitrators shall allow.”. 20

#### Substitution of section 20 of Ordinance 44 of 1904

9. The following section is hereby substituted for section 20 of the Local Authorities Roads Ordinance, 1904 (Ordinance No. 44 of 1904):

**“Award may be made a rule of the [Supreme Court] High Court** 25

20. The award of the arbitrator or arbitrators may be made an [rule] order of the [Supreme Court or of the Witwatersrand] High Court on the application of either party.”.

#### Substitution of section 21 of Ordinance 44 of 1904

10. The following section is hereby substituted for section 21 of the Local Authorities Roads Ordinance, 1904 (Ordinance No. 44 of 1904): 30

**“Cost**

21. All the costs of the arbitration and incident thereto shall be borne by the [local authority] municipality unless the arbitrator or arbitrators shall award the same or a less sum than shall have been offered by the [local authority] municipality in which case each party shall bear its own costs and the costs of the arbitrators shall be borne by the [local authority] municipality. Any costs recoverable by one party from the other, shall be taxed by [the] a Taxing [Officer] Master of [Supreme Court or Witwatersrand] High Court on the scale of charges allowed in [those] that Court[s].”. 35 40

#### Amendment of section 22 of Ordinance 44 of 1904

11. Section 22 of the Local Authorities Roads Ordinance, 1904 (Ordinance No. 44 of 1904) is hereby amended by the substitution for paragraph (b) of subsection (1) of the following paragraph: 45

“(b) as used in connection with any mining ground the word ‘owner’ shall include any person registered as the holder of title to such mining ground or carrying on operations therein under an agreement with such holder; and for the purpose of service of notices or of prosecutions for contravention’s of the provisions of this Ordinance or recovering any damages or other sum under this Ordinance if such holder or person as aforesaid be a firm or partnership all or any one or more of the members of such firm or partnership shall be deemed to be the owner; and in case such holder or person as aforesaid be any public company or any body of persons not being a firm or partnership, the secretary or manager of such company or body or should there be no secretary or manager resident within this [Colony] Province then any member of the board of directors or managing board or committee of such company or body or the mine manager in the employ of such company or body shall be deemed to be the owner.”.

**Substitution of section 25 of Ordinance 44 of 1904** 15

12. The following section is hereby substituted for section 25 of the Local Authorities Roads Ordinance, 1904 (Ordinance No. 44 of 1904):

**“Application for permission to close any public road**

25. Any person who intends to commence any operations in mining ground which may cause danger or damage to any public road shall forward to the [Town Clerk] municipal manager of the [Local Authority] municipality within which such road is situate a written application for the permanent or temporary division of such road and shall with such application deposit [fifty pounds] ten thousand Rand with the [Town Clerk] municipal manager.”.

**Amendment of section 26 of Ordinance 44 of 1904, as amended by section 4 of Ordinance 7 of 1954**

13. Section 26 of the Local Authorities Roads Ordinance, 1904 (Ordinance No. 44 of 1904) is hereby amended by the substitution for the proviso of the following proviso: “provided always that the written consent of any person under paragraph (c) shall be without prejudice to any right to compensation that such person may have under this Ordinance and further that no guarantee under paragraph (d) shall be required if security sufficient in the opinion of the [local authority] municipality to cover any sums that may become due under section 40 hereof be deposited with the [local authority] municipality at the time when the application is made. Any part of such security and of the [fifty pounds] ten thousand Rand deposited by the applicant as aforesaid that may remain over after complete satisfaction of any claims under section 40 shall be returned to the applicant.”.

**Substitution of section 28 of Ordinance 44 of 1904**

14. The following section is hereby substituted for section 28 of the Local Authorities Roads Ordinance, 1904 (Ordinance No. 44 of 1904):

**“Notice in Gazette**

28. If the [local authority] municipality is satisfied that the proposed diversion will adequately meet the needs of the public, the [Town Clerk] municipal manager shall publish a notice in the Gazette and in one or more newspapers circulating within such [M]municipality [or Urban District] and shall cause a copy of such notice in legible characters to be placed in a conspicuous position at each place where the public road is proposed to be diverted.”.

#### Amendment of section 29 of Ordinance 44 of 1904

15. Section 29 of the Local Authorities Roads Ordinance, 1904 (Ordinance No. 44 of 1904) is hereby amended by the substitution for paragraphs (a) and (b) of the following paragraphs:

- “(a) the particulars and information mentioned in paragraphs (b) and (e) of section 26 hereof and an intimation that a plan showing the existing road and the proposed division may be inspected upon applying at the offices of the **[local authority] municipality**;
- (b) a list showing the names of the owners and occupiers whose written consent to such diversion has been received by the **[Town Clerk] municipal manager** or in respect of whom the provisional order mentioned in section 23 has been obtained.”.

#### Substitution of section 33 of Ordinance 44 of 1904

16. The following section is hereby substituted for section 33 of the Local Authorities Roads Ordinance, 1904 (Ordinance No. 44 of 1904):

##### “Appeal by applicant

33. If such application shall not be granted by the **[local authority] municipality** within two months after the receipt thereof by the **[local authority] municipality** or if it shall be granted subject to such conditions or modifications as the applicant is not willing to accept, the applicant may, on depositing with the **[local authority] municipality** the sum of **[one hundred pounds] ten thousand Rand** as security for costs within fourteen days of the decision by the **[local authority] municipality**, but not afterwards, claim by notice in writing served on the **[Town Clerk] municipal manager** to have such application referred for arbitration, and thereupon it shall be so referred and determined in the manner provided by the **[Expropriation of Lands and Arbitration Clauses Proclamation 1902] Arbitration Act, 1965 (Act No. 42 of 1965)**, and the **[local authority] municipality** shall refuse or grant such application in accordance with the finding of the arbitrators.”.

#### Substitution of section 35 of Ordinance 44 of 1904

17. The following section is hereby substituted for section 35 of the Local Authorities Roads Ordinance, 1904 (Ordinance No. 44 of 1904):

##### “Permission to commence mining operations

35. As soon as the said diversion has been completed and opened to the public to the satisfaction of the **[local authority] municipality**, or immediately after the granting of the application hereinbefore mentioned if such **[local authority] municipality** shall consider that any existing road will sufficiently meet the needs of the public in place of the road to be closed, the **[local authority] municipality** shall close such road and give the applicant a written permission to proceed with the mining operations referred to in his application. Any person commencing such operations before receiving such written permission shall be liable to a penalty not exceeding **[fifty pounds] one thousand Rand** for every day or portion of a day during which such mining operations are carried on.”.

#### Substitution of section 36 of Ordinance 44 of 1904

18. The following section is hereby substituted for section 36 of the Local Authorities Roads Ordinance, 1904 (Ordinance No. 44 of 1904):

**“Notification by mine owners when dangerous operations are no longer necessary**

36. In case of a temporary diversion, as soon as the operations which necessitated the closing of any public road have been completed, and there is no longer any reason for keeping the said road closed, the owner of the mining ground who caused such diversion shall at once give [a] written [intimation] notice thereof to the [local authority] municipality. Any person delaying the sending of such [intimation] notice shall be liable to a penalty not exceeding [one pound] one hundred Rand for every day or portion of a day during which such delay continues.”. 5  
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**Substitution of section 47 of Ordinance 44 of 1904**

19. The following section is hereby substituted for section 47 of the Local Authorities Roads Ordinance, 1904 (Ordinance No. 44 of 1904):

**“Title**

47. This Ordinance may be cited for all purposes as the Local [Authorities] Government Roads Ordinance, 1904.”. 15

**Amendment of section 1 of Ordinance 7 of 1925**

20. Section 1 of the Removal of Graves and Dead Bodies Ordinance, 1925 (Ordinance No. 7 of 1925) is hereby amended—

- (a) by the deletion of the definition of “Administrator”; 20
- (b) by the insertion after the definition of “burial-place” of the following definition:

“ ‘MEC’ means the Member of the Executive Council responsible for local government in the Province.”.

**Amendment of section 1 of Ordinance 22 of 1960, as amended by section 1 of Ordinance 16 of 1976** 25

21. Section 1 of the Drive-in Theatres Ordinance, 1960 (Ordinance No. 22 of 1960) is hereby amended—

- (a) by the deletion of the definitions of “Administrator”, “Director” and “local authority”; and 30
- (b) by the insertion of the following definitions:

“ ‘MEC’ means the Member of the Executive Council responsible for local government in the Province; and  
‘municipality’ means a local, district or metropolitan municipality as defined in section 1 of the Local Government: Municipal Structures Act, 1998 (Act No. 117 of 1998).” 35

**Substitution of section 3 of Ordinance 22 of 1960, as amended by section 2 of Ordinance 16 of 1976**

22. The following section is hereby substituted for section 3 of the Drive-in Theatres Ordinance, 1960 (Ordinance No. 22 of 1960): 40

**“Application for drive-in theatre**

3. (1) Any person who intends carrying on a drive-in theatre shall, after compliance with such requirements as may be prescribed, [if the site on which it is proposed to carry on the drive-in theatre—  
(a) is situated within the area of jurisdiction of a local authority, give written notice of his intention to such local authority and the Director; or 45  
(b) is not situated within the area of jurisdiction of a local authority but within eight kilometers of the boundaries of any local authority, give written notice of his intention to every such local authority and to the Director; or 50

- (c) **is not situated within the area of jurisdiction of a local authority and is more than eight kilometers from the ??????????**
  - (d) **boundaries of any local authority,]** give written notice of his or her intention to the municipality in whose area of jurisdiction the proposed site is situated and the Director. 5
- (2) After compliance with the provisions of sub-section (1) and such requirements as may be prescribed, application to carry on a drive-in theatre shall be made to the Director and the municipality in whose area of jurisdiction the proposed site is situated, and no such application shall be received or dealt with by the Director unless such application shall be accompanied by— 10
- (a) such fees as may be prescribed: Provided that the **[Administrator] MEC** may exempt any applicant either in whole or in part from the payment of such fees: Provided further that in the event of any such application being withdrawn, the **[Administrator] MEC** may refund such portion of the fees so paid as in his or her opinion represents the unexpended balance of the expenditure which would have been incurred by the Director in dealing with the application so withdrawn; and 15
  - (b) the documents, plans and information as may be prescribed.”. 20

**Substitution of section 5 of Ordinance 22 of 1960, as amended by section 1 of Ordinance 16 of 1963 and section 1 of Ordinance 14 of 1977**

23. Section 5 of the Drive-in Theatres Ordinance, 1960 (Ordinance No. 22 of 1960) is hereby amended—

- (a) by the substitution for the words preceding subparagraph (i) of paragraph (a) of subsection (1) of the following words: 25
  - “The Director shall, after the requirements of this Ordinance have been complied with, submit the application referred to in subsection (2) of section 3 to the **[Administrator] MEC** recommending that—
  - (a) the application be granted subject to such of the following conditions as the Director may deem fit to include in any such recommendation regarding—.”; 30
  - (b) by the substitution for subsection (2) of the following subsection:
    - “(2) The **[Administrator] MEC** shall thereupon consider such application and he or she may adopt, vary or modify any recommendation made by the Director and may impose or add such further conditions as he may deem fit.”; 35
  - (c) by the substitution for subsection (3) of the following subsection:
    - “(3) Where the **[Administrator] MEC** gives his consent to any application as contemplated in subsection (2) he may at any time withdraw such consent if, in his opinion, the drive-in theatre concerned is not being carried on in accordance with the conditions under which his or her consent was given or if, in his opinion, it is in the public interest that such drive-in theatre should no longer be carried on.”; and 40
  - (d) by the substitution for subsection (5) of the following subsection: 45
    - “(4) The **[Administrator] MEC** may, after having consulted the owner of the drive-in theatre concerned and, where applicable, the **[local authority] municipality** concerned, amend or delete any condition upon which the application was granted or add any further condition.”.

**Substitution of section 6 of Ordinance 22 of 1960, as amended by section 3 of Ordinance 16 of 1963** 50

24. The following section is hereby substituted for section 6 of the Drive-in Theatres Ordinance, 1960 (Ordinance No. 22 of 1960):

**“Offences and penalties**

6. Any person who contravenes or fails to comply with any provision of this Ordinance, or contravenes or fails to comply with any of the conditions referred to in sub-section (2) of section 5 shall be guilty of an offence and 55

liable on conviction to a fine not exceeding **[two hundred]** five thousand Rand or imprisonment for a period not exceeding six months or to both such fine and imprisonment and in the case of a continuing offence to a fine not exceeding **[fifty]** one thousand Rand per day for each day during which the default continues.”.

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**Substitution of section 7 of Ordinance 22 of 1960, as amended by section 4 of Ordinance 16 of 1963**

25. The following section is hereby substituted for section 7 of the Drive-in Theatres Ordinance, 1960 (Ordinance No. 22 of 1960):

**“Regulations**

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7. The **[Administrator]** MEC may make regulations, not inconsistent with the provisions of this Ordinance—

- (a) in respect of any matter contemplated, required or permitted to be prescribed under this Ordinance; and
- (b) generally for the better carrying out of the objects and purposes of this Ordinance.

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(2) Any regulation made under sub-section (1) may be made to apply generally throughout the Province or within any part thereof and different regulations may be made under that sub-section for different circumstances.

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(3) Any regulations made under sub-section (1) may provide penalties for any breach thereof, but no penalty shall exceed a fine of **[two hundred]** five thousand rand or imprisonment for a period of six months, or both such fine and imprisonment.”.

**Amendment of section 1 of Ordinance 18 of 1965**

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26. Section 1 of the Crematorium Ordinance, 1965 (Ordinance No. 18 of 1965) is hereby amended—

- (a) by the deletion of the definitions of “Administrator”, “Director of Local Government” and ‘local authority’;
- (b) by the substitution for the definition of “crematorium” of the following definition:

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“ ‘crematorium’ means any building fitted with appliances for cremation, including everything essential, incidental or ancillary thereto and includes any structure which in any special circumstances the **[Administrator]** MEC may approve as a crematorium.”; and

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- (c) by the insertion after the definition of “inspector” of the following definitions:

“ ‘MEC’ means the Member of the Executive Council responsible for local government in the Province;  
 ‘municipality’ means a local, district or metropolitan municipality as defined in section 1 of the Local Government: Municipal Structures Act, 1998 (Act No. 117 of 1998).”.

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**Substitution of section 8 of Ordinance 18 of 1965**

27. The following section is hereby substituted for section 8 of the Crematorium Ordinance, 1965 (Ordinance No. 18 of 1965):

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**“Appointment of inspectors**

8. The **[Administrator]** MEC may appoint one or more officers as defined in section 1(1) of the Public Service Act, **[1957 (Act No. 54 of 1957)]** 1994 (promulgated by Proclamation 103 of 1994), as an inspector or inspectors for the purposes of this Ordinance, and every inspector so appointed, shall be furnished with a certificate, signed by the **[Director of Local Government]** MEC, that he or she has been so appointed.”.

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**Amendment of section 10 of Ordinance 18 of 1965**

28. Section 10 of the Crematorium Ordinance, 1965 (Ordinance No. 18 of 1965) is hereby amended by the substitution for subsection (1) of the following subsection:

“(1) If an inspector, after an inspection of a crematorium by him , certifies that such crematorium is defectively or inadequately constructed or equipped, or is in a state of disrepair or constitutes a nuisance [**within the meaning of section 122 of the Public Health Act, 1919 (Act No. 36 of 1919)**] as defined in section 1 of the Health Act, 1977 (Act No. 63 of 1977), the [**Administrator**] MEC may issue a closing order requiring that such crematorium or part thereof be closed and remain closed permanently or until any instruction given by the [**Administrator**] MEC to remedy such defect, inadequacy or disrepair or to abate such nuisance, has been complied with to his satisfaction.”

**Amendment of section 11 of Ordinance 18 of 1965**

29. Section 11 of the Crematorium Ordinance, 1965 (Ordinance No. 18 of 1965) is hereby amended by the substitution for the words preceding paragraph (a) of subsection (1) of the following words:

“Subject to the provisions of the [**Births, Marriages and Deaths Registration Act, 1963 (Act No. 81 of 1963)**] Births and Deaths Registration Act, 1992 (Act No. 51 of 1992), the [**Administrator**] MEC may make regulations not inconsistent with the provisions of this Ordinance—.”

**Amendment of section 1 of Ordinance 18 of 1969, as amended by section 1 of Ordinance 13 of 1974, section 1 of Ordinance 20 of 1984 and section 6 of Act 127 of 1993**

30. Section 1 of the Public Resorts Ordinance, 1969 (Ordinance No. 18 of 1969) is hereby amended—

- (a) by the substitution for the definition of “Administration” of the following definition:
  - “ ‘Administration’ means the [**Transvaal**] Provincial Administration;”;
- (b) by the deletion of the definitions of “Administrator” and “local authority.”; and
- (c) by the insertion after the definition of “Director” of the following definitions:
  - “ ‘MEC’ means the Member of the Executive Council responsible for local government in the Province;
  - ‘municipality’ means a local, district or metropolitan municipality as defined in section 1 of the Local Government: Municipal Structures Act, 1998 (Act No. 117 of 1998).”

**Amendment of section 28 of Ordinance 18 of 1969, as amended by para. 1 of Proc. 180 of 1988, section 1 of Ordinance 5 of 1980 and section 6 of Act 127 of 1993**

31. Section 28 of the Public Resorts Ordinance, 1969 (Ordinance No. 18 of 1969) is hereby amended—

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

**“Functions and powers of the [**Administrator**] MEC [**and the Board**] in or in respect of a public resort**

28. The [**Administrator**] MEC may in or in respect of a public resort or portion thereof [**which has not been placed under the supervision of the Board in terms of section 5(1)(a) and the Board may, subject to any other statutory provision, in or in respect of a public resort or portion thereof which has been placed under its supervision in terms of the said section**]—.”; and

- (b) by the substitution for paragraph (u) of subsection (1) of the following paragraph:  
 “cause any service or works which he may render or carry out, to be rendered or carried out on contract or authorize any person, subject to the conditions and the payment of such fees as the **[Administrator] MEC** may deem fit, to render or carry out such service or works.”.

**Amendment of section 30 of Ordinance 18 of 1969, as amended by section 5 of Act 105 of 1990 and section 6 of Act 127 of 1993**

32. Section 30 of the Public Resorts Ordinance, 1969 (Ordinance No. 18 of 1969) is hereby amended by the substitution for the heading to section 30 of the following heading:

**“30. Powers of [member of Board or] officer or employee of the Administration [or the Board].”.**

**Amendment of section 1 of Act 63 of 1977**

33. Section 1 of the Health Act, 1977 (Act No.63 of 1977) is hereby amended—  
 (a) by the deletion of paragraph (a) of the definition “Director-General.”; and  
 (c) by the insertion after the definition of “dwelling” of the following definition:  
 “ ‘Head of Department of Local Government’ means Head of Department of Local Government in the Province.”.

**Amendment of section 1 of Act 99 of 1987, as amended by section 1 of Act 83 of 1990, section 18 of Act 134 of 1992 and Proc. R. 153 of 1994**

34. Section 1 of the Fire Brigade Services Act, 1987 (Act No. 99 of 1987) is hereby amended—

- (a) by the deletion of the definitions of “Administrator” and “local authority” in subsection (1);  
 (b) by the substitution for the definition of “area” in subsection (1) of the following definition:  
 “ ‘area’ means—  
 (a) in relation to a service of a **[local authority] municipality**, the area of jurisdiction of that **[local authority] municipality**, excluding any demarcated area contemplated in section 4(4);  
 (b) in relation to a designated service, the demarcated area contemplated in section 4(4) of the designated service.”;  
 (c) by the substitution for the definition of “controlling authority” in subsection (1) of the following definition:  
 “ ‘controlling authority’ means a **[local authority] municipality** in control of a service or the person in control of a designated service.”;  
 (d) by the insertion after the definition of “equipment” in subsection (1) of the following definition:  
 “ ‘Head of Department’ means the Head of the Department of Local Government in the Province.”;  
 (e) by the insertion after the definition of “material” in subsection (1) of the following definition:  
 “ ‘MEC’ means the Member of the Executive Council responsible for local government in the Province.”;  
 (f) by the substitution for the definition of “Minister” in subsection (1) of the following definition:  
 “ ‘Minister’ means—  
 (a) except in **[paragraph (f) of the definition of “local authority” and sections 2, 15 and] section 17, [the competent authority within the government of a province to whom the administration of this Act in that province has been assigned under section 234(8) of the said Constitution] the MEC**; and  
 (b) in **[paragraph (f) of the definition of local authority and sections 2, 15 and] section 17, the Minister of Provincial [Affairs and Constitutional Development] and Local Government.**”;

- (g) by the insertion after the definition of “Minister” in subsection (1) of the following definition:  
 “‘municipality’ means a local, district or metropolitan municipality as defined in section 1 of the Local Government: Municipal Structures Act, 1998 (Act No. 117 of 1998).”.

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**Amendment of section 11 of Act 99 of 1987, as amended by section 8 of Act 83 of 1990**

35. Section 11 of the Fire Brigade Services Act, 1987 (Act No. 99 of 1987) is hereby amended—

- (a) by the substitution for subsection (1) of the following subsection: 10  
 “(1) Subject to subsections (2) and (3), the **[Administrator] MEC** may, after consultation with the Board, from money appropriated by **[Parliament] the Provincial Legislature** for the purpose, pay a grant-in-aid calculated on the prescribed basis to any controlling authority in respect of the establishment or maintenance of its service.”. 15
- (b) by the substitution for subsection (3) of the following subsection:  
 “(3) A controlling authority which receives a grant-in-aid in terms of this section shall submit annually to the **[Director-General of the province from which the grant-in-aid is received] Head of Department—** 20  
 (a) in the form and manner and before or on a date determined by the said **[Director-General] Head of Department**, an estimate of expenditure in respect of its service for the ensuing financial year for approval by the **[Administrator] MEC**; and  
 (b) before or on 30 September or such later date as the **[said Director-General] Head of Department** may determine, a written statement certified by the treasurer of the controlling authority and specifying— 25  
 (i) the actual expenditure incurred in respect of its service during the immediately preceding financial year; 30  
 (ii) the actual income received in respect of its service during the financial year referred to in subparagraph (i); and  
 (iii) such further information as the **[Director-General] Head of Department** may require.”. 35

**Amendment of section 12 of Act 99 of 1987, as amended by section 21 of Act 134 of 1992** 35

36. Section 12 of the Fire Brigade Services Act, 1987 (Act No. 99 of 1987) is hereby amended by the substitution for subsection (2) of the following subsection:

- “(2) A controlling authority may under subsection (1) undertake to employ its service inside or outside its area or inside or outside the **[province in which its area is situated] Province**.”. 40

**Amendment of section 16 of Act 99 of 1987, as substituted by section 12 of Act 83 of 1990**

37. Section 16 of the Fire Brigade Services Act, 1987 (Act No. 99 of 1987) is hereby amended by the substitution for subsection (2) of the following subsection: 45

- “(2) The **[Administrator] MEC** may after consultation with the Board make **[by-laws or]** regulations, **[as the case may be,]** which are not contrary to any law, regarding any matter referred to in subsection (1), and such **[by-laws or]** regulations shall apply in the area of jurisdiction of every **[local authority] municipality** in the **[province concerned] Province** in so far as they are applicable and not inconsistent with the by-laws or regulations, as the case may be, of the **[local authority] municipality** concerned.”. 50

**Repeal of laws**

38. The laws specified in the second column of the First Schedule to this Act are hereby repealed to the extent indicated in the third column, in so far as they are applicable in, or have been assigned to, the Gauteng Province.

**Amendment of laws**

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39. (1) The laws specified in the second column of the Second Schedule to this Act are hereby amended by the substitution for the word “Administrator” or “Administrator concerned”, wherever they occur in the provisions indicated in the third column, of the word “MEC”.

(2) The laws specified in the second column of the Third Schedule to this Act are hereby amended by the substitution for the words “local authority” or “local authorities”, wherever they occur in the provisions indicated in the third column, of the word “municipality” or “municipalities” respectively. 10

(3) The laws specified in the second column of the Fourth Schedule of this Act are hereby amended by the insertion after the words “he” and “his” and “him” and “himself”, wherever they occur in the provisions indicated in the third column, of the words “or she” and “or her” and “or her” and “or herself”, respectively. 15

(4) The Health Act, 1977 (Act No. 63 of 1977) is hereby amended by the substitution for the words “Director-General” wherever it occurs in sections 15, 20, 30 and 50 of the words “Head of Department of Local Government”. 20

**Short title and commencement**

40. This Act is called the Local Government Laws Amendment Act, 2005.

**FIRST SCHEDULE**

## Laws Repealed

<i>Number and Year</i>	<i>Short Title</i>	<i>Extent of Repeal</i>	
Ordinance No. 7 of 1925	Removal of Graves and Dead Bodies Ordinance	Section 2bis	5
Ordinance No. 15 of 1928	City of Johannesburg (Private) Ordinance	The whole	
Ordinance No. 5 of 1931	City of Pretoria (Private) Ordinance	The whole	10
Ordinance No. 8 of 1932	Cemetery Ordinance	The whole	
Ordinance No. 18 of 1933	Licensing and Control of Dogs Ordinance	The whole	15
Ordinance No. 17 of 1939	Local Government Ordinance	Sections 4, 6, 7, 9 to 32 inclusive, 38 to 40 inclusive, 42 to 44 inclusive, 45 except subsection (2), 46, 48, 50, 50A, 50B, 51, 63, 64, 79, 79sept, 80, 80A, 80B, 85 to 87 inclusive, 105, 109 to 111, 131, 132, 141, 143, 153, 158, 159, 159bis, 160, 169, 170 to 172 inclusive	20 25
Ordinance No. 19 of 1948	Continuation of Local Authorities' By-Laws and Regulations Ordinance	The whole	30
Ordinance No. 13 of 1950	City of Germiston (Private) Ordinance	The whole	35
Ordinance No. 40 of 1960	Local Government (Administration and Elections) Ordinance	The whole	
Ordinance No. 21 of 1961	Markets Ordinance	The whole	40
Ordinance No. 22 of 1962	Local Government (Extension of Powers) Ordinance	The whole	
Ordinance No. 18 of 1969	Public Resorts Ordinance	Section 37(1)(aA)	
Ordinance No. 16 of 1970	Municipal Elections Ordinance	The whole	45
Ordinance No. 13 of 1972	Pounds Ordinance	The whole	
Ordinance No. 9 of 1974	Management Committee of Lenasia Validation Ordinance	The whole	50
Ordinance No. 10 of 1977	City of Roodepoort (Private) Ordinance	The whole	55
Act No. 91 of 1983	Promotion of Local Government Affairs Act	The whole	
Ordinance No. 4 of 1984	Coloured and Indian Management Committees Ordinance	The whole	60
Act No. 108 of 1991	Abolition of Racially Based Land Measures Act	The whole	
Act No. 127 of 1991	Local Authority Affairs Amendment Act	The whole	65

**SECOND SCHEDULE**

Laws amended by the substitution for the words “Administrator” or “Administrator concerned”, wherever they occur, of the word “MEC”.

<i>Number and Year</i>	<i>Short Title</i>	<i>Section Amended</i>	
Ordinance No. 44 of 1904	Local Authorities Roads Ordinance	Section 7(4)	5
Ordinance No. 7 of 1925	Removal of Graves and Dead Bodies Ordinance	Section 2(1)	10
Ordinance No. 8 of 1932	Cemetery Ordinance	Sections 2, 3, 5, and 6	
Ordinance No. 22 of 1960	Drive-in Theatres Ordinance	Section 2.	
Ordinance No. 18 of 1965	Crematorium Ordinance	Sections 2, 3(1), 3(2), 4, 5(1), 5(2), 5(3), 6, 10(2), 10(3), 11(1), 11(2), 12 and 13	15
Ordinance No. 18 of 1969	Public Resorts Ordinance	Sections 3(2), 3(3), 4, the heading to Chapter III, 29(1), 29(2), 29(4), 30(2), 32, 34, 37(1) and 37A	20 25
Act No. 99 of 1987	Fire Brigade Services Act	Sections 3(2), 6B(2), 11(1), 11(2), 12(3), 13, 17(1) and 17(2)	

**THIRD SCHEDULE**

Laws amended by the substitution for “local authority” or “local authorities”, wherever they occur, of “municipality” or “municipalities” respectively.

<i>Number and Year</i>	<i>Short Title</i>	<i>Section Amended</i>	
Ordinance No. 44 of 1904	Local Authorities Roads Ordinance	Sections 4 to 6 inclusive, 7(1), 7(3), 7(4), 8 to 10 inclusive, 19, 23(2), 24, 27, 30 to 32 inclusive, 34, 37 to 41 inclusive and 45	5 10
Ordinance No. 18 of 1965	Crematorium Ordinance	Section 11(3)	15
Ordinance No. 18 of 1969	Public Resorts Ordinance	Section 2	
Act No. 99 of 1987	Fire Brigade Services Act	Sections 3, 4(1), 5(2), 6(2), 11(2), 16(1) and 17(1)	20

**Fourth Schedule**

Laws amended by the insertion after the words “he” and “his” and “him” and “himself”, wherever they occur in the provisions indicated in the third column, of the words “or she” and “or her” and “or herself”, respectively.

<i>Number and Year</i>	<i>Short Title</i>	<i>Section Amended</i>	
Ordinance No. 18 of 1965	Crematorium Ordinance	Sections 2, 5, 8, 9, 10, 11 and 14	5
Ordinance No. 22 of 1960	Drive-in Theatres Ordinance	Sections 3 and 5	10
Act No. 99 of 1987	Fire Brigade Services Act	Sections 4, 5, 6, 6A, 6B, 7, 8, 9, 12, 14, 18, 19, and 21	15
Ordinance No. 44 of 1904	Local Authority Roads Ordinance	Sections 6, 13, 15, 19, 23, 32, and 37	
Ordinance 18 of 1969	Public Resorts Ordinance	Sections 3, 4, 28, 29, 30, 32, 37, and 37A	20





