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### **51. Municipal capacity assessments**

- (1) The MDB must conduct municipal capacity assessments to –
  - (a) support its decisions on the determination and redetermination of municipal boundaries;
  - (b) provide assistance and guidance to the Minister and MEC for local government regarding the assignment of functions and powers either through authorisation, revocation, or adjustment as contemplated in the Structures Act; and
  - (c) render an advisory service in respect of matters provided for in this Act and other relevant legislation;
- (2) When the MDB conducts a municipal capacity assessment, it must also take into account the provisions of Sections 9 and 10 of the Systems Act, and the following factors:
  - (a) operational, administrative and financial management capacity;
  - (b) infrastructure that enables a municipality to collect revenue and to govern on its own initiative the local government affairs of its community;
  - (c) natural resources;
  - (d) any other drivers of economic growth;
  - (e) any other factors considered by the Minister and the MEC for local government in the assignment of powers and functions in accordance with the Structures Act; and
  - (f) social cohesion.

## **CHAPTER 5 ROLE OF THE MUNICIPAL DEMARCATION BOARD IN THE ALTERATION OF PROVINCIAL BOUNDARIES**

### **52. Provincial boundary alteration**

- (1) The alteration of provincial boundaries must be done in terms of section 74 of the Constitution and rules and orders of the National Assembly.
- (2) The Minister may-
  - (a) On request by the MEC for local government, or other statutory bodies, or individual or community or any other establishment experiencing challenges with provincial boundaries consider requesting the MDB to investigate such issues;
  - (b) after consulting the MECs for local government, request the MDB to investigate areas affecting provincial boundaries; and
  - (c) make recommendations to Parliament on the basis of the Municipal Demarcation Board report.

(3) The MDB may make recommendations to the National Assembly on provincial boundary challenges identified when performing its functions in terms of section 6(5).

## CHAPTER 6 MISCELLANEOUS

### 53. Regulations and guidelines

(1) The Minister may, by notice in the *Gazette* and after consultation with the Board, make regulations or issue guidelines not inconsistent with this Act concerning any matter that may-

- (a) be prescribed in terms of this Act; and
- (b) facilitate the application of this Act.

### 54. Offences and penalties

A person who does not attend any public hearing when properly summoned by the MDB, or does not produce the documents as required by the summons, is guilty of an offence and liable on conviction to a fine or to imprisonment for a period not exceeding one year or to both.

### 55. Amendment of legislation

The legislation mentioned in Schedule 1 is hereby amended to the extent set out in that Schedule.

### 56. Transitional arrangements

Any determination matter which was investigated by the Municipal Demarcation Board immediately before this Act took effect, must be regarded as having been concluded in terms of Act No. 27 of 1998.

### 57. Short title and commencement

This Act is called the Local Government: Municipal Demarcation Act, 2020, and takes effect on a date determined by the President by proclamation in the *Gazette*.

## Schedule 1

### REPEAL OF LEGISLATION

No and year of law	Short title	Extent of application
Act No. 117 of 1998	Local Government: Municipal Structures Act, 1998	Sections 2 and 4. Schedule 1, Items (2), (3), (4) and (5)

## MEMORANDUM ON THE OBJECTS OF THE LOCAL GOVERNMENT: MUNICIPAL DEMARCATION BILL, 2020

### 1. BACKGROUND

1.1 The amendments to the Local Government: Municipal Demarcation Act No. 27 of 1998 (hereinafter referred to as the MDA) are based on proposals received from the Municipal Demarcation Board (MDB), and are further informed by:

- (i) Inputs from previous Boards;
- (ii) Recommendations from the Demarcation Process Review Task Team, which was established to review the process of demarcation;
- (iii) Lessons learnt from previous redeterminations and ward delimitation processes;
- (iv) Litigation;
- (v) Inputs from various other stakeholders;
- (vi) Opinion from the Office of the Chief State Law Advisor (OCSLA) on the independence of the MDB;
- (vii) Inputs from the June 2016 conference on Demarcation and Spatial Transformation; and
- (viii) Inputs made at a workshop convened by the Department of Cooperative Governance (DCoG) in March 2017 (attended by various national departments, provincial departments responsible for local government, and other stakeholders).

1.2 In summary, the proposed amendments, amongst others, aim to:

- (i) Clarify and differentiates between the members of the Board and the organisation itself;
- (ii) Indicate that the Chief Executive Officer is the accounting authority, and the Chairperson is the executive authority, for the purposes of the Public Finance Management Act;
- (iii) Require that a Board member to have experience in or knowledge appropriate to Information Technology;
- (iv) Require the selection panel to include a designee each from the National Assembly, and from the National House of Traditional Leaders;
- (v) Require that vacancies that arise on the Board may be filled by persons that were on the "long-list" that was submitted to the President, at the time of the establishment of the Board;
- (vi) Extend the term of office of Board members to seven (7) years (from 5), to allow for continuity and to ensure that the same Board presides over municipal boundaries that it resolved-on and the subsequent ward delimitation process;
- (vii) Ensure that all Board members, except for the Chairperson, serve on a part-time basis;
- (viii) Ensure that major boundary redeterminations, which affects the movement of more than one whole ward in a municipality, will only be done after every ten years;
- (ix) Deviate above the present norm of 15%, to 30%, when delimiting wards, but within strict conditions to avoid the splitting of communities;



- (x) Provide for the establishment of the Demarcation Appeals Authority to deal with disputes and appeals regarding decisions of the Board;
- (xi) Provide for more extensive public participation and stakeholder consultation for any redetermination proposal;
- (xii) Set timeframes for boundary redeterminations and ward delimitation, taking into account the programme of the Independent Electoral Commission (IEC);
- (xiii) Migrate the MDB functions from the Municipal Structures Act, to the MDA to ensure that the mandate of the MDB is provided in a single piece of legislation; and
- (xiv) Provide for the MDB to make recommendations to Parliament on the alteration of provincial boundaries.

1.3 Due to the many amendments to the original Act, it has necessitated the repeal of the MDA and for it to be replaced with a new Act.

1.4 This Memorandum on the Objects of the Bill does not deal in detail with the original legislation, but elaborates on the provisions of the new Act.

## **2. OBJECTS OF THE BILL**

The objects of the Bill are to provide for the establishment and operations of the Municipal Demarcation Board; the criteria and procedures for the demarcation and delimitation of boundaries; for the establishment of the Demarcation Appeals Authority; for the Board to undertake municipal capacity assessments; and to make recommendations on provincial boundaries.

## **3. SUMMARY OF THE BILL**

### **CHAPTER 1**

#### **INTERPRETATION AND APPLICATION OF THE ACT**

##### **3.1 Section 1: Definitions**

Definitions are provided for the following:

- (i) Appeals Authority;
- (ii) Board;
- (iii) Chief Executive Officer;
- (iv) Delimitation;
- (v) Demarcation;
- (vi) Determination;
- (vii) Local Community;
- (viii) Metropolitan area;
- (ix) MDB;
- (x) Municipal Demarcation Board;
- (xi) Political office-bearer;
- (xii) Public Finance Management Act;
- (xiii) Structures Act; and
- (xiv) Systems Act.

## **CHAPTER 2**

### **MUNICIPAL DEMARCATION BOARD**

#### **Part 1: Establishment, function and general powers of the Municipal Demarcation Board:**

##### **3.2 Section 2: Establishment**

This section points to provision 155(3)(b) of the Constitution which indicates that national legislation establish criteria and procedures for the determination of municipal boundaries by an independent authority.

This section also specifies that the Municipal Demarcation Board (or MDB) consists of members of the Board (the Board), and of the administration.

The aim of this provision is to differentiate between the Board and the organisation itself (including employees), as it is not clearly defined in the current Act.

##### **3.3 Section 3: Status**

This section confirms that the MDB is a juristic person; is independent; and must be impartial when performing its functions.

##### **3.4 Section 4: Functions of the MDB**

The five major functions of the MDB are confirmed in the Bill, that is to:

- (i) determine or re-determine municipal boundaries in accordance with this Act and other appropriate legislation enacted in terms of Chapter 7 of the Constitution;
- (ii) render an advisory service in respect of matters provided for in this Act and other appropriate legislation when so requested.
- (iii) delimit wards for all municipalities that must have wards;
- (iv) conduct municipal capacity assessments; and
- (v) make recommendations to Parliament on provincial boundary matters, when the matter arises during the course of municipal boundary determination.

##### **3.5 General Powers of the Municipal Demarcation Board**

In this section, various powers are conferred on the MDB to do all that is necessary to effectively perform its functions, and confirms that the MDB may not borrow money unless authorised by the PFMA. Additionally, the MDB may request municipalities to provide it with facilities for it to hold meetings.

##### **3.6 Section 6: Members of the Board**

- (i) Members of the Board are appointed by the President, and they are responsible for managing the business and affairs of the MDB.
- (ii) It is clarified that the:

- Chairperson is the executive authority;
- Board is responsible for matters of corporate governance; and
- MDB is responsible for:
  - Determining and redetermining municipal boundaries;
  - Rendering an advisory service;
  - Delimiting wards;
  - Conducting municipal capacity assessments; and
  - Making recommendations on provincial boundary matters.

## **Part 2: Membership of Board**

### **3.7 Section 7: Composition**

- (i) The Board consists of 7 to 10 members, which is determined by the Minister by Notice in the *Government Gazette*. The composition of the Board must also reflect South African society, and collectively represent a pool of knowledge relating to municipal demarcation.
- (ii) There is presently confusion and misinterpretation regarding the term “regional diversity” as contained in the current legislation. This leads to certain provinces demanding that the composition of the Board should be comprised of nine Board members selected from each of the provinces; that is not the intention of the legislation.

### **3.8 Section 8: Qualifications**

- (i) Information Technology is included as an additional qualification, or experience that is required by a member of the Board.
- (ii) This is necessary given that the work of the MDB is generally technical in nature, and it utilises information and communication technologies extensively to determine municipal and ward boundaries. The prevalence of such skills within the Board will enhance decision-making.
- (iii) Additionally, political office-bearers and full-time employees of an organ of state are not eligible from becoming a member of the Board.

### **3.9 Section 9: Appointment procedure**

- (i) The section provides for the Minister to establish a selection panel to appoint members of the Board. The selection panel has been expanded to include the Chairperson of the Portfolio Committee responsible for local government (or a designee), and the Chairperson of the NHTL (or a designee).
- (ii) When a vacancy arises in the Board, the Minister may proceed to reconstitute the selection panel, or may recommend to the President a name/s from the shortlist that was previously submitted to the President (from the prior process to establish the Board).

### **3.10 Section 10: Terms of Office**

- (i) The term of office of the Board has been increased to seven years, calculated from the date of appointment by the President. This is to allow for a sitting Board to preside over municipal boundaries, and the subsequent ward delimitation process, that that Board had finalised. Presently, an incoming Board inherits decisions taken on boundaries by the Board that was previously in place.
- (ii) A member of the Board may not hold office for more than two consecutive terms.
- (iii) A member ceases to be on the Board if such a person is absent from three or more Board meetings without being granted leave of absence by the Chairperson.
- (iv) All members of the Board will be appointed on a part-time basis, except for the Chairperson.

### **3.11 Section 11: Conditions of appointment of members**

The conditions of service, remuneration, allowances and other benefits of Board members will be determined by the Minister, after consultation with the Minister of Finance.

### **3.12 Section 12: Chairperson and Deputy Chairperson**

The President will appoint one member of the Board as the Chairperson and another person as the Deputy Chairperson.

### **3.13 Section 13: Meetings**

- (i) The Chairperson, or if the majority of the members so request, must convene a Board meeting.
- (ii) Section 12(4)(b) provides for a casting vote by the Chairperson of the Board.

### **3.14 Section 14: Rules of procedure**

The Board must determine its rules of procedure for conducting its business, and the rules must ensure effective corporate governance of the Board. The rules must also provide for the specific roles of the Chairperson of the Board and for the Chief Executive Officer.

### **3.15 Section 15: Committees**

The Board will be required to establish, at the least, the Audit and Risk Governance Committee and the Remuneration and Performance Committee. Other committees may also be established, but all committees must include at least one member of the Board.

### **3.16 Section 16: Assignment of powers and duties**

- (i) The Board may delegate any of its powers to a member, an employee, or a committee of the Board, excluding the power to make the final decision on the determination of a municipal boundary.
- (ii) The Board may also confirm, vary or revoke any decision that it had previously delegated.

### **3.17 Section 17: Conduct of members**

This section requires members of the Board to perform their functions of office in good faith and without fear, favour or prejudice, and must disclose all personal and / or private business interests. A member who contravenes or fails to comply with the above, is guilty of misconduct.

#### **Part 3: Administration and staff matters**

### **3.18 Section 18: Chief Executive Officer**

- (i) This section deals with the appointment of the CEO as the head of the administration of the Municipal Demarcation Board, for a period not exceeding seven years.
- (ii) The CEO is also the accounting officer, and must perform all functions as may be assigned to her / him by the Board.
- (iii) The CEO must appoint employees in accordance with an organisational structure that would have been approved by the Board.

### **3.19 Section 19: Conditions of employment of employees**

- (i) The Board will determine the conditions of employment of employees, which must comply with the principles of public administration as contained in the Constitution.
- (ii) Persons from other organs of state that are seconded to the Board will be under the control and direction of the CEO.

### **3.20 Section 20: Services of non-employees**

A person that is contracted to provide services may be remunerated and reimbursed for expenditure incurred.

#### **Part 4: Finances**

### **3.21 Section 21: Funding**

- (i) The MDB will continue to receive funding from Parliament and from any other source through the National Revenue Fund (NRF).

- (ii) The MDB will be required to refund to the NRF any monies that have not been utilised by the end of a financial year.

### **3.22 Section 22: Accountability**

- (i) The CEO must keep full and proper records of all income, expenditure, assets, liabilities and financial transactions of the MDB.
- (ii) The CEO must also ensure that the MDB's available resources are properly safeguarded, and used in the most efficient and effective manner.

### **3.23 Section 23: Audit**

The financial statements and records of the MDB must be audited annually by the Auditor-General.

### **3.24 Section 24: Reporting**

The MDB must, in terms of the PFMA, annually submit a written report on its activities during a financial year to both Houses of Parliament.

## **CHAPTER 3**

### **DEMARCATIION AND DELIMITATION**

#### **Part 1: Demarcation Criteria**

### **3.25 Section 25: Demarcation Objectives**

The Board will, in future, be required to consider the municipality's capacity to execute any other function in line with Minister's or MEC's allocated powers and functions when it determines a municipal boundary.

### **3.26 Section 26: Factors to be taken into account**

- (i) The Board will, in future, be required to consider the following additional factors when determining a municipal boundary:
  - (a) common geo-statistical building blocks, which facilitates and supports a standard geographical hierarchy;
  - (b) relevant national development policies and plans, which might impact on the nature of local government and its boundaries;
  - (c) relevant policies and legislation relating to the institutional or functional reorganisation of local government; and
  - (d) natural endowments, resources, assets, business investments and other drivers of economic growth.
- (ii) The intention is to add further criteria deemed necessary for the Board to consider, when determining municipal boundaries. These are not part of the current legislation and have surfaced to be critical as the Board carries out its mandate.

### **3.27 Section 27: Determination of category of municipality**

- (i) This section proposes that sections 2, 3 and 4 of the Municipal Structures Act be migrated into the MDA.
- (ii) As the MDB deals with matters relating to the determination of municipal boundaries, it is proposed that the provisions dealing with the application of criteria for demarcating Category A, B and C municipalities be provided for in the MDA.

### **Part 2: Municipal Boundary Determinations**

### **3.28 Section 28: Initiation of demarcation process**

- (i) The Board will, in the future, undertake redeterminations that affect more than one ward, only after every ten years.
- (ii) This section also provides for when the Board will perform its various functions, and clearly indicates that it will not redetermine municipal boundaries after the Minister publishes the formulae for determining the number of councillors. This is intended to ensure that preparations for municipal elections are not hampered by any late requests.
- (iii) Any application for municipal boundary redeterminations must be accompanied by a motivation in terms of the demarcation criteria as outlined in sections 24 and 25.

### **3.29 Section 29: Notification of intention to consider request for determination of municipal boundary**

- (i) This provision is from section 26 of the existing Act. It obliges the Board to publish a notice in the area concerned stating the Board's intention to consider a request for the determination of a municipal boundary.
- (ii) The notice will invite written representations and views from the public within a prescribed period, which may not be less than 30 days, before it considers any determination of a municipal boundary.
- (iii) A copy of the notice must also be sent to the MEC for local government, each affected municipality, and the provincial House of Traditional Leaders (if a traditional authority is affected).

### **3.30 Section 30: Conducting investigations on municipal boundaries**

- (i) The Board will be required to institute a formal investigation (unless if it is a minor technical adjustment) after receiving views from and representations from stakeholders.
- (ii) After conclusion of a formal investigation, a report must be submitted to the Board for consideration. At this stage, the Board may either endorse the report, or refer it back for further investigation.

### **Part 3: Public Participation**

#### **3.31 Section 31: Consultation**

- (i) Sections 31 to 33 prescribes provisions dealing with consultation; mechanisms, processes and procedures; communication of information; and publication of boundary determination, respectively, to strengthen community participation in demarcation matters.
- (ii) Section 31 requires that the:
  - (a) MDB publish a notice in a local newspaper informing stakeholders of a public meeting, and to also communicate the same message through other means;
  - (b) Section 29 report must be conveyed to the public;
  - (c) MDB to clearly and comprehensively deal with boundary matters affecting the communities;
  - (d) Affected municipalities to provide suitable facilities for the engagement with the communities; and
  - (e) Board may conduct further public hearings after the initial engagements undertaken by the MDB.

#### **3.32 Section 32: Mechanisms, processes and procedures for public participation**

This section provides details as to how the public may participate in demarcation processes, and further requires the Board to establish appropriate means to maximise public participation.

#### **3.33 Section 33: Communication of information concerning public participation**

The section requires the Board to communicate sufficient information to members of the public affected by demarcation.

#### **3.34 Section 34: Publication of municipal boundary determination**

- (i) The Board is required to publish its final determinations in the *Provincial Gazette* for comments, and after considering any objections, the Board must confirm, vary or withdraw its determination by publishing its final decision in the *Provincial Gazette*.
- (ii) The Board must also provide reasons when publishing its final decision.

#### **3.35 Section 35: When boundary determinations take effect**

- (i) After finalising a boundary determination, the Board must send particulars of the determination to the IEC and to the relevant MEC for their views.
- (ii) The IEC and the relevant MECs must thereafter publish a Notice in the relevant *Provincial Gazette*.



## **Part 4: Ward delimitation**

### **3.36 Section 36: Delimitation of wards**

After the Minister publishes the formulae for determining the number of councillors, the Board must publish a delimitation timetable in the *Government Gazette*.

### **3.37 Section 37: Number of wards**

The number of wards must be equal to the number of ward councillors determined for a local or metropolitan municipality in terms of section 22(2) of the Structures Act.

### **3.38 Section 38: Ward delimitation criteria**

- (i) The number of registered voters in a municipality may not vary by more than 15% of the norm, where the norm is determined by dividing the total number of registered voters in a municipality by the number of wards in a municipality.
- (ii) The Board may deviate by not more than 30% of the norm in exceptional cases. However, before such a delimitation may be finalised, the Board must obtain the views of the IEC in this regard.

### **3.39 Section 39: Public participation in ward delimitation**

The same provisions relating to public participation when municipal boundaries are determined, are also applicable when wards are delimited.

### **3.40 Section 40: Publication of ward delimitation**

- (i) The MDB must also provide reasons when publishing its pre-final ward boundaries for public comments.
- (ii) After considering any objections that may have been received, the Board must confirm, vary or withdraw its delimitation.

## **Part 5: Demarcation Appeals Authority**

Sections 41 to 50 deal with the establishment of the Demarcation Appeals Authority (DAA).

The current Act does not provide for an appeal mechanism or dispute resolution process against the decisions of the Board, except for aggrieved persons to approach the courts to review the decisions of the Board.

The litigation process by its own nature is expensive and time-consuming. Also, in most instances communities resort to violent protests as they attempt to register their dissatisfaction. The establishment of the DAA will allow stakeholders to be heard by a competent and independent authority.

### **3.41 Section 41: Establishment and constitution of Appeals Authority**

This provision requires the President to appoint, on recommendation by the Minister, a DAA of not less than three and not more than ten members, who will serve on a part-time basis.

### **3.42 Section 42: Functions of Appeals Authority**

- (i) The DAA may adjudicate on disputes arising from the final boundary decisions made by the Board, and if necessary, may impose any remedy.
- (ii) This section also empowers the Minister to prescribe regulations for the functioning of the DAA.

### **3.43 Section 43: Qualifications of members of Appeals Authority**

- (i) The Chairperson and other members of the DAA must be South African citizens, and represent a broad cross-section of the population of the Republic; have proven experience in demarcation issues; and comprise of sufficient persons with legal training and experience.
- (ii) The same qualifications for members of the Board are applicable to members of the DAA.

### **3.44 Section 44: Term of office of members of Appeals Authority**

Members of the DAA may serve a term of seven years, commencing from the date that they were appointed by the President.

### **3.45 Section 45: Chairperson and Deputy Chairperson of Appeals Authority**

The President must, on the recommendation of the Minister, designate one member of the DAA as the Chairperson and another member of the DAA as the Deputy Chairperson.

### **3.46 Section 46: Appeals Authority proceedings**

- (i) Any person aggrieved by a demarcation decision of the Board has not more than 30 days from the date of decision by the Board, to lodge an appeal with the DAA.
- (ii) On receipt of such appeal, the Chairperson of the DAA must allocate such appeal to a panel of three DAA members.
- (iii) The panel must then consider the appeal, and either confirm or refer the determination back to the Board for consideration. This must be done within 30 days from the date that the appeal was lodged with the DAA.

### **3.47 Section 47: Conflicts and disclosure of interest by members of Appeals Authority**

A member of the DAA may not represent any person before a panel of the DAA, and a member of the DAA must immediately and fully disclose any interests in a specific matter.

### **3.48 Section 48: Acting by member of Appeals Authority after expiry of term of office**

If, on the expiry of the term of office of a member of the DAA, that member is still considering a matter before the DAA, then that member may continue to act as a member, but only in respect of that specific matter.

### **3.49 Section 49: Remuneration and benefits of members of Appeals Authority**

The conditions of service, remuneration, allowances and other benefits of members of the DAA must from time to time be determined by the Minister, by notice in the *Government Gazette*, after consultation with the Minister of Finance.

### **3.50 Section 50: Administrative assistance to Appeals Authority**

The MDB must provide administrative and secretarial assistance to the DAA.

## **CHAPTER 4**

### **MUNICIPAL CAPACITY ASSESSMENTS**

#### **3.51 Section 51: Municipal capacity assessments**

- (i) This section requires the MDB to conduct capacity assessments to support its decisions on the demarcation of boundaries.
- (ii) The MDB must also provide assistance and guidance to the Minister and the MEC for local government regarding the assignment of functions and powers.
- (iii) The MDB is also required to consider, amongst others, the provisions in Sections 9 and 10 of the Municipal Systems Act.

## **CHAPTER 5**

### **ROLE OF THE MUNICIPAL DEMARCATION BOARD IN THE ALTERATION OF PROVINCIAL BOUNDARIES**

#### **3.52 Provincial boundary alteration**

- (i) This section requires that the alteration of provincial boundaries must be done in accordance with Section 74 of the Constitution and the Rules and Orders of the National Assembly.
- (iii) The section also provides that the Minister may:

- (a) on request by the MEC for local government, or other statutory bodies, or individual or community or any other establishment experiencing challenges with provincial boundaries consider requesting the MDB to investigate such issues;
  - (b) after consulting the MECs for local government, request the MDB to investigate areas affecting provincial boundaries; and
  - (c) make recommendations to Parliament on the basis of the MDB report.
- (iii) The MDB may make recommendations to the National Assembly on provincial boundary challenges identified when performing its functions in terms of section 5(5).

## **CHAPTER 6**

### **MISCELLANEOUS**

#### **3.53 Regulations and guidelines**

This section provides for the Minister, after consultation with the Board, to make regulations or issue guidelines on any matter that may be prescribed in terms of the Act.

#### **3.54 Offences and penalties**

The Board is empowered to issue summons in case a person/s with critical information is needed to carry out its functions, but is refusing to do so as requested. The present legislation does not provide the Board with the option of this sanction which results, in some instances, in delays or failure to execute its functions.

#### **3.55 Amendment of legislation**

Sections 2, 3 and 85(4), and Items 2 to 5 of Schedule 1 of the Municipal Structures Act are repealed.

#### **3.56 Transitional arrangements**

Any determination matter which was investigated by the MDB immediately before this Act took effect, must be regarded as having been concluded in terms of Act No. 27 of 1998.

#### **3.57 Short title and commencement**

The Act will be called the Local Government: Municipal Demarcation Act, 2020 and commencement will be by proclamation in the *Government Gazette* by the President.

#### **4. PARTIES CONSULTED**

The following stakeholders/parties were consulted during the development of the Bill:

##### **4.1 Sector Departments and Provinces**

- (i) Department of Traditional Affairs;
- (ii) Provincial Departments responsible for local government;
- (iii) Department of Rural Development and Land Reform;
- (iv) Department of Water and Sanitation;
- (v) Statistics South Africa;
- (vi) Department of Performance Monitoring and Evaluation;
- (vii) Department of South African Police Service;
- (viii) Department of Transport;
- (ix) Department of Justice and Constitutional Development;
- (x) Department of Home Affairs;
- (xi) Department of Tourism; and
- (xii) National Treasury.

##### **4.2 Organisations and Institutions**

- (i) Municipal Demarcation Board;
- (ii) South African Local Government Association;
- (iii) South African Cities Network; and
- (iv) Independent Electoral Commission.

#### **5. FINANCIAL IMPLICATIONS FOR THE STATE**

Financial implications are foreseen for the following:

- (i) Publication of the Bill for public comments;
- (ii) Public consultation processes that the MDB must undertake; and
- (iii) The establishment and remuneration of members of the Demarcation Appeals Authority.

#### **6. FINANCIAL IMPLICATIONS FOR PROVINCES**

None.

#### **7. FINANCIAL IMPLICATIONS FOR MUNICIPALITIES**

None.

#### **8. PARLIAMENTARY PROCEDURE**

- 8.1 The Office of the Chief State Law Adviser and the Department of Cooperative Governance are of the opinion that the Bill must be dealt with in accordance with the procedure prescribed by section 75 of the Constitution since it contains no provision to which the procedure set out in section 74 or 76 of the Constitution apply.

- 8.2 The State Law Advisers (SLA) are of the opinion that it is not necessary to refer this Bill to the National House of Traditional Leaders (NHTL) in terms of section 18(1)(a) of the Traditional Leadership and Governance Framework Act No. 41 of 2003, since it does not contain provisions pertaining to customary law or customs of traditional communities. However, out of courtesy, the SLA has advised that the NHTL should be informed accordingly.