
PROVINCE OF WESTERN CAPE

**WESTERN CAPE
DETERMINATION OF TYPES OF
MUNICIPALITIES ACT, 2000**

PROVINSIE WES-KAAP

**WES-KAAPSE WET OP
BEPALING VAN SOORTE
MUNISIPALITEITE, 2000**

PROVINSIE WES-KAAP

**UMTHETHO WOKUMISELWA
KWEENDIDI ZOOMASIPALA
KWINTSHONA KOLONI, 2000**

No 9, 2000

ACT

To determine the types of municipalities that may be established in the Western Cape Province as provided for in section 155(5) of the Constitution, section 53(1) of the provincial Constitution and section 11 of the Structures Act; and to provide for matters in connection thereto.

PREAMBLE

Since section 155 (1) of the Constitution defines the different categories of municipalities that may be established;

And since section 155 (2) of the Constitution requires national legislation to define the different types of municipalities that may be established within each category of municipality;

And since Part 2 of Chapter 1 of the Structures Act, in accordance with section 155 of the Constitution, has defined the different types of municipalities that may be established within each category of municipality;

And since section 155 (5) of the Constitution, read with section 11 of the Structures Act, requires provincial legislation to determine which of the defined types of municipalities may be established in the Province;

And since section 53 of the provincial Constitution requires that provincial legislation must determine the different types of municipalities to be established in the Western Cape, as defined by national legislation;

BE IT ENACTED by the Provincial Parliament of the Province of the Western Cape as follows:—

Definitions

1. In this Act, unless the context otherwise indicates, a word or expression to which a meaning has been given in the Structures Act has a similar meaning, and—
- “**category**” in relation to municipalities, means a category A, B or C municipality as defined in section 155 (1) of the Constitution;
 - “**collective executive system**” means a system of local government, which allows for the exercise of executive authority through an executive committee in which the executive leadership of the municipality is collectively vested;
 - “**Constitution**” means the Constitution of the Republic of South Africa, 1996 (Act 108 of 1996);
 - “**provincial Constitution**” means the Constitution of the Western Cape, 1997 (Act 1 of 1998);
 - “**plenary executive system**” means a system of local government, which limits the exercise of executive authority to the municipal council itself;
 - “**province**” means the province of Western Cape;
 - “**provincial Minister**” means the member of the provincial Cabinet responsible for local government in the Province;

“subcouncil participatory system” means a system of local government which allows for delegated powers to be exercised by subcouncils established for parts of the municipality;

“Structures Act” means the Local Government: Municipal Structures Act, 1998 (Act 117 of 1998 as amended), and

“ward participatory system” means a system of local government, which allows for matters of local concern to wards to be dealt with by committees established for wards.

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Determination of types of municipalities

2. The different types of municipalities determined and that may be established in the Province are those set out in the Schedule.

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Provincial Minister bound by Act

3. When acting as is required or necessitated by sections 12, 16 and 17 of the Structures Act, the provincial Minister is limited to the types of municipalities listed in the Schedule.

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Short title and commencement

4. This Act is called the Western Cape Determination of Types of Municipalities Act, 2000, and comes into operation on a date fixed by the Premier by proclamation in the *Provincial Gazette*.

SCHEDULE**Category A municipalities**

1. The following types of category A municipalities may be established in the Province:

- (a) a municipality with a collective executive system;
- (b) a municipality with a collective executive system combined with a subcouncil participatory system;
- (c) a municipality with a collective executive system combined with a ward participatory system, and
- (d) a municipality with a collective executive system combined with both a subcouncil and a ward participatory system.

Category B municipalities

2. The following types of category B municipalities may be established in the Province:

- (a) a municipality with a collective executive system;
- (b) a municipality with a collective executive system combined with a ward participatory system;
- (c) a municipality with a plenary executive system, and
- (d) a municipality with a plenary executive system combined with a ward participatory system.

Category C municipalities

3. The following types of category C municipalities may be established in the Province:

- (a) a municipality with a collective executive system, and
- (b) a municipality with a plenary executive system.

WET

Om die soorte munisipaliteite wat in die Provinsie Wes-Kaap ingestel kan word te bepaal soos daar in artikel 155(5) van die Grondwet, artikel 53(1) van die provinsiale Grondwet en artikel 11 van die Strukturewet voorsien word; en om voorsiening te maak vir aangeleenthede wat daarmee in verband staan.

AANHEF

Aangesien artikel 155(1) van die Grondwet die verskillende kategorieë van munisipaliteite wat ingestel mag word definieer;

En aangesien artikel 155(2) van die Grondwet vereis dat nasionale wetgewing die verskillende soorte munisipaliteite definieer wat ingestel mag word in elke kategorie van munisipaliteit;

En aangesien Deel 2 van Hoofstuk 1 van die Strukturewet, in ooreenstemming met artikel 155 van die Grondwet, die verskillende soorte munisipaliteite gedefinieer het wat in elke kategorie van munisipaliteit ingestel mag word;

En aangesien artikel 155(5) van die Grondwet, saamgelees met artikel 11 van die Strukturewet, vereis dat provinsiale wetgewing bepaal watter van die gedefinieerde soorte munisipaliteite in die Provinsie ingestel mag word;

En aangesien artikel 53 van die provinsiale Grondwet vereis dat provinsiale wetgewing die verskillende soorte munisipaliteite soos by nasionale wetgewing omskryf, vir die Wes-Kaap moet instel;

BEPAAL die Provinsiale Parlement van die Wes-Kaap, soos volg:—

Woordomsrywings

1. In hierdie Wet, tensy uit die samehang anders blyk, het 'n woord of uitdrukking waaraan 'n betekenis gegee is in die Strukturewet, 'n soortgelyke betekenis, en beteken— 5

“**gesamentlike uitvoerende stelsel**” ’n stelsel van plaaslike regering wat die uitoefening van uitvoerende gesag deur ’n uitvoerende komitee waarin die uitvoerende leierskap van die munisipaliteit gesamentlik berus, magtig;

“**Grondwet**” die Grondwet van die Republiek van Suid-Afrika, 1996 (Wet 108 van 1996); 10

“**provinsiale Grondwet**” die Grondwet van die Wes-Kaap, 1997 (Wet 1 van 1998);

“**kategorie**” met betrekking tot munisipaliteite, ’n kategorie A, B of C munisipaliteit soos gedefinieer in artikel 155(1) van die Grondwet; 15

“**Provinsie**” die Provinsie Wes-Kaap;

“**provinsiale Minister**” die lid van die Provinsiale Kabinet van die Provinsie Wes-Kaap verantwoordelik vir plaaslike regering in die Provinsie;

“**Strukturewet**” die Wet op Plaaslike Regering: Munisipale Strukture, 1998 (Wet 117 van 1998 soos gewysig); 20

“**subraad deelnemende stelsel**” ’n stelsel van plaaslike regering wat gedelegeerde bevoegdhede magtig wat deur subrade uitgeoefen word wat vir gedeeltes van die munisipaliteit ingestel is;

“**volle raad uitvoerende stelsel**” ’n stelsel van plaaslike regering wat die uitoefening van uitvoerende gesag tot die munisipale raad self beperk, en

“**wyk deelnemende stelsel**” ’n stelsel van plaaslike regering wat aangeleenthede van plaaslike belang vir wyke magtig om deur komitees mee gehandel te word wat vir wyke ingestel is.

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Bepaling van soorte munisipaliteite

2. Die bepaling van die verskillende soorte munisipaliteite en dit wat in die Provinsie ingestel kan word, is soos uiteengesit in die Bylae.

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Provinsiale Minister gebonde aan Wet

3. Wanneer gehandel word soos vereis of noodsaaklik is ingevolge artikels 12, 16 en 17 van die Strukturewet, is die provinsiale Minister beperk tot die soorte munisipaliteite gelys in die Bylae.

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Kort titel en inwerkingtreding

4. Hierdie Wet heet die Wes-Kaapse Wet op Bepaling van Soorte Munisipaliteite, 2000, en tree in werking op ’n datum wat die Premier by proklamasie in die *Provinsiale Koerant* bepaal.

BYLAE**Kategorie A munisipaliteite**

1. Die volgende soorte kategorie A munisipaliteite kan in die Provinsie ingestel word:
- (a) 'n munisipaliteit met 'n gesamentlike uitvoerende stelsel;
 - (b) 'n munisipaliteit met 'n gesamentlike uitvoerende stelsel wat met 'n subraad deelnemende stelsel gekombineer is;
 - (c) 'n munisipaliteit met 'n gesamentlike uitvoerende stelsel wat met 'n wyk deelnemende stelsel gekombineer is, en
 - (d) 'n munisipaliteit met 'n gesamentlike uitvoerende stelsel wat met beide 'n subraad en 'n wyk deelnemende stelsel gekombineer is.

Kategorie B munisipaliteite

2. Die volgende soorte kategorie B munisipaliteite kan in die Provinsie ingestel word:
- (a) 'n munisipaliteit met 'n gesamentlike uitvoerende stelsel;
 - (b) 'n munisipaliteit met 'n gesamentlike uitvoerende stelsel wat met 'n wyk deelnemende stelsel gekombineer is;
 - (c) 'n munisipaliteit met 'n volle raad uitvoerende stelsel, en
 - (d) 'n munisipaliteit met 'n volle raad uitvoerende stelsel wat met 'n wyk deelnemende stelsel gekombineer is.

Kategorie C munisipaliteite

3. Die volgende soorte kategorie C munisipaliteite kan in die Provinsie ingestel word:
- (a) 'n munisipaliteit met 'n gesamentlike uitvoerende stelsel, en
 - (b) 'n munisipaliteit met 'n volle raad uitvoerende stelsel.

UMTHETHO

Ukumiselwa kweendidi zoomasipala ezinokuthi zisekwe kwiPhondo leNtshona Koloni njengoko oku kubonelelwe kwicandelo 155(5) loMgaqo-siseko, icandelo 53(1) loMgaqo-siseko wephondo necandelo 11 le Structures Act nokulungiselela izinto ezinxulumene noko.

IMBULAMBETHE

Njengokuba icandelo 155(1) loMgaqo-siseko lichaza iindidi ezahlukeneyo zoomasipala abanokumiselwa;

Nanjengokuba icandelo 155(2) loMgaqo-siseko lifuna ukuba umthetho kazwelonke uchaze iindidi ezahlukeneyo zoomasipala abanokuthi basekwe kudidi ngalunye lukamasipala;

Nanjengokuba iSahlulelo 2 seSahluko 1 soMthetho we-Structures sivumelana ngamxhelo mnye necandelo 155 loMgaqo-siseko licacise iindidi zoomasipala abanokuphuhliswa kudidi ngalunye lukamasipala;

Nanjengokuba icandelo 155(5) loMgaqo-siseko, xa lifundwa necandelo 11 lomthetho we-Structures lifuna, na ukuba uwiso-mthetho lwephondo luchaze ukuba ngownuphi oyena masipala kwezi ndidi onokoveliswa kwiPhondo;

Nanjengokuba icandelo 53 loMgaqo-siseko lifuna ukuba uwiso-mthetho lwephondo malumise iindidi ezahlukeneyo zoomasipala abaza kusekwa eNtshona Koloni njengoko kuchaziwe kuwiso-mthetho lukazwelonke;

IPALAMENTE YEPHONDO leNtshona Koloni iwisa lo mthetho ngolu hlobo lulandelayo:—

InEcazelo

1. Kulo mthetho, ngaphandle kokuba lo nto kuthethwa ngayo ithetha enye into, igama okanye intetho enentsingiselo enikiweyo kuMthetho we-Structures inentsingiselo efanayo, kwaye—

“**udidi**” ngokunxulumene noomasipala, luthetha udidi A,B okanye C lukamasipala njengoko luchaziwe kwicandelo 155(1) loMgaqo-siseko;

“**Inkqubo yesigqeba ehlangeneyo**” ithetha inkqubo karhulumente wommandla evumela

“**UMgaqo-siseko**” uthetha uMgaqo-siseko weRiphabliki yoMzantsi Afrika, 1996 (uMthetho 108 ka-1996);

“**UMgaqo-siseko wephondo**” uthetha uMgaqo-siseko weNtshona Koloni,1997 (uMthetho 1 ka 1998);

“**Inkqubo ephelileyo yesigqeba esilawulayo**” ithetha inkqubo karhulumente womimandla, enciphisa ukusetyenziswa kwamagunya kwibhunga likamasipala uqobo;

“**IPhondo**” lithetha iPhondo leNtshona Koloni;

“**UMphathiswa wephondo**” uthetha ilungu lethabhinethi yephondo leNtshona Koloni elinoxanduva lokujongana norhulumente wommandla kwiPhondo;

“Inkqubo yokuthabatha inxaxheba kwamabhunga amancinci” ithetha inkqubo karhulumente womimandla esumela amagunya abameli ukuba asetyenziswe ngamabhunga amancinci amiselweyo kwindawo zikamasipala;

“UMthetho we-Structures” uthetha uRhulumente wommandla: uMthetho weStructures zikaMasipala, 1998 (uMthetho 117 ka 1998); kunye

“Inkqubo yokuthabatha inxaxheba kwewodi” ithetha inkqubo karhulumente wommandla ovumela imiba euxulumene nemimandla kwiiwodi ukuba ijongwe ziikomiti ezisekelwe ezi wodi. 5

Ukumiselwa kwendidi zoomasipala

2. Iindidi zoomasipala ezimiselweyo nezinokumiselwa kwiPhondo zezo zidweliswe kwiShedyuli. 10

UMphathiswa wePhondo uyanyanzelwa ngulo Mthetho

3. Xa esenza njengoko kufuneka okanye kuyimfuneko ngokwamacandelo 12, 16 no 17 oMthetho we-Structures uMphathiswa wephondo ufanele ukuba kwiindidi zoomasipala abadweliswe kwiShedyuli. 15

Isihloko esifutshane noqaliso

4. Lo nguMthetho weNtshona Koloni wokuMiselwa kweNdidi zooMasipala, 2000, yaye uya kusebenza ngomhla omiselwe yiNkulumbuso nowaziswe wapapashwa kwiGazethi yePhondo.

ISHEDYULI**Uhlobo A loomasipala**

1. Ezi ndidi zilandelayo kuhlobo A loomasipala zingasekwa kwiPhondo:
 - (a) umasipala onenkqubo yesigqeba esilawula ngokuhlangeneyo;
 - (b) umasipala onenkqubo yesigqeba esilawulayo edityaniswe nenkqubo yokuthabatha inxaxheba kwamabhunga amancinci;
 - (c) umasipala onenkqubo yesigqeba esilawulayo edityaniswe nenkqubo yokuthabatha ixaxheba kweewodi, kunye
 - (d) nomasipala onenkqubo yesigqeba esilawulayo edityaniswe nenkqubo zombini zamabhtulga amancinci kunye naleyo lkuthabatha inxaxheba kuyo iiwodi.

Uhlobo B loomasipala

2. Ezi ndidi zilandelayo kuhlobo B loomasipala zingasekwa kwiPhondo:
 - (a) umasipala onenkqubo yesigqeba esilawula ngokublangeneyo;
 - (b) umasipala onenkqubo yesigqeba esilawula ngokuhlangeneyo edityaniswe nenkqubo yokuthabatha inxaxheba kweewedi;
 - (c) umasipala onenkqubo epheleleyo yesigqeba esilawulayo, kunye
 - (d) nomasipala onenkqubo epheleleyo yesigqeba esilawulayo esidityaniswe naleyo kuthabatha kuyo inxaxheba iiwodi.

Uhlobo C loomasipala.

3. Ezi ndidi zilandelayo zohlobo C loomasipala zingasekwa kwiPhondo:
 - (a) umasipala onenkqubo epheleleyo yesigqeba esilawula ngokuhlangeneyo, kunye
 - (b) nomasipala onenkqubo epheleleyo yesigqeba esilawulayo.

