

Executive leaders

Apart from introducing the categories and types of municipalities, the Municipal Structures Act outlines the internal systems, structures and office-bearers of a municipality. The executive committee and the executive mayor will undoubtedly be central to those municipalities which allow for the establishment of those organs. This second part of the discussion on the Municipal Structures Act deals with the election, duties, powers and internal proceedings of the executive leadership of the municipality.

The executive committee

As can be seen in the table on page 9, some types of municipalities can have an executive committee. If an MEC establishes a type of municipality that has an executive committee, the municipal council elects the executive committee from members at the beginning of its term (s 45). Parties and interests represented in the municipal council must be represented in the executive committee in substantially the same proportion as they are represented in the municipal council (s 43). In other words, where 50 out of 90 councillors belong to Party A, the Act would not permit an executive committee with five out of six members belonging to Party A. Not more than 10 councillors or 20 per cent of the councillors can be elected to an executive committee.

Duties and powers of an executive committee

The executive committee is the principal committee of the municipal council (s 45). The Act contains a list of functions and powers of the executive committee (s 44(2) and (3)). In terms of that list, the executive committee must –

- identify and prioritise the needs of the municipality;
- recommend to the council on how to address those needs through the Integrated Development Plan (IDP) and estimates of revenue and

expenditure;

- develop criteria for evaluation of these activities;
- evaluate progress in addressing the needs of the municipality;
- review the performance of the municipality in order to improve the municipality's –
 - (i) economy, efficiency and effectiveness;
 - (ii) credit control and revenue and debt collection; and
 - (iii) implementation of by-laws;
- monitor the municipality's management;
- oversee the provision of services in a sustainable manner;
- report on the involvement of communities in municipal affairs; and
- ensure public participation and consultation and report on the effects thereof on decisions taken by the council.

Apart from the functions and powers listed above, the municipal council can delegate powers to the executive committee (s 32).

Powers that can be delegated by the council exclude the power to approve the integrated development plan and any power mentioned in section 160(2) of the Constitution, that is, the passing of by-laws, the approval of budgets, the imposition of rates and other taxes, levies and duties and the raising of loans.

The executive committee will concern itself with the running of the municipality on a day-to-day basis. It can determine its own procedures, subject to directions and rules of the municipal council and must report on all its decisions to the municipal council.

The municipal council can remove one or more or all the members of its executive committee but it must notify the member concerned beforehand (s 53).

A majority of the members of an executive committee constitutes a quorum for a meeting. Committee decisions are taken on the basis of a majority of members present voting in favour of a proposal. The present

What the exact powers of the executive will be in each and every municipality, will depend on how the council is going to use its power to delegate functions and powers to other municipal organs.

Ship at local level

requirement of consensus or at least a two-thirds majority in the executive committee (s 16(6) Local Government Transition Act) will be altered with this provision.

The mayor

One member of the executive committee must be elected by the municipal council as the mayor of the municipality. The election procedure of Schedule 3 to the Act applies. He or she can serve a maximum of two consecutive terms as mayor.

The mayor decides when and where the executive committee will meet. However, if a majority of the committee members requests a meeting in writing, the mayor must convene a meeting. The mayor presides over meetings of the executive committee and performs functions assigned to him or her by the municipal council or the executive committee. These duties include any ceremonial duties.

A mayor who is elected by an executive committee should not be confused with an executive mayor. Despite the existence of a mayor, the executive committee nevertheless exercises its powers collectively, in other words, as a committee. Even though the municipal council and the executive committee can delegate powers to the mayor (s 49(1)(b)), it seems that those powers cannot be of so substantial a nature that they deprive the executive committee of its role as the primary committee. This conclusion can be drawn firstly, from section 49(1)(b), which refers to ceremonial duties, secondly, from the fact that the Act gives a long list of powers and duties that is relative to the

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executive committee and thirdly, from the referral to that committee as the primary committee of the municipality.

The executive mayor

One can see from the table (page 9) which types of municipality have an executive mayor. At the beginning of its term, the municipal council elects the executive mayor (and, subject to the MEC's approval, a deputy executive mayor) from among its members (s 55). The election procedure of Schedule 3 to the Act applies. The executive mayor's term of office runs parallel to the term of office of the municipal council. It is not possible to serve more than two consecutive terms as an executive mayor.

Duties and powers of an executive mayor

The description of the duties and powers of the executive mayor is almost identical to the list of functions of the executive committee. The executive mayor is also under a duty to report on all its decisions to the municipal council.

In 'bigger' municipalities, that is municipalities with more than 9 council members, the executive mayor must appoint a 'mayoral committee' from among the councillors. This 'mayoral committee' is tasked with assisting the executive mayor, who can delegate specific responsibilities or powers to members of the mayoral committee.

The municipal council may remove the (deputy) executive mayor from office, subject to prior notice (s 58).

Even though the role of executive mayor

is still 'open' and will therefore largely depend on what powers and functions the municipal council will delegate to him or her, it is clear that the executive mayor will be the 'executive leader' of the municipality. Section 7(b) speaks of "the exercise of executive authority through an executive mayor in whom the executive leadership of the municipality is vested and who is assisted by a mayoral committee". The executive mayor will be responsible for running the municipality on a day-to-day basis and he or she will be assisted in that by the mayoral committee (if there is any). The municipal council can designate some tasks of the executive mayor that he or she must exercise together with the mayoral committee. In this way, the council can bend the decision-making structure slightly towards a more 'collective' executive, bearing in mind that the mayoral committee is appointed by the executive mayor, whereas the executive committee (see above) is elected by the council.

Assessment

The Municipal Structures Act introduces a new system of executive leadership for a municipality. Important is the change in the required majority in the executive committee. But the key elements are the introduction of the executive mayor and the executive committee, both of which have been assigned a set of powers and duties in the Act. However, what the exact powers of the executive will be in each and every municipality, will depend on how the council is going to use its power to delegate functions and powers to other municipal organs. To that extent, the municipality has a choice in structuring its internal division of powers and functions.

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