

Intergovernmental Relations Framework Bill

The place of local government

The Intergovernmental Relations Framework Bill, tabled in Parliament in February, establishes and entrenches the role and place of local government in our system of cooperative government.

Constitutional mandate

Section 41(2) of the Constitution requires an Act of Parliament to:

- a. establish and provide for structures and institutions to promote and facilitate intergovernmental relations; and
- b. provide for appropriate mechanisms and procedures to facilitate the settlement of intergovernmental disputes.

A Bill, giving effect to Section 41(2), has been tabled in Parliament. It is likely that it

will be passed during the current session of Parliament as the President committed the government to the adoption of the Bill by the end of 2004 in his State of the Nation Address in May that year.

The Bill has important intergovernmental relations implications for local government as it sets out both the general objects and principles of intergovernmental relations as well as structures in terms of which local government

must consult with national and provincial governments.

Objects and principles of the Bill

The Bill establishes the following objects and principles for intergovernmental relations:

Predictable, stable and efficient system of intergovernmental relations

The object of the Bill is to facilitate a predictable, stable and efficient system of intergovernmental relations. It is predictable and stable when the spheres of government clearly understand what their roles and responsibilities are, as well as those of intergovernmental forums. It is efficient when cooperative government is effected.

Intergovernmental relations are between executives

The premise of the Bill is that intergovernmental relations are between executives of the spheres of government. The reason is that only executives have the mandate and competence to bind their respective governments through decisions made by intergovernmental forums and then to act on them.

Consultation forums

The intergovernmental forums established are forums for consultation and discussion; they are not executive decision-making bodies but may take resolutions or make recommendations in terms of agreed procedures.

Focused on development

An important objective of intergovernmental relations is to ensure that all spheres of government work collaboratively toward the delivery of services, poverty alleviation and the development of economic opportunities. The aim is thus cooperative government for development.

National intergovernmental forums

The Bill seeks to regularise a number of existing IGR forums and, in the process, has secured Salga's place in them.

President's Coordinating Council

At the peak of the intergovernmental relations system is the President's Coordinating Council (PCC). It consists of:

- the President;
- the Deputy President;
- the Minister in the Presidency;
- the Minister for Provincial and Local Government;
- the Minister of Finance;
- the Minister for Public Service and Administration;
- the Premiers of the nine provinces; and
- the Chairperson of Salga.

The PCC is a consultative forum for the President to discuss matters of national interest with provincial governments and organised local government and to hear their views. It is also a forum of consultation on the implementation of national policy and legislation in provinces and local government, and the coordination and alignment of priorities.

MinMECs

The various MinMECs currently in existence for the various functional areas must conform to the requirements of the Bill within a year of its adoption. Of importance is that their composition includes a representative of organised local government where it is appropriate for the functional area, for example, of housing, transport and health.

Provincial intergovernmental forums

The Bill sets a broad framework for provincial-municipal intergovernmental relations.

The Premier of a province is responsible for co-ordinating intergovernmental relations within the province with respect to relations between the provincial government and local government in the province.

A Premier must establish a Premier's intergovernmental forum with the following membership:



key points

- **The Intergovernmental Relations Framework Bill entrenches local government's role and place in our system of cooperative government.**
- **The chairperson of Salga has a permanent seat in the President's Coordinating Council.**
- **Provincial-local government intergovernmental forums will become mandatory.**
- **The mayor of a district municipality must establish a district intergovernmental forum.**

- the Premier;
- at least the MEC for local government;
- at least the mayors of district municipalities and, where applicable, of metropolitan municipalities; and
- a representative of organised local government.

The object of the forum is to promote and facilitate intergovernmental relations within the province. It performs this function by being a consultative forum for the Premier and the mayors:

- to discuss matters arising in the PCC and other national intergovernmental forums affecting local government, the implementation of national policies and legislation, and matters of mutual interest;
- to consult, in general, on matters affecting local government; and
- to consider reports from other provincial and district intergovernmental forums.

The intergovernmental forum established by the Premier must report periodically to the PCC on:

- matters of national concern; and
- progress on the implementation of national policy and legislation within a province.

The MinMECs currently in existence must conform to the Bill's requirements within a year after its adoption.

The Premier may also establish a formal intergovernmental relations forum for any specific functional area.

District intergovernmental forums

The structuring of intergovernmental relations is also extended to districts. The Bill requires that the mayor of a district municipality must establish a district intergovernmental forum to promote and facilitate intergovernmental relations between the district municipality and the local municipalities in the district. The forum consists of the mayors of the district municipality and local municipalities. The District Mayor is the forum's chairperson.

The forum is a consultative forum for the district municipality and the local municipalities to discuss and consult with each other on matters of mutual interest, including:

- a. draft national and provincial policy and legislation relating to matters affecting local government interests in the district;
- b. the implementation of national and provincial policy and legislation with respect to such matters in the district;
- c. matters arising in the Premier's intergovernmental forum;
- d. mutual support in terms of section 88 of the Municipal Structures Act;
- e. service delivery in the district; and
- f. coherent planning and development in the district.

The forum determines how often it meets, but it must meet at least once a year with service providers and others concerned with development in the district, with the aim of coordinating effective service delivery and planning.

Inter-municipality forums

The Bill further makes provision that two or more municipalities may establish an inter-municipality forum to promote and facilitate intergovernmental relations between them.

Other matters

The Bill contains a chapter on implementation protocols. They are agreements into which different governments may enter where the implementation of a policy, the exercise of a power or function depends on the participation of two or more organs of state in different governments. Finally, the Bill sets out a broad framework for settling disputes other than through litigation.

Comment

The Bill is an important milestone in the development of our system of intergovernmental relations. The importance of local government in this system is stressed by the inclusion of Salga in the President's Coordinating Council. The regulation of intergovernmental relations at both provincial and district levels will do much to ensure that there is unity of purpose and coordination of effort around the developmental priorities and effective and efficient service delivery unhampered by jurisdictional boundaries.

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