

EXTRACTS AND SUMMARY

THE LOCAL GOVERNMENT TRANSITION BILL

- (A) Part II of the Bill provides for the establishment of Regional Committees for Local Government to act as subcommittees of the TEC (Transitional Executive Council). It also states:

"Where the Administrator is required to exercise any power or function or perform any duty conferred or imposed upon him by this Act, he shall act in concurrence with the Committee (Regional Committee)."

- (B) Part IV of the Bill deals with -

PRE-INTERIM PHASE - NEGOTIATING FORUMS

Recognition and establishment of forums

Page 13, Section 6 states:

"6.(1) The Administrator may, on the written application of any forum (SDF) established before the commencement of this Act, recognise such forum if the Administrator is satisfied on a balance of probabilities on the evidence presented in the application that such forum has been established substantially in accordance with the principles and procedures embodied in Schedule 1, whereupon such forum shall be deemed to be a negotiating forum for the purposes of this Act."

Negotiating forums established after the commencement of this Act shall be established in accordance with Schedule 1 (attached). Disputes within the aforesaid forum on whether it complies with Schedule 1 will be referred to the Administrator for a final decision.

Negotiating Matters

Page 14, Section 7

The negotiating forum shall -

1. negotiate on the negotiating area (as stipulated in Schedule 1)
2. negotiate the establishment of a transitional local council (TLC) for a non-metropolitan area of local government - within the forum area - as a possible option for the pre-interim period. This shall however be subject to the following matters which shall be further negotiated.
 - 2.1 The total number of seats in a TLC and committees (substructures) taking the number of existing seats of all local bodies within the forum area as a point of departure.
 - 2.2 The nomination of persons for appointment as members of a TLC and its committees (substructures).
 - 2.3 The delimitation of the areas of jurisdiction of the TLC into wards (zones): or
3. negotiate on the establishment of a transitional joint council (TJC) of the (present) local government bodies within the forum area with the individual (present) councils of the local government bodies retaining the balance of powers, duties and functions which have not already been allocated to the TJC.

3.1 For this option it is necessary that the following matters be negotiated:

- 3.1.1 the powers, duties and functions of the TJC;
- 3.1.2 the total number of seats in such TJC;
- 3.1.3 the nomination of persons as members of the TJC;
- 3.1.4 the delimitation of the area of jurisdiction.

(C) Schedule 1 : Principles and procedures referred to in section 6 (attached).

tlc/cr

SCHEDULE I

Principles and procedures referred to in section 6

Area of forum

1.(1) Subject to the provisions of the Act, a forum shall be established for each economically and historically bound urban area, ranging from a stand alone town with or without satellites to a complex metropolis.

(2) Criteria for the establishment of a forum include commercial/industrial linkage, daily commuting patterns, provision of services, the areas of jurisdiction of local government bodies, including pre - 1971 areas of jurisdiction of such local government bodies, where applicable.

2.(1) Where a negotiating forum is not recognised by the Administrator or not established spontaneously, the Administrator may determine the area of a forum and submit it to the town clerks of the local government bodies falling within such forum area.

(3) Upon receipt of a submission contemplated in subparagraph (1), the town clerks concerned shall -

- (a) arrange an inaugural meeting of the forum with all potential members and observers contemplated in paragraph 2: Provided that the Administrator may nominate one town clerk to arrange such inaugural meeting; and
- (b) submit the submission to their respective councils for information.

(4) Within 30 days of the receipt of a submission contemplated in subparagraph (1), the forum shall either confirm the forum area determined by the Administrator, or subject to the provisions of paragraph 1(2), propose a new area for the forum and submit such proposal to the Administrator who may -

- (a) confirm the proposed area; or
- (b) refer the matter to the Board established in terms of section 11(1)(a) of the Act to investigate the matter and make written recommendations to him as contemplated in section 11(6) of the Act.

(5) The decision of the Administrator -

- (a) to confirm the proposed forum area as contemplated in subparagraph (4)(a); or
 - (b) on the written recommendations of the Board as contemplated in subparagraph (4)(b),
- shall be final and binding on the forum.

Membership of forum

2.(1) Membership of a forum shall be in accordance with the principle of inclusivity and representativity: Provided that the process shall continue despite the refusal or neglect of any person, body or organization to participate in any such forum.

(2) Observers, which shall be entitled to attend and to

participate fully in forum meetings, but shall not be entitled to vote, may be appointed to the forum.

(3) To qualify for membership or observer status, such prospective member or observer shall, where applicable, submit in writing to the forum its constitution, a list of office-bearers and details of activities and membership.

(4)(a) Membership of a forum shall be available to -

- (i) local government bodies;
- (ii) local organizations representing substantial sectors of the wider community having a vested interest in the political restructuring of local government, such as civic associations, residents associations and the local structures of political parties.

(b) Bodies such as local chambers of commerce and industry and sakekamers, the Development Bank of Southern Africa and supplier bodies such as Eskom and Water Boards, shall have observer status.

Negotiating matters and objectives

3.(1) A forum shall negotiate on the matters referred to in section 7(1) of the Act.

(2) A forum may generally, as local circumstances dictate, explore and propose short, medium and long term practical solutions to the problems of local government in the area of such forum to be submitted to the Administrator for consideration.

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Nomination by forum of persons for appointment as members of transitional councils

4.(1) For the purposes of negotiating the nomination of members of a transitional council and metropolitan substructure as contemplated in section 7(1)(b) and (c) of the Act, members of the forum may be required to indicate whether they are to be regarded as part of -

- (a) the statutory component, comprising the existing local government bodies and the political parties or organisations represented on such local government bodies;
- (b) the non-statutory component comprising any other bodies not contemplated in subparagraph (a) having a vested interest in the political restructuring of local government and as approved by the forum;
- (c) the observer component which fall into neither category contemplated in subparagraphs (a) and (b).

(2) The statutory and the non-statutory components shall each complete a list of potential candidates, whereupon a representative committee comprising members from each component shall meet to attempt to reach consensus on the persons to be nominated by the forum for appointment as members of any transitional local or metropolitan council and substructure: Provided that at least half of the persons nominated should be acceptable to the statutory component and at least half to the non-statutory component: Provided, further, that a list of additional candidates in order of preference, shall be submitted by the statutory and non-statutory components to facilitate the filling of any vacancy which may occur.

(3)(a) One half of the nominations shall include members of the local government bodies concerned and shall, as far as possible, not disturb the pre-existing proportionate representation of