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Reference:22/02/19-HM-SDM&E

**INPUTS ON THE MUNICIPAL SYSTEMS AMENDEMENT BILL**

1. **PURPOSE**

To provide a summary of proposed inputs and additional amendments on the Municipal Systems Act Amendment Bill.

1. **BACKGROUND AND DISCUSSION**

The Select Committee on Corporative Governance and Traditional Affairs will discuss the

Municipal Systems Amendment Bill on the 27th -28th February 2019 as mandated by the

Constitutional Court ruling that mandated the National Department of Corporative

Governance to amend the Municipal Systems Act(MSA) through the proper and applicable

section of the Constitution of the Republic of South Africa.

**PROPOSED ADDITIONAL AMENDMENTS TO THE AMENDMENT BILL**

**Under SECTION 54 A of the Bill, Provide for the below additional amendments**

(i) Under 2 (A) insert 2(A)(c) which states that in case the position is vacant after the MEC has approved the extension of the acting period, the municipality must apply to the Minister via the MEC.

* Insert 2(B) which addresses the acting municipal manager in circumstances of incapacity, disciplinary process, litigation and other circumstance other than a vacant post.
* A person in such circumstances can act for 3 months by approval of council.
* Thereafter the municipality must apply to the MEC, for an extension of the acting period not exceeding 3 months.
* If the matter is not resolved after the extension by the MEC, the municipality must apply to the Minister with the recommendation of the MEC, for the Minister to make a determination.

(ii) Insert (5) (b) which reads that “should a municipal council not find a suitable candidate even after they have re-advertised the post, the council must select from the pool of candidates that have applied from both advertising processes and apply to the Minister to waive any of the requirements in terms of skills, expertise, qualifications or competencies, as it would have not been able to find a suitable candidate”.

(iii) Insert 7(c) which read that “The MEC must within 30 days of receipt of all the required information assess the appointment in terms of compliance with the Act and applicable Regulations and communicate such outcome to the municipality”.

(iv) (8) Remove 14 days and insert a clause that reads “If at any period after a municipal council has appointed a municipal manager, the MEC becomes aware of information of non-compliance of such an appointment, the MEC must take the appropriate steps ….”

(v)Remove (10).

**Under Section 56 of the Bill, Provide for the below additional amendments**

(i)Insert 56(1)(D) which states that “in case the position is vacant after the MEC’s approval of the acting period, the municipality must apply to the Minister via the MEC”.

(ii)After Section (1)(a) Insert a section which addresses circumstances of a manager directly accountable to the MM where the position is filled but the incumbent is acting due to incapacity, disciplinary process, study leave, litigation and other circumstance other than a vacant post. If the matter is not resolved after the extension of the acting period by the MEC, the municipality may apply to the Minister with the recommendation of the MEC, for the Minister to make a determination.

(iii)Section (2) must be applicable to both 56(1)(a) (i) and (ii).

(iv)Insert a continuation for section (4) that reads “should a municipal council not find a suitable candidate even after they have re-advertised the post, the council must select from the pool of candidates that have applied from both advertising processes and apply to the Minister to waive any of the requirements in terms of skills, expertise, qualifications or competencies, as it would have not been able to find a suitable candidate”.

(v) (4A) (b) - remove 14 days and to read “The MEC must within 30 days of receipt of all the required information assess the appointment in terms of compliance with the Act and applicable Regulations and communicate such outcome to the municipality”

 (vi) (5) Remove 14 days and insert a clause that reads “If at any period after a municipal council has appointed a municipal manager, the MEC becomes aware of information of non-compliance of such an appointment, the MEC must take the appropriate steps ….”

(vii) Remove section (6).

**Section 57 of the Bill, Provide for the below additional amendments**

(i)Insert this section under employment contracts” Failure to comply with the timeframe to sign the employment contract must be supported by good cause shown and reasons by both incumbent and the municipality to MEC and Minister.”

(ii)Move section (b) to be part of 57(6)(a)(i) to read “The employment contract to be signed by both parties before commencement of service or within 60 days after a person has been appointed”

(iii) Delete 57 (9)(b)

**3. IMPLICATIONS**

**3.1 Personnel**

3.1.1 None.

**3.2. Financial**

3.2.1 None

**3.3. Legal**

3.3.1 None

 **3. 4 Communication**

3.4.1 None.

**4. OTHER COMPONENTS CONSULTED**

4.4.1 Departmental Legal Services.

**5. RECOMMENDATIONS**

5.1 It is recommended that the Head of Department:

5.1.1 Notes the contents of this submission on the proposed additional amendments to the Municipal Systems Act that will be discussed at the Select Committee on Corporative Governance and Traditional Affairs on the 27th -28th February 2019.

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**MR. H. MOROAPE**

**DIRECTOR: MUNICIPAL SERVICE DELIVERY MONITORING AND EVALUATION**

**DATE:**

RECOMMENDATION IN PAR. 5.1 SUPPORTED/SUPPORTED WITH AMENDMENTS/NOT SUPPORTED

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**MR. R. RAMOGAYANE**

**CHIEF DIRECTOR: PERFORMANCE MONITORING AND EVALUATION**

**DATE:**

RECOMMENDATION IN PAR. 5.1 SUPPORTED/SUPPORTED WITH AMENDMENTS/NOT SUPPORTED

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**MR. W. BHILA**

**DEPUTY DIRECTOR-GENERAL: DEVELOPMENT AND PLANNING**

**DATE:**

RECOMMENDATION IN PAR. 5.1 APPROVED/APPROVED WITH AMENDMENTS/NOT APPROVED

LETTER SIGNED / NOT SIGNED

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**MS. T.R MBASSA**

**HEAD OF DEPARTMENT: CO-OPERATIVE GOVERNANCE AND TRADITIONAL AFFAIRS**

**DATE:**