

Government Gazette Staatskoerant

REPUBLIC OF SOUTH AFRICA
REPUBLIEK VAN SUID-AFRIKA

Vol. 507

Cape Town,
Kaapstad,

7 September 2007

No. 30271

THE PRESIDENCY

No. 832

7 September 2007

It is hereby notified that the President has assented to the following Act, which is hereby published for general information:—

No. 12 of 2007: Municipal Fiscal Powers and Functions Act, 2007.

LIHHOVISI LEMENGAMELI

No. 832

7 September 2007

Ngaloku kwentiwa satiso sekutsi uMengameli uwuvumile lomTsetfo lolandzelako, lekungumTsetfo lokhishwako lapha kutsi watiwe ngumphakatsi wonkhe:—

No. 12 wa 2007: Ngumtsetfo Wemandla Etetimali Nemisebenti Wamasi-pala, 2007.

GENERAL EXPLANATORY NOTE:

- [] Words in bold type in square brackets indicate omissions from existing enactments.
- Words underlined with a solid line indicate insertions in existing enactments.

(English text signed by the President.)
(Assented to 3 September 2007.)

ACT

To regulate the exercise by municipalities of their power to impose surcharges on fees for services provided under section 229(1)(a) of the Constitution; to provide for the authorisation of taxes, levies and duties that municipalities may impose under section 229(1)(b) of the Constitution; and to provide for matters connected therewith.

BE IT ENACTED by the Parliament of the Republic of South Africa, as follows:—

ARRANGEMENT OF SECTIONS

Sections

CHAPTER 1	5
INTERPRETATION AND OBJECTS OF ACT	
1. Definitions and interpretation	
2. Objects of Act	
3. Application of Act	
CHAPTER 2	10
MUNICIPAL TAX	
4. Authorisation of municipal tax	
5. Application for authorisation	
6. Regulations regarding imposition and administration of municipal tax	
7. Collection of municipal tax	15
CHAPTER 3	
MUNICIPAL SURCHARGES	
8. Norms and standards	
9. Obligations of municipality in respect of municipal surcharges	

NGUMTSETFO WEMANDLA ETETIMALI
NEMISEBENTI WAMASIPALA, 2007

Act No. 12, 2007

EMANOTSI LACHASISAKO JIKELELE:

- [] Emagama labhalwe ngalokugcamile lasetibayeni letitikwele akhombisa lokweciwe kumitsetfo lekhona lemisiwe.
- _____ Emagama ladvwetjelwe ngemugca locondzile akhombisa lokufakiwe kumitsetfo lemisiwe.

(English text signed by the President.)
(Assented to 3 September 2007.)

UMTSETFO

Ulawula imisebenti yabomasipalati yemandla abo ekuphokelela tinhlawulo letengetiwe etimalini tetinsita letiniketwa ngaphansi kwesigaba 229(1)(a) Semtsetfosisekelo; kute kubukelwe kugunyatwa kwemitselo lengaphocelwa bomasipalati ngaphansi kwesigaba 229(1)(b) Semtsetfosisekelo; kanye nekubukela tindzaba letiphatselene nako.

UMISWA yiPhalamende yaseRiphabhuliki yaseNingizimu Afrika ngalendlela lelandzelako:—

KUHLELWA KWETIGABA*Sigaba***SEHLUKO 1** 5**KUHUNYUSHWA NEMIGOMO YEMTSETFO**

1. Tinchazelo nekuhunyushwa
2. Imigomo Yemtsetfo
3. Kusetjentiswa Kwemtsetfo

SEHLUKO 2 10**INTSELA YAMASIPALA**

4. Kugunyatwa kwentsela yamasipala
5. Kufaka sicelo sekugunyata
6. Imitsetfosimiso macondzana nekuphokelelwa nekuphatfwa kwentsela yamasipala 15
7. Kukwelekwa kwentsela yamasipala

SEHLUKO 3**TINHLOWULO LETENGETIWE TAMASIPALA**

8. Tinkambiso nemazinga
9. Tibopho tabomasipalati macondzana netinhlawulo letengetiwe tamasipala 20

CHAPTER 4

GENERAL

- | | | |
|-----|--------------------------------------|---|
| 10. | Regulations | |
| 11. | Amendments to this Act | |
| 12. | Transitional provisions | 5 |
| 13. | Amendment of legislation and savings | |
| 14. | Short title and commencement | |

CHAPTER 1

INTERPRETATION AND OBJECTS OF ACT

- | | |
|--|----|
| Definitions and interpretation | 10 |
| 1. (1) In this Act, unless the context indicates otherwise— | |
| “ category of municipality ” means a category A, B or C municipality referred to in section 155(1) of the Constitution; | |
| “ collecting agent ” means the municipality or the collecting agent determined by the Minister in terms of section 6(b)(ii); | 15 |
| “ Commission ” means the Financial and Fiscal Commission established by section 220 of the Constitution; | |
| “ Constitution ” means the Constitution of the Republic of South Africa, 1996; | |
| “ Minister ” means the Minister of Finance; | |
| “ municipal base tariff ” means the fees necessary to cover the actual cost associated with rendering a municipal service, and includes— | 20 |
| (a) bulk purchasing costs in respect of water and electricity reticulation services, and other municipal services; | |
| (b) overhead, operation and maintenance costs; | |
| (c) capital costs; | 25 |
| (d) a reasonable rate of return, if authorised by a regulator of or the Minister responsible for that municipal service; | |
| “ municipal financial year ” means the financial year of a municipality commencing on 1 July and ending on 30 June; | |
| “ municipal service ” means— | 30 |
| (a) any of the local government matters listed in Part B of Schedule 4 and Part B of Schedule 5 to the Constitution; and | |
| (b) any function assigned to a municipality in accordance with section 9 or 10 of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000), identified by the Minister by notice in the <i>Gazette</i> ; | 35 |
| “ municipal surcharge ” means a charge in excess of the municipal base tariff that a municipality may impose on fees for a municipal service provided by or on behalf of a municipality, in terms of section 229(1)(a) of the Constitution; | |
| “ municipal tax ” means a tax, levy or duty that a municipality may impose in terms of section 229(1)(b) of the Constitution; | 40 |
| “ national economic policy ” includes the tax policy for the Republic as determined by the national government; | |
| “ organised local government ” means an organisation recognised in terms of section 2(1) of the Organised Local Government Act, 1997 (Act No. 52 of 1997), to represent local government nationally or provincially; | 45 |
| “ prescribe ” means prescribe by regulation; | |
| “ regulation ” means a regulation made under sections 6, 8 or 10; and | |
| “ this Act ” includes any regulation or determination made or instruction given under this Act. | |

SEHLUKO 4

LOKWETAYELEKILE

10. Imitsetfosimiso
11. Kuchitjiyelwa Kwalomtsetfo
12. Lokubukelwe kwesikhashana 5
13. Kuchibiyelwa Kwemtsetfo loshayiwe nekonga
14. Sihloko lesifisha nekucala

SEHLUKO 1

KUHUNYUSHWA NEMIGOMO YEMTSETFO

Tinchazelo nekuhunyushwa 10

1. (1) Kulomtsetfo, ngaphandle uma ngabe lokucuketfwe kusho lokunye—
 - “**emacembu abomasipalati**” kusho emacembu abomasipalati langubo A, B nobe C lekukhulunywa ngawo kusigaba 155(1) Semtsetfosisekelo;
 - “**I-ejenti lekwelekako (umtselo)**” kusho masipalati nobe i-ejenti lekweleka umtselo lencunywe Yindvuna Ngekwemibandzela yesigaba 6(b)(ii); 15
 - “**Ikhomishini**” kusho Ikhomishini Yetetimali Nentsela lemiswe ngusigaba 220 Semtsetfosisekelo;
 - “**Umtsetfosisekelo**” kusho Umtsetfosisekelo weRiphabhuliki yaseNingizimu Afrika-1996;
 - “**Indvuna**” kusho Indvuna Yetetimali; 20
 - “**itharifu lesisekelo yamasipala**” kusho timali letidzingeleko tekukhokhela tindlekocobo letiphatselene nekuniketa tinsita tamasipala, futsi kufaka ekhatsi—
 - (a) tindleko tekutsenga ngebunyenti tinsita tekwehlukani swa kwemanti nagezi, naletinye tinsita tamasipala;
 - (b) tindleko letincunyiwe, tekusebenta nekunakekela; 25
 - (c) otindleko tekucala umsebenzi;
 - (d) silinganiso lesemukelekile sekubuyisela, uma ngabe sigunyatwe ngumlawuli nobe Indvuna lebhokana netinsita tamasipala;
 - “**umnyaka wetetimali wamasipala**” kusho umnyaka wetetimali wamasipala locala mhlaka 1 Kholwane futsi uphele mhlaka-30 Inhlaba; 30
 - “**tinsita tamasipala**” kusho—
 - (a) nobe ngutiphi tindzaba tamasipala letiphawulwe Kuncenye B Yashejuli 4 kanye Nencenye B Yashejuli 5 Kumtsetfosisekelo; kanye
 - (b) nanobe nguwuphi umsebenzi loniketwe masipalati ngekulandzela sigaba 9 nobe 10 Sahulumende Wasemakhaya: Umtsetfo Wetinhlelo Tamasipala, 35 (Umtsetfo Nombolo 32 wanga-2000), lebonwe nguNdvuna ngesatiso *Kugazethi*;
 - “**tinhlawulo letengetiwe tamasipala**” kusho tinhlawulo letecile tentsela lesisekelo le masipalati angaphocelela kuto tindleko tetinsita tamasipala letiniketwa ngumasipala nobe letiniketwa egameni lakhe, ngekwemibandzela 40 yesigaba 229(1)(a) Semtsetfosisekelo;
 - “**intsela yamasipala**” kusho intsela lephocelelwa ngumasipalati ngekwemibandzela yesigaba 229(1)(b) Semtsetfosisekelo
 - “**inchubomgomo yetemnotfo yavelonkhe**” kufaka ekhatsi inchubomgomo yentsela yeRiphabhuliki njengobe incenye nguhulumende wavelonkhe; 45
 - “**hulumende wasekhaya lohlelekile**” kusho inhlango leyemukelwa Ngekwemibandzela yesigaba 2(1) Yemtsetfo Wahulumende Wasekhaya Lohlelekile, 1997 (Umtsetfo Nombolo 52 wanga-1997), kumelela hulumende Wasekhaya kuvelonkhe nobe kutifundza; “**kuchaza**” kusho kuchaza nge- 50 mtsetfosimiso;
 - “**umtsetfosimiso**” usho umtsetfosimiso lokwakhiwe ngaphansi Kwetigaba 6, 8 nobe 10; futsi
 - “**Lomtsetfo**” ufaka ekhatsi nobe ngumuphi umtsetfosimiso nobe sincumo les niwe nobe umyalelo loniketwako ngaphansi Kwalomtsetfo.

Act No. 12, 2007 MUNICIPAL FISCAL POWERS AND FUNCTIONS ACT, 2007

(2) If any conflict relating to the matters dealt with in this Act arises between this Act and any other legislation in force when this Act takes effect, this Act prevails.

Objects of Act

2. The objects of this Act are to—
- (a) promote predictability, certainty and transparency in respect of municipal fiscal powers and functions; 5
 - (b) ensure that municipal fiscal powers and functions are exercised in a manner that will not materially and unreasonably prejudice national economic policies, economic activities across municipal boundaries, or the national mobility of goods, services, capital or labour; 10
 - (c) effectively oversee the exercise of municipal fiscal powers and functions; and
 - (d) provide for an appropriate division of fiscal powers and functions where two municipalities have the same fiscal powers and functions with regard to the same area in accordance with section 229(3) of the Constitution, by—
 - (i) regulating the exercise by municipalities of their power to impose municipal surcharges on fees for services under section 229(1)(a) of the Constitution; 15
 - (ii) authorising the municipal taxes that municipalities may impose under section 229(1)(b) of the Constitution; and
 - (iii) regulating the exercise by municipalities of their power to impose municipal taxes, if authorised. 20

Application of Act

3. This Act applies to municipal surcharges and municipal taxes referred to in section 229 of the Constitution, other than rates on property regulated in terms of the Local Government: Municipal Property Rates Act, 2004 (Act No. 6 of 2004), and municipal base tariffs regulated under the Local Government: Municipal Finance Management Act, 2003 (Act No. 56 of 2003), the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000), or sector legislation. 25

CHAPTER 2**MUNICIPAL TAX 30****Authorisation of municipal tax**

4. (1) The Minister may of his or her own accord or on application in terms of section 5 by a municipality, group of municipalities or organised local government authorise a municipal tax.
- (2) Prior to authorising a municipal tax in terms of subsection (1) the Minister— 35
- (a) must consult—
 - (i) the Minister responsible for local government, affected municipalities and organised local government; and
 - (ii) the Commission; and
 - (b) may consult any other organ of state or interested persons. 40
- (3) The Commission must within three months from the date of any consultation referred to in subsection (2)(a)(ii) submit its views on the proposed municipal tax in writing to the Minister.
- (4) The Minister authorises a municipal tax by prescribing the regulations contemplated in section 6. 45

NGUMTSETFO WEMANDLA ETETIMALI
NEMISEBENTI WAMASIPALA, 2007

Act No. 12, 2007

(2) Uma ngabe kukhona tincabano/kungevani lokuphatselene naletindzaba lekukhulunywa ngato Kulomtsetfo leticubuka emkhatsini Walomtsetfo nanobe ngumuphi lomunye umtsetfo lotawube usebenta uma Lomtsetfo ucala kusebenta, Lomtsetfo uyachubeka usebente.

Imigomo Yemtsetfo

5

2. Imigomo Yalomtsetfo—

- (a) kutfutukisa kubonela embili, kucinisekisa nekuba elubala macondzana nemandla etetimali nemisebenti yamasipala;
- (b) kucinisekisa kutsi emandla etetimali tamasipala nemisebenti yamasipala asetjentiswa ngendlela yekwekutsi angeke kufake engcupheni ngekwemphahla futsi ngendlela lengatsandzeki tinchubomgomo temnotfo tavelonkhe, imisebenti yetemnotfo kuyo yonkhe imincele yamasipala, nobe kuhanjiswa kwetimpahla eveni lonkhe, tinsita, timali tekwenta umsebenti nobe temisebenti;
- (c) kucaphela ngalokuyimphumelelo imisebenti yemandla etetimali nemisebenti yamasipala; kanye 15
- (d) nekubukela kwehlukana lokufanele kwemandla etetimali nemisebenti lapho khona bomasipalati lababili banemandla etetimali lalinganako nemisebenti endzaweni yinye ngekuhambisana nesigaba 229(3) Semtsetfosisekelo, nge—
- (i) kulawula umsebenti lowentiwa bomasipalati wemandla abo ekuphococelela tinhlawulo letengetiwe tetimali letingaphansi kwesigaba 229(1)(a) Semtsetfosisekelo; 20
- (ii) kugunyata tintsela tamasipala letingaphococelelwa bomasipala ngaphansi kwesigaba 229(1)(b) Semtsetfosisekelo; kanye futsi
- (iii) nekulawula imisebenti leyentiwa bomasipalati yemandla abo ekuphococelela tintsela tabomasipala, uma tigunyatiwe. 25

Kusetjentiswa Kwemtsetfo

3. Lomtsetfo ucondze tinhlawulo letengetiwe netintsela tamasipala lekukhulunywa ngato kulesigaba 229 Semtsetfosisekelo, kunemali (rates) yemphahla, lelawulwa ngekwemibandzela Yahulumende Wasekhaya: *I-Municipal Property Rates Act, 2004* kanye nematharifu amasipala lelawulwa ngaphasi kwaHulumende Wasekhaya: Umtsetfo Wekuphatfwa Kwetimali Tamasipala, 2003 (Umtsetfo Nombolo 56 wanga-2003), Hulumende Wasekhaya: Umtsetfo Wetinhlelo Tamasipala (Umtsetfo Nombolo 32 wanga-2000), nobe umtsetfo wesikhungo. 30

SEHLUKO 2

35

INTSELA YAMASIPALA**Kugunyatwa kwentsela yamasipala**

4. (1) Indvuna ingagunyata intsela yamasipala ngekutibonela kwayo nobe ngekusetjentiswa ngekwemibandzela yesigaba 5 ngumasipalati, licembu labomasipalati nobe hulumende wasekhaya lohlelekile. 40

(2) Phambilini kugunyatwe intsela yamasipala ngekulandzela sigatjana (1) Indvuna—

(a) kumele itsintse/ibonisane—

(i) Nendvuna lephetse yabomasipalati labatsintsekile bahulumende wasekhaya kanye nahulumende wasekhaya lohlelekile; kanye 45

(ii) Nekhomishini; futsi

(b) ingabonisa naleminyane imitimba yahulumende nobe bantfu labanenshisekelo.

(3) Ikhomishini kumele ngekhatsi kwetinyanga letintsatfu kusukela ngelusuku lwanobe ngukuphi kubonisana lekushiwo kusigatjana (2)(a)(ii) ifaka imibono yayo entseleni yamasipala lephakanyisiwe ngekubhalela iNdvuna. 50

(4) Indvuna igunyata intsela yamasipala ngekumisa imitsetfotimiso lecatjangelwe kusigaba 6.

Application for authorisation

5. (1) A municipality, group of municipalities or organised local government must submit an application to the Minister, which application must—
- (a) set out the reasons for the imposition of the proposed municipal tax; 5
 - (b) the purposes for which revenue derived from the collection of the municipal tax will be utilised;
 - (c) give particulars on the proposed municipal tax's compliance with section 229(2)(a) of the Constitution;
 - (d) give particulars on the proposed municipal tax's compliance with the prohibition contained in section 229(1)(b) of the Constitution; 10
 - (e) identify and, where appropriate, describe—
 - (i) the tax base;
 - (ii) the desired tax rate;
 - (iii) the persons liable for the tax; and
 - (iv) any tax relief measures or exemptions; 15
 - (f) specify—
 - (i) the tax-collecting authority;
 - (ii) the persons responsible for remitting the tax;
 - (iii) the methods and likely costs of enforcing compliance with that tax;
 - (iv) the compliance burden on taxpayers; and 20
 - (v) procedures for taxpayer assistance;
 - (g) give particulars of, and describe the estimation methods and assumptions used to determine—
 - (i) the amount of revenue to be collected on an annual basis over the three municipal financial years following the introduction of the municipal tax; 25
 - (ii) the economic impact on individuals and businesses; and
 - (iii) the impact on economic development;
 - (h) give particulars of any consultations conducted, including consultations with, where applicable, a provincial government, organised local government and municipalities, and the outcomes of such consultations; 30
 - (i) give particulars of any consultations with the South African Revenue Service and any other collecting agent contemplated in section 7, regarding the administration of the proposed municipal tax; and
 - (j) include such other information as may be prescribed. 35
- (2) If the Minister intends authorising the municipal tax in respect of which an application was submitted, the Minister must—
- (a) notify the municipality, group of municipalities or organised local government and the Minister responsible for local government in writing within six months of submission of the application of his or her intention; and 40
 - (b) by not later than six months after that notification or such longer period as may be necessitated in complying with section 10(4)(c), prescribe the regulations contemplated in section 6.
- (3) In the event that the Minister does not approve the municipal tax in respect of which an application was submitted, the Minister must, within six months of submission of the application, notify the municipality, group of municipalities or organised local government and the Minister responsible for local government in writing of his or her decision and the reasons therefor. 45

Regulations regarding imposition and administration of municipal tax

6. The regulations— 50
- (a) must regulate the powers of a municipality, group of municipalities or a kind of municipality, which may be defined either in relation to the capacity of a municipality, a category, type or budgetary size of municipality or the powers and functions exercised by a municipality to impose the municipal tax;

Kufaka sicelo sekugunyata

5. (1) Masipalati, licembu labomasipalati nobe hulumende wasekhaya lohlelekile kumele angenise sicelo eNdvuneni, lapho khona lesicelo kumele—
- (a) sibeke tizatfu tekuphokelela intsela yamasipala lephakanyisiwe; 5
 - (b) sibeke inhloso yekusetjentiswa kwemali letfolakele ekukwelekweni kwentsela yamasipala;
 - (c) sinikete imininingwane yentsela yamasipala lephakanyisiwe, kuhambisane kwayo nesigaba 229(2)(a) Semtsetfosisekelo;
 - (d) sinikete imininingwane yentsela yamasipala lephakanyisiwe, kuhambisana kwayo nekuvinjelwa lokucuketfwe kusigaba 229(1)(b) Semtsetfosisekelo; 10
 - (e) sitatise futsi, lapho kufaneleke khona, sichaze—
 - (i) intsela lesisekelo;
 - (ii) imali yentsela lesifisiwe;
 - (iii) bantfu lekumele bakhiphe intsela; futsi
 - (iv) nanobe yini leyentiwako yekuhhamula umuntfu nobe kumcolela ekukhokheni intsela; 15
 - (f) sichaze ngco—
 - (i) siphatsimandla lesikweleka intsela;
 - (ii) bantfu labanemtfwalo wekugunyata kuhhamula nobe kucolela kukhokha intsela; 20
 - (iii) indlela netindleko letingabakhona tekucindzetela kuhambisane naleyo ntselela;
 - (iv) umtfwalo wekuhambisa kubakhokhi bentsela; kanye futsi
 - (v) netinchubo tekusita umkhokhi wentsela;
 - (g) sinikete imininingwane, futsi sichaze tindlela tekulinganisa nalokucatjangwako lokungasetjentiswa ekuncumeni— 25
 - (i) linani lemalingena lekumele ikweleke njalo ngemnyaka eminyakeni lemitsatfu yetetimali yamasipala ngemuva kwekungeniswa kwentsela yamasipala;
 - (ii) imitselela yetemnotfo kubantfu nakumabhizinisi; kanye futsi 30
 - (iii) nemitselela yekutfufuka kwemnotfo;
 - (h) kuniketa imininingwane yanobe ngukuphi kubonisana lokwentiwe, lokufaka ekhatsi, lapho kukhokeka khona kubonisana nahulumende wesifundza, hulumende wasekhaya lohlelekile nabomasipalati, kanye nemiphumela yaloko kubonisana; 35
 - (i) kuniketa imininingwane yekubonisana Netinsita Tamalingena waseNingizimu Afrika futsi nanobe nguyiphi lenye i-ejenti lekweleka intsela lecatjangelwe kusigaba 7, macondzana nekuphatfwa kwentsela yamasipala lephakanyisiwe; futsi
 - (j) kufaka ekhatsi lolunye lwati nemininingwane njengobe ingachazwa. 40
- (2) Uma ngabe Indvuna icondze kugunyata intsela yamasipala ngekuya kwesicelo lesifakiwe, Indvuna kumele—
- (a) yatise masipalati, licembu labomasipalati nobe hulumende wasekhaya lohlelekile kanye neNdvuna lephetse hulumende wasekhaya, ngekubhala phansi tingakapheli tinyanga letisitfupha tekungenisa sicelo salakucondzile; futsi 45
 - (b) kungakendluli tinyanga letisitfupha emva kwaleso satiso nobe leso sikhatsi lesilulekile lesingabangelwa kutfotjelwa kwesigaba 10(4)(c), ihlele imitsetfotimiso lophawulwe kusigaba 6.
- (3) Esimeni lapho khona Indvuna ingayivumi intsela yamasipala leyafakelwa sicelo, kumele kutsi Indvuna, tingakapheli tinyanga letisitfupha tekungenisa sicelo, yatise lomasipalati, licembu labomasipalati nobe hulumende wasekhaya lohlelekile kanye neNdvuna lephetse hulumende wasekhaya, ngekubhala phansi sincumo sayo netizatfu. 50
- Imitsetfotimiso macondzana nekuphokelela nekuphatfwa kwentsela yamasipala**
6. Imitsetfotimiso— 55
- (a) kumele ilawule emandla amasipalati, emacembu abomasipalati nobe luhlobo lwamasipalati, lolungachazwa mhlawumbe ngekuhambelana nesigaba samasipalati, licembu, luhlobo nobe lizinga lebhajethi yamasipala nobe emandla nemisebenti leyentiwa ngumasipala kuphokelela intsela yamasipala;

Act No. 12, 2007 MUNICIPAL FISCAL POWERS AND FUNCTIONS ACT, 2007

- (b) must determine—
- (i) the date from which the municipal tax may be imposed, which date must coincide with the start of a municipal financial year; and
 - (ii) the collecting agent for such municipal tax, if it is not the municipality or municipalities authorised to impose the tax; 5
- (c) must determine the tax base on which such municipal tax may be levied and any exclusion from the tax base, if any, and—
- (i) where the tax is a specific purpose tax or a tax levied on the same tax base as that of national taxes, the rate expressed as a percentage or Rand value at which a municipality may impose that tax; or 10
 - (ii) where the tax is not a specific purpose tax or a tax levied on the same tax base as that of national taxes—
 - (aa) the rate expressed as a ratio, a percentage of the municipal tax base or a Rand value at which a municipality may impose that tax; or
 - (bb) the bands or ranges within which that municipal tax may be imposed; and 15
 - (iii) the basis upon and the intervals at which the rates referred to in paragraph (i) or (ii) may be increased;
- (d) may—
- (i) limit the period during which the municipal tax may be imposed; 20
 - (ii) in respect of a specific purpose tax, limit the purpose for which revenue derived from the collection of the municipal tax may be utilised;
 - (iii) specify that a percentage of the revenue derived from the collection of the specific purpose tax must be utilised for a specific purpose; and
- (e) may include any other matter necessary for the proper imposition and administration of the municipal tax. 25

Collection of municipal tax

7. A municipality authorised to impose a municipal tax is the collecting agent for that municipal tax, unless the Minister has, in the regulations contemplated in section 6, designated another person for that purpose. 30

CHAPTER 3**MUNICIPAL SURCHARGES****Norms and standards**

8. (1) The Minister may prescribe compulsory national norms and standards for imposing municipal surcharges, which may include, amongst others, maximum municipal surcharges that may be imposed by municipalities. 35

(2) The norms and standards contemplated in subsection (1) may—

- (a) in respect of maximum municipal surcharges—
 - (i) express the maximum municipal surcharge that may be imposed as a ratio, a percentage of the municipal base tariff or a Rand value; 40
 - (ii) provide bands or ranges within which municipal surcharges may be imposed;
- (b) differentiate between different—
 - (i) kinds of municipalities, which may be defined in relation to the capacity of a municipality, a category, type or budgetary size of municipality; 45
 - (ii) types of municipal services;
 - (iii) levels of municipal services;
 - (iv) categories of users, debtors and customers;

NGUMTSETFO WEMANDLA ETETIMALI
NEMISEBENTI WAMASIPALA, 2007

Act No. 12, 2007

- (b) kumele incume—
- (i) lusuku lekungacalwa ngalo kuphokelela intsela yamasipala, lolo lusuku kumele lushayisane nekucala kwemnyaka wetimali wamasipala; kanye
- (ii) ne-ejenti lekweleka intsela yamasipala lenjalo, uma ngabe akusiye lomasipalati nobe bomasipalati labagunyatwe kuphokelela intsela; 5
- (c) kumele incume intsela lesisekelo lapho khona intsela yamasipala ingakhokhwa kanye nanobe ngukuphi lokusbiyiwe kulentsela lesisekelo, uma ngabe kukhona, futsi—
- (i) nalapho intsela iyenhloso ngco letsite nobe kwetintsela lekhokhelwa ngentsela lefanako ngekuya njengetintsela tavelonkhe, imali lebekwe njengemaphesenti nobe emaRandi lapho khona bomasipalati bangaphokelela leyo intsela; nobe 10
- (ii) lapho khona intsela ingesiyo yenhloso ngco letsite nobe intsela lekhokhelwa ngentsela lefanako ngekuya ngetintsela tavelonkhe—
- (aa) imali lebekwe njengereshiyo (ratio), emaphesenti entsela lesisekelo yamasipala nobe ngemarandi bomasipalati labangayiphokelela njengentselanchanti; nobe 15
- (bb) imikhakha lekungaphokelelwa kuyo intsela yamasipala; kanye futsi
- (iii) netisekelo kantsi netikhatsi lapho khona timali lekukhulunywa ngato kulesigaba (i) nobe (ii) angakhuliswa; 20
- (d) mhlawumbe—
- (i) angabeka imikhawulo esikhatsini lekungaphocelwa ngaso intsela yamasipala;
- (ii) macondzana nenhlosongco letsite yentsela, kungabeka umkhawulo kunhloso yekutsi malingena lotfolakala ekukolekeni intsela yamasipala angasetjentiswa; 25
- (iii) ingemisa ngco emaphesenti emalingena lengatfolakala ekukwelekeni intsela ngco yenhloso letsite, kumele isetjentiselwa tindhloso ngco letitsite; futsi
- (e) kungafaka ekhatsi nanobe nguluphi lolunye ludzaba loludzingekako ekuphokeleleni kahle nekuphatsa intsela yamasipala. 30

Kukweleka kwentsela yamasipala

7. Masipalati logunyatwe kuphokelela intsela yamasipala uyi-ejenti lekweleka leyo intsela yamasipala, ngaphandle uma ngabe Indvuna ibeke lomunye umuntfu kutsi ente loyo msebenti, ngekuya kwemitsetfotimiso lecatjangelwe kusigaba 6. 35

SEHLUKO 3

TINHLAWULO LETENGETIWE TAMASIPALA

Tinkambiso nemazinga

8. (1) Indvuna ingamisa tinkambiso nemazinga laphocelwe avelonkhe ekuphokelela tinhlawulo letengetiwe tamasipala, langafaka ekhatsi, emkhatsini waletinye tintfo, tinhlawulo letengetiwe tamasipala letisezingeni lelisetulu letingaphocelwa bomasipalati. 40

- (2) Letinkambiso nemazinga lacatjangelwe kusigatjana (1) kungenteka kutsi—
- (a) macondzana netinhlawulo letengetiwe tamasipala letisezingeni lelisetulu—
- (i) tibeke tinhlawulo letengetiwe tamasipala letisezingeni lelisetulu letinga phocelwa njengereshiyo (ratio), liphesenti letharifu lesisekelo yamasipala nobe emarandi; 45
- (ii) tinikete imikhakha lekungaphocelwa kuyo tinhlawulo letengetiwe tamasipala;
- (b) tente umehluko emkhatsini— 50
- (i) wetinhlobo letehlukene tabomasipalati, letingachazwa ngekuhambisana nesigaba samasipalati, licembu, luhlobo none lizinga lebhajethi yamasipalati;
- (ii) wetinhlobo tetinsita tamasipalati;
- (iii) wemazinga etinsita tamasipalati; 55
- (iv) wemacembu ebasebentisi, bakweledi nemakhasimende;

Act No. 12, 2007 MUNICIPAL FISCAL POWERS AND FUNCTIONS ACT, 2007

- (v) consumption levels; and
- (vi) geographical areas;
- (c) determine the basis upon and the intervals at which municipal surcharges may be increased; and
- (d) determine matters that must be assessed and considered by municipalities in imposing municipal surcharges on fees. 5

Obligations of municipality in respect of municipal surcharges

9. (1) (a) A municipality must, when imposing a surcharge on fees for services provided by it or on its behalf, comply with any norms and standards contemplated in section 8. 10

(b) The Minister may, where practicalities impede strict compliance with the norms and standards prescribed in terms of section 8, of his or her own accord or on application by a municipality, or a group of municipalities or organised local government, by notice in the *Gazette* exempt a municipality from complying with any norms and standards contemplated in section 8 for a period and on the conditions determined in the notice. 15

(c) An exemption under paragraph (b) may—

- (i) apply to municipalities generally; or
- (ii) be limited in its application to a particular municipality or kind of municipality, which may be defined in relation to the capacity of a municipality or the category, type or budgetary size of municipality. 20

(2) Section 75A(2), (3) and (4) of the Local Government: Municipal Systems Act, 2000 (Act No 32 of 2000), relating to the manner in which fees, charges or tariffs are levied and how a resolution in that respect must be made known, applies with the changes required by the context to a municipal surcharge.

(3) A municipality must annually as part of its budget preparation process review any municipal surcharges. 25

CHAPTER 4**GENERAL****Regulations**

10. (1) The Minister may, by notice in the *Gazette*, make regulations regarding— 30

- (a) any matter that must or may be prescribed in terms of this Act;
- (b) an appropriate division of fiscal powers and functions where two municipalities have the same fiscal powers and functions with regard to the same area in accordance with section 229(3) of the Constitution; and
- (c) any ancillary or incidental administrative or procedural matter that it is necessary to prescribe for the proper implementation or administration of this Act. 35

(2) The Minister must regularly, but at least once every five years, review the regulations made under this Act and any municipal tax authorised by those regulations.

(3) Any amendment to or repeal of the regulations made under this Act takes effect at the commencement of the municipal financial year following the municipal financial year in which the amendment or repeal was affected. 40

(4) Before any regulations are made under this section, the Minister must—

- (a) consult— 45
 - (i) the Minister responsible for local government;
 - (ii) the relevant cabinet members on any matter affecting their executive authority;
 - (iii) the relevant members of the Executive Council of a province on any matter affecting their executive authority;
 - (iv) the Commission; and 50
 - (v) organised local government;

- (v) emazinga ekusebentisa; kanye
- (vi) netigodzi/kuma kwemhlaba;
- (c) tincume sisekelo netikhatsi lekungamiselwa kuto kukhuliswa kwetinhlawulo letengetiwe tamasipala; futsi
- (d) tingancuma tindzaba lekumele tihlolwe futsi ticatjangelwe bomasipalati ekuhphoceleleni tinhlawulo letengetiwe tamasipala etimalini 5

Tibopho tabomasipalati macondzana netinhlawulo letengetiwe tamasipala

9. (1) (a) Kumele kutsi bomasipalati, uma baphocelela tinhlawulo letengetiwe etimalini tetinsita letiniketwa ngabo nobe egameni labo, kuhambisane netinkambiso nemazinga lacatjangelwe kusigaba 8. 10

(b) Indvuna lapho khona imisebenti ivimbela kutfotjelwa ngalokucinile kwemigomo nemibandzela lehlelwe ngekulandzela sigaba 8 yesivumelwano sakhe nobe ekusetjentisweni, ngumasipala nobe licembu labomasipalati nobe hulumende wasekhaya lohlelekile, ngekuniketa satiso kuGazethi lesicolela bomasipalati ekuhambisaneni netinkambiso nemazinga lacatjangelwe kusigaba 8 ngesikhatsi netimo letincunye kusatiso. 15

(c) Kucolelwa ngaphansi kwendzima (b) mhlawumbe—

- (i) kungasebenta kubomasipalati jikelele; nobe
- (ii) kusetjentiswa kwayo kube nemkhawulo, kusebenta kubomasipalati labatsite, labangachazwa ngekuhambisana nesigaba sabomasipalati nobe licembu,luhlobo nobe lizinga lebhajethi yamasipalati. 20

(2) Sigaba 75A(2), (3) na-(4) Wemtsetfo Wetinchubo Tahulumende Wasekhaya-2000 (Umtsetfo Nombolo 32 wanga-2000), lesihambisana nendlela yekutselisa timali, tinhlawulo nobe luhlelo lwekutselisa nekutsi sisombululo macondzana naloko kumele satiwe, kusebenta kutinhlawulo letidzingwa simo setinhlawulo letengetiwe tamasipala. 25

(3) Bomasipalati kumele kutsi njalo ngemnyaka njengencenye yenchubo yekulungiselela inchubo yebhajethi babuyekete tinhlawulo letengetiwe tamasipala.

SEHLUKO 4

LOKWETAYELEKILE

Imitsetfosimiso 30

10. (1) Indvuna, ngekwatiza kuGazethi, ingenta imitsetfotimiso macondzana—

- (a) nanobe nguluphi ludzaba lekumele nobe oluchazwe ngekweminingwane Yalomtsetfo;
- (b) nekwehlukaniswa kahle kwemandla etetimali nemisebenti lapho khona bomasipalati lababili banemandla etetimali alalinganako nemisebenti endzaweni yinye ngekuhambisana nesigaba 229(3) Semtsetfosisekelo; futsi 35
- (c) nanobe kuphatsa lokusitako nobe lokusehlakalo nobe tindzaba letiyinchubo letidzingekako ekuchazweni kwekuphumelelisa kahle nobe kuphatfwa Kwalomtsetfo.

(2) Indvuna kumele kutsi njalo-nje, kepha lokungenani kanye njalo ngeminyaka lesihlanu, ibuyekete lemitsetfosimiso leyentiwe ngaphansi Kwalomtsetfo futsi nanobe nguyiphi intsela yamasipala legunyatwe nguleyo mitsetfosimiso.

(3) Nanobe ngukuphi kuchibiyela nobe kucitfwa kwemitsetfotimiso lokwentiwe ngaphansi Kwalomtsetfo kutawucala kusebenta uma kucala umnyaka wetetimali wamasipala ulandzela umnyaka wetimali wamasipala lokwachibiyela nobe kwacitfwa ngawo timisomtsetfo. 45

(4) Ngaphambi kwekutsi kwentiwe nobe nguyiphi imitsetfotimiso ngaphansi kwalesigaba, Indvuna kumele—

- (a) ibonisane—
 - (i) Nendvuna lephetse hulumende wasekhaya; 50
 - (ii) nermalunga elikhabhinethi lafanele macondzana nanobe nguluphi ludzaba lolutsintsa kubatiphatsimandla kwabo;
 - (iii) nermalunga lafanele eMkhandlusigungu Wesifundza macondzana nanobe nguluphi ludzaba lolutsintsa buphatsimandla besigungu;
 - (iv) Nekhomishini; kanye futsi 55
 - (v) Nahulumende Wasekhaya lohlelekile;

Act No. 12, 2007 MUNICIPAL FISCAL POWERS AND FUNCTIONS ACT, 2007

- (b) publish the draft regulations in the *Gazette* for public comment; and
- (c) submit the draft regulations to Parliament when in session for parliamentary scrutiny at least one month before their promulgation.

Amendments to this Act

11. Draft national legislation directly or indirectly amending this Act, or providing for the enactment of subordinate legislation that may conflict with this Act, may be introduced in Parliament— 5

- (a) by the Minister only; or
- (b) only after the Minister has been consulted on the contents of the draft legislation. 10

Transitional provisions

12. (1) A municipality must, within two years of the date on which this Act commences, apply to the Minister in accordance with this Act for the authorisation of a tax, other than a regional establishment levy or regional services levy imposed under the Regional Services Council Act, 1985 (Act No. 109 of 1985), or the KwaZulu and Natal Joint Services Act, 1990 (Act No. 84 of 1990), imposed by that municipality prior to the commencement of this Act. 15

(2) A tax referred to in subsection (1) lapses—

- (a) two years after the date on which this Act commences, if a municipality fails to apply for authorisation in accordance with subsection (1); or 20
- (b) six months after the Minister has notified the municipality that an application contemplated in subsection (1) is not approved.

Amendment of legislation and savings

13. The legislation referred to in the second column of the Schedule is hereby amended or repealed to the extent indicated in the third column of the Schedule. 25

Short title and commencement

14. This Act is called the Municipal Fiscal Powers and Functions Act, 2007.

NGUMTSETFO WEMANDLA ETETIMALI
NEMISEBENTI WAMASIPALA, 2007

Act No. 12, 2007

- (b) ishicilele luhlaka lwemitsetfosimiso ku*Gazethi* kute sive sikhone kwenta tiphakamiso; futsi
- (c) ingenise loluhlaka lwemitsetfosimiso uma ngabe iPhalamende ihlangene kute luhloliswe yiPhalamende, lokungenani inyanga yinye ngaphambi kwekumenyetelwa.

5

Kuchitjiyelwa Kwalomtsetfo

11. Luhlaka lwemtsetfo wavelonkhe loluchibiyela Lomtsetfo ngco nobe ngalanye ndlela, nobe lolubukela kumiswa kwemitsetfo lengaphansi kwawo lengangcubutana naloMtsetfo, ungangeniswa ePhalamende—

- (a) Yindvuna kuphela; nobe
- (b) ngemuva kwekuba Indvuna seyitsintsiwe macondzana nalokucuketfwe ngulohlaka lwemtsetfo.

10

Lokubukelwe kwesikhashana

12. (1) Masipalati kumele kutsi, kungakapheli iminyaka lemibili yelusuku lwekucala kusebenta Kwalomtsetfo, afake sicelo eNdvuneni ngekuhambisana naloMtsetfo kute kugunyatwe lentsela, kunekusungulwa kwentsela yesigodzi nobe intsela yetinsita yesigodzi lephocelelwe ngaphansi Kwemtsetfo Wetinsita Temkhandlu Tesifundza-1985 (Umtsetfo Nombolo 109 wanga-1985), nobe Umtsetfo Wetinsita Letihlangane taKwaZulu-Natali-1990 (Umtsetfo Nombolo 84 wanga-1990), lophocelelwe nguloyo masipalati phambilini loMtsetfo ucale kusebenta.

15

(2) Intsela lekukhulunywa ngayo kusigatjana (1) iphelelwa sikhatsi/ngemandla—

- (a) Iminyaka lemibili ngemuva kwelilanga loMtsetfo ucale kusebenta, uma ngabe masipalati ehluleka kufaka sicelo sekugunyatwa ngekuhambisana nesigatjana (1); nobe
- (b) tinyanga letisitfupha ngemuva kwekutsi Indvuna yatise lomasipalati kutsi sicelo lesicatjangelwe kusigatjana (1) asikemukelwa.

20

25

Kuchibiyelwa kwemtsetfo loshayiwe nekonga

13. Lomtsetfo loshayiwe lekukhulunywa ngawo kukholamu yesibili Yaleshejuli uyachibiyelwa lapho nobe uyacitfwa kufikela ezingeni lelikhonjisiwe kukholamu yesitsatfu Yeshejuli.

30

Sihloko lesifisha nekucala

14. Lomtsetfo ubitwa ngekutsi Ngumtsetfo Wemandla Etetimali Nemisebenti Wamasipala-2007.

Act No. 12, 2007 MUNICIPAL FISCAL POWERS AND FUNCTIONS ACT, 2007

SCHEDULE

(Section 13)

AMENDMENT OF LEGISLATION

No. and year of Act	Short title of Act	Extent of repeal or amendment
Act No. 32 of 2000	Local Government: Municipal Systems Act, 2000	1. The repeal of paragraph (d) of subsection (1) of section 86A.
Act No. 56 of 2003	Local Government: Municipal Finance Management Act, 2003	<p>1. The repeal of subsection (2) of section 20.</p> <p>2. The substitution for subsection (6) of section 28 of the following subsection: “(6) Municipal tax and tariffs may not be increased during a financial year [except when required in terms of a financial recovery plan].”</p> <p>3. The addition of the following subsection to section 43: “(4) This section does not apply to a municipal tax authorised in terms of the <u>Municipal Fiscal Powers and Functions Act, 2007.</u>”</p> <p>4. The substitution for paragraph (c) of subsection (1) of section 168 of the following paragraph: “(c) a framework for regulating the exercise of municipal [fiscal and] tariff-fixing powers;”</p>

NGUMTSETFO WEMANDLA ETETIMALI
NEMISEBENTI WAMASIPALA, 2007

Act No. 12, 2007

ISHEJULI

(Sigaba 13)

KUCHITJIYELWA KWEMTSETFO LOSHAYIWE

Inombolo. nemnyaka Wemtsetfo	Sihloko lesifisha Semtsetfo	Lizinga lekucitfwa nobe kuchibiyela
Umtsetfo Nombolo 32 wanga-2000	Umtsetfo waHulumende Wasekhaya: Tinchubo Tamasipala-2000	1. Kucitfwa kwenzima (d) yesigatjana (1) sesigaba 86A.
Umtsetfo Nombolo 56 wanga-2003	Hulumende Wasekhaya: Umtsetfo Wekuphatfwa Kwetimali Tamasipala-2003	<p>1. Kucitfwa kwesigatjana (2) sasigaba 20.</p> <p>2. Kucitfwa kwesigatjana (6) sasigaba 28 walesigatjana lesilandzelako: “(6) Intsela kanye nematharifu amasipala angeke akhushulwe ngesikhatsi semnyaka wetetimali [ngaphandle uma ngabe kudzingekile ngekweluhlelo lwekubuyisa timali].”.</p> <p>3. Kwengetwa kwaletigatjana letilandzelako kusigaba 43: “(4) Lesigaba asiyitsinsi intsela <u>yamasipala legunyatwe ngekwemibandzela Yemtsetfo Wemandla Etetimali Nemisebenti Wamasipala-2007.</u>”.</p> <p>4. Kukhishwa kwenzima (c) yesigatjana (1) yesigaba 168 yalenzima lelandzelako: “(c) luhlaka lwekulawula imisebenti leyentiwa ngumasipala emandla ekulungisa [etetimali newe] luhlelo lwekutselisa;”.</p>