



SALGA
South African Local Government Association

Enq: Adv Reuben Baatjies/pm
Tel: (012) 369 8071/8000
Fax: (012) 369 8001
E-mail: RBaatjies@salga.org.za
Date: 17 April 2012

CIRCULAR 08/2012

FROM : CHIEF EXECUTIVE OFFICER

**TO : MAYORS
SPEAKERS
COUNCIL WHIPS
ALL MUNICIPAL MANAGERS**

DATE : 17 April 2012

MUNICIPAL BOUNDARY RE-DETERMINATION PROCESS

1. PURPOSE OF CIRCULAR

This circular sets out, in simplified format, the key and outstanding features of the boundary re-determination process in furtherance of the finalisation of this process, as envisaged by the MDB. Reference is made to the MDB Circular 1 of 2012, which outlines the full remainder of the technical process and its various elements. It is attached for ease of reference. The intention is not to do the same here, but to highlight the key features of the process (including key dates and periods) and the potential implications.

2. BACKGROUND

The MDB has the sole responsibility to determine and re-determine the boundaries of Category A, B and C municipalities. When the MDB determines a municipal boundary, its objective and the aim of the process must be to establish areas that would:

- enable a municipality to fulfil its constitutional obligations;
- enable effective governance in that municipality;
- enable integrated development in the municipal area; and
- have a tax base as inclusive as possible of users of municipal services in the municipality.

SALGA National
Block B
Menlyn Corporate Park
175 Corobay Ave
Cnr Garsfontein Rd
Waterkloof Glen X11
Pretoria 0181
Tel: 012 369 8000
Fax: 012 369 8001

Eastern Cape
1st Floor, 3 Berea Terrace
Berea, East London 5214
Tel: 043 727 1150
Fax: 043 727 1156

Free State
Cnr Nelson Mandela Dr
& Burger St
Bloemfontein 9300
Tel: 051 47 1960
Fax: 051 430 8250

Gauteng
3rd Floor Braampark
Forum 2, 33 Hoofd St
Braamfontein 2017
Tel: 011 276 1150
Fax: 011 403 3636

KwaZulu-Natal
202 Transnet Building
3rd Floor, Smith St
Durban 4000
Tel: 013 361 1236
Fax: 013 361 1234

Limpopo
127 Marshall St
Polokwane 0699
Tel: 015 291 1400
Fax: 015 291 1402

Mpumalanga
SALGA House
11 Van Rensburg St
Nelspruit 1200
Tel: 013 752 1200
Fax: 013 752 5595

North West
Jade Square, Suite 400
Cnr O R Tambo &
Margaretha Prinsloo St
Klerksdorp 2570
Tel: 018 462 5290
Fax: 018 462 4662

Northern Cape
Crescent House
1 & 2 D'Arcy St
Kimberley 8300
Tel: 053 833 2505
Fax: 053 833 3828

Western Cape
7th Floor
Eleven Adderley
11 Adderley St
Cape Town 8000
Tel: 021 469 9800
Fax: 021 461 1936

As indicated in the last Circular on this matter, the next Local Government Elections will be held in 2016, following the National and Provincial Elections which are due to take place in 2014. All changes to municipal boundaries need to be finalised prior the National and Provincial Elections so that the national voters roll can be segmented according to confirmed and final municipal boundaries. This means, that all the changes to municipal boundaries must be completed at the beginning of 2013. The intention is to finalise all changes to municipal boundaries by around May 2013, so that voting districts and the voters' roll can be prepared for the 2014 Elections and wards can be delimited for the 2016 Local Elections.

3. DISCUSSION

In Circular 1/2011 the MDB submitted to stakeholders 558 proposed changes to municipal boundaries, which were discussed with stakeholders in 2011 at meetings arranged per district and metropolitan area. These cases are still under consideration and the MDB will inform the relevant stakeholders of its decisions before the commencement of the legal process.

3.1 Deadlines and consultation

In response to the MDB Circular 1/2011 invitation, some 453 requests have been received for the review of municipal boundaries. The MDB is requesting persons and institutions that have not as yet submitted motivation for their proposals, to provide the data and information as per Annexure D to Circular 2/2011 as a matter of urgency and **not later than 30 April 2012**.

Details of the proposed boundary changes appear in **Annexure A of the MDB Circular 1/2012**. Most cases are new, while others require the re-opening of cases already finalised by the MDB. Some of the latter submissions, especially those requesting the reversal of previous decisions, may be rejected by the MDB, while others may be reconsidered.

Stakeholders are requested to consider the proposals listed in Annexure A very carefully and to try to reach consensus on them before the legal process commences. Consensus proposals or comments will enhance finalisation of the cases listed in Annexure A. Maps will be posted on the MDB website www.demarcation.org.za before representatives of the MDB visit municipalities in May/June 2012.

Before the MDB considers the proposed re-determinations as per **Annexure A**, it will afford stakeholders an opportunity to comment on them. In this regard, representatives of the MDB will again attend one meeting per district area and one meeting per metro area during **May and June 2012**. A draft programme for visits to district and metro areas is attached as **Annexure B in the MDB Circular**.

3.2 The legal process

The legal process for some or all the cases presented in Circular 1/2011 and for some or all of the proposed changes listed in **Annexure A**, will commence around **July/August 2012**.

3.3 Section 26 notices

Section 26 of the Local Government: Municipal Demarcation Act, 1998, requires that the MDB publishes a notice in the media and that certain functionaries be informed of the contents of the notice. It is important to note that no decision on the redetermination of boundaries have as yet been taken when the Section 26 Notices are published. Section 26 Notices merely reflect the MDB's intention to consider the proposed boundary changes. To comply with Section 26 a circular on the contents of the notice(s) will be issued and it will be sent out by courier, or by registered post, or by email. To ensure that the Section 26 Notices are published in newspapers circulating in the affected areas, municipalities are

requested to indicate in **Annexure C of the MDB Circular** the name, e-mail address, fax number and telephone number of the newspapers circulating in their areas. Other means of communication may also be used.

Views and representations submitted in terms of Section 26, must relate to Section 24 and 25 of the Demarcation Act, 1998 and in the case of metropolitan areas, also to Section 2 of the Structures Act, 1998.

3.3 Possible investigations and public meetings

After the closing date for Section 26 submissions, the MDB will consider all submissions and in terms of Section 27, **may** take a decision to re-determine the municipal boundaries, or before it takes such a decision, it **may** hold a public meeting, conduct a formal investigation, or do both. It is trusted that stakeholders will be able to come to an agreement on the proposed changes before the Section 26 closing date, so as to limit these costly formal meetings and investigations.

3.4 Section 21 Notices

The MDB's formal determination or re-determination of municipal boundaries and the publication of Section 21 Notices in Provincial Gazettes to invite objections; will be published around December 2012/January 2013. Attention is drawn to Section 21(4) of the Demarcation Act, 1998, which places the onus on any aggrieved person to submit written objections to the MDB within a period of 30 days. No extension of this period is legally possible and any objection received after the closing date, will be rejected.

All objections should be based on Section 24 and 25 of the Demarcation Act, 1998 and in the case of metropolitan areas, also Section 2 of the Structures Act, 1998. The MDB will consider all objections received during the objections period and will then either confirm, vary or withdraw its determination. The MDB's final decisions in this regard will be gazetted by **April/May 2013**.

3.5 Provisional programme

The above-mentioned matters are summarised in the following provisional programme and stakeholders are advised to visit the MDB's website (www.demarcation.org.za) regularly for updated information:

Provisional programme for the redetermination of municipal boundaries	
20 April 2012	<ul style="list-style-type: none"> • Municipalities confirm venues for the dates as per the visits programme
26 April 2012	<ul style="list-style-type: none"> • Logistics in place for MDB teams to visit municipalities as per the visits programme
May - June 2012	<ul style="list-style-type: none"> • Visits to municipalities
July - Aug 2012	<ul style="list-style-type: none"> • Prepare for the legal process • Publish all Section 26 notices to invite views and representation on cases that will be taken forward
Aug/Sept 2012	<ul style="list-style-type: none"> • Closing date for the submission of written views and representations in terms of Section 26
Sept 2012	<ul style="list-style-type: none"> • Analyses of Section 26 inputs, and review of maps
Sept – Oct 2012	<ul style="list-style-type: none"> • Determine the need for formal public hearings, and further investigations, and public notices in this regard
Nov – Dec 2012	<ul style="list-style-type: none"> • Formal Section 28 public hearings, where necessary • Prepare Section 21 notices for objections

Dec 2012 - Jan 2013	<ul style="list-style-type: none"> • Publish Section 21 notices for objections
Jan - Feb 2013	<ul style="list-style-type: none"> • Closing date for Section 21 objections
Feb - March 2013	<ul style="list-style-type: none"> • Consider objections and decide which boundary changes should be confirmed, varied or withdrawn
April - May 2013	<ul style="list-style-type: none"> • Publish Board decisions in terms of Section 21(5)
June – Oct 2013	<ul style="list-style-type: none"> • IEC and MECs gazette Section 23 notices
Nov/Dec 2013	Strategic planning and strategic guidance from Board on the ward delimitation process
Feb/March 2014	Formula and number of councillors gazetted
Feb 2014	New Board appointed
March 2014	MDB commence with ward delimitation. New Board to decide on the process
June 2015	Handover of final ward boundaries to the IEC
July - April 2015	IEC prepares for the 2016 local elections
May 2016	Local elections

The programme is very tight, and it is essential that all stakeholders make a contribution to ensure that the MDB process is finalised by **April 2013**. Unfortunately the timeframes do not allow for the submission and consideration of new requests other than those listed in Circular 1/2011 and in Circular 1/2012 and any additional requests will only be considered **after the 2016 local elections**.

4. WAY FORWARD: POLITICAL OWNERSHIP OF THE FINALISATION PROCESS

As indicated in the SALGA Circular 28 of 2011, it is critical that political ownership of this process is taken and, in particular, that same be managed by the Whip and Speaker of the affected Municipal Councils, with the support of the municipal manager and technical support teams of the MDB. It is important that, where the office bearers are not available to attend consultative meetings, that Council deliberate the proposals and delegates the relevant councillors and officials, who will then have a mandate to represent the municipality in the engagement with the MDB. This will ensure that the process adds value to the intent of legislation and does not become a point of contestation later on, when it is too late. We are now at the finalisation stage and it should be treated as such.

Again, for more detailed information, the MDB Circular 1 of 2012 should be referred to. Additional information can also be obtained from the MDB's website (www.demarcation.org.za). SALGA is committed to working with all relevant stakeholders to ensure that this process is undertaken timeously and completed successfully.

Please do not hesitate to consult with your provincial SALGA office or with Reuben Baatjies (at rbaatjies@salga.org.za) in the event that you require further clarity or any type of assistance during this process.

Yours in the service of Development Local Government.



XOLILE GEORGE
CHIEF EXECUTIVE OFFICER