



SOUTH AFRICA

SUMMARY

South Africa is a democratic republic with three spheres of government: national, provincial and local. Local government is enshrined within the constitution, which also outlines the various functions of and resource distributions between the spheres of government. Additionally there are numerous Acts governing various aspects of local government activity. The Department of Cooperative Governance and Traditional Affairs is responsible for supporting provinces and local government in fulfilling their constitutional and legal obligations. There are three types of municipality: eight urban metropolitan municipalities and two tiers of rural and urban authorities, namely 44 first-tier district municipalities and 226 second-tier local municipalities. Following the 2016 election, 41.2% of councillors were women and in the 2013/14 financial year, local government expenditure was 8.8% of total government expenditure. Government grants, followed by service charges, are the largest source of operating revenue for local authorities, whose responsibilities range from public health and utility provision to transportation and waste management. Partnerships are encouraged and promoted between municipalities and traditional councils.

1. NATIONAL GOVERNMENT

South Africa is a democratic republic with a bicameral parliament. The national legislature consists of a 400-seat national assembly and a second 90-seat chamber known as the National Council of Provinces (NCOP).^{421a} The head of state and government is the president, who is indirectly elected by the national assembly for a period of five years, and is usually the leader of the largest represented party. The national assembly seats are allocated using a proportional representation system with closed lists of one national and nine provincial lists. Seats are first allocated according to the Droop quota. NCOP members are indirectly elected by each of the nine provincial legislatures. Following the 2014 national election, 42.0% (166/395) of elected representatives and 35.2% (19/54) of senators were women.^{421b} The provincial legislatures vary in size from 30 to 80 members depending on the population of the province. Provincial elections are also held, under a list system of proportional representation. The president appoints a cabinet drawn from members of the national assembly.

2. LEGAL BASIS FOR LOCAL GOVERNMENT

2.1 Constitutional provisions

Local government is enshrined in Chapter 7 of the constitution^{422a}, adopted in 1996. It is further supported by Chapter 3, entitled 'The Principles of Cooperative Government', and Chapter 13, which focuses on local government finance.

2.2 Main legislative texts

The main legislative text is:

- Organised Local Government Act 1997^{422b} (Act No. 52 of 1997).

Other relevant acts include:

- Municipal Demarcation Act 1998 (Act No. 27 of 1998)
- Local Government: Municipal Structures Act 1998 (Act 117 of 1998)

- Local Government: Municipal Systems Act 2000 (Act 32 of 2000)
- Disaster Management Act 2002 (Act No. 57 of 2002)
- Traditional Leadership and Governance Framework Act 2003 (Act No. 41 of 2003)
- Local Government: Municipal Finance Management Act 2003 (Act 56 of 2003)
- Municipal Property Rates Act 2004 (Act No. 6 of 2004)
- Intergovernmental Relations Framework Act 2005 (Act 13 of 2005)
- Municipal Fiscal Powers and Functions Act 2007 (Act 12 of 2007).

2.3 Proposed legislative changes

No known proposed legislative changes.

2.4 National urban policy

The national urban policy is known as the Integrated Urban Development Framework^{422c} (IUDF) and is coordinated by the Department of Cooperative Governance and Traditional Affairs (COGTA) (see section 3.2). The IUDF seeks to foster a shared understanding across government and society about how best to manage urbanisation and achieve the goals of economic development, job creation and improved living conditions for urban residents.

3. STRUCTURE OF LOCAL GOVERNMENT

3.1 Local government within the state

The republic has three spheres of government – national, provincial and local – which are distinct but interrelated.

3.2 Ministerial oversight

In 2008 the Department of Provincial and Local Government (DPLG) became the Department of Cooperative Governance and Traditional Affairs, known as COGTA.^{423c} COGTA currently has two departments under the one minister: the



KEY FACTS

POPULATION (2011 Census):
51,770,560

AREA (UN 2006):
1,221,037 sq km

CAPITAL:
Pretoria

CURRENCY:
Rand (ZAR)

HEAD OF STATE AND GOVERNMENT:
President Cyril Ramaphosa

FORM OF GOVERNMENT:
democratic republic

PARLIAMENTARY SYSTEM:
bicameral

STATE STRUCTURE:
unitary

LANGUAGES:
Afrikaans, English, Ndebele, Northern Sotho, Sotho, Swazi, Tswana, Tsonga, Venda, Xhosa, Zulu (official)

NATIONAL ELECTIONS:
last: 2014, turnout: 73.5%; next: 2019

LOCAL ELECTIONS:
last: 2016, turnout: 58.0%; next: 2021

WOMEN COUNCILLORS (2016):
41.2%

LOCAL GOVERNMENT EXPENDITURE as a percentage of total government expenditure 2013/14:
8.8%

Table 42.1a Distribution of councils and population

Province	Metropolitan (unitary)	District (1 st tier)	Local (2 nd tier)	Traditional	Population (2011 Census)	Population (2011 est)	% rural (2010)
Western Cape	1	5	24	0	5,822,734	6,510,300	na
Eastern Cape	2	6	37	37	6,562,052	6,498,700	na
Northern Cape	0	5	27	27	1,145,861	1,214,000	na
Free State	1	4	19	0	2,745,590	2,866,700	na
KwaZulu-Natal	1	10	50	22	10,267,301	11,074,800	na
North-West	0	4	19	19	3,509,952	3,856,200	na
Gauteng	3	2	7	7	12,272,264	14,278,700	na
Mpumalanga	0	3	18	18	4,039,938	4,444,200	na
Limpopo	0	5	25	25	5,404,868	5,778,400	na
Total	8	44	226	155	51,770,560	56,521,900	37.1%

Source: COGTA communication with CLGF and 2011 Census^{42.3a} and population estimates^{42.3b}

Department of Cooperative Governance (DCG) and the Department of Traditional Affairs (DTA), and has two functions: to develop national policies and legislation with regard to South Africa's provinces and local government, and monitor the implementation of such policies and legislation; and to support provinces and local government in fulfilling their constitutional and legal obligations. COGTA (under its previous name DPLG) has published local government municipal performance regulations, which came into force in 2006.

3.3 Council types

The local sphere consists of three categories of municipality: single-tier metropolitan municipalities in urban areas and a two-tier system of district and local municipalities, covering both urban and rural areas, which share legislative and executive authority for their area.

3.3.1 Urban metropolitan municipalities are large single-tier council areas encompassing urban populations and often including a major city and surrounding towns. They perform all 38 functions as listed in the constitution.

3.3.2 District municipalities are the first-tier local authorities covering larger jurisdictions in both rural and urban areas. They work in partnership with the smaller second-tier authorities, known as local municipalities, within their jurisdiction.

3.3.3 Local municipalities are second-tier authorities within the district municipality jurisdiction, which provide a range of local functions. They are classified into four types depending how many local authority functions they perform: type four (containing large urban areas) average 24 functions, type three (small towns) average 20 functions,

type two (rural with small towns) average 18 functions and type one (rural with no towns) average 11 functions.

3.4 Traditional leaders

Traditional leaders are specifically accommodated in South Africa's system of governance. Chapter 12 of the constitution as well as the Traditional Leadership and Governance Framework Act (TLGFA) 2003 entrench traditional leadership in the governance of South Africa. The TLGFA provides for the establishment of three houses of traditional leaders: one each at the national, provincial and local levels. It also specifically provides for a partnership between the institution of traditional leadership and municipalities. This particular provision must be read in conjunction with Section 81 of the Municipal Structures Act 1998 which provides for ex-officio participation of traditional leaders in municipal councils. It further obligates the national government and all provincial governments to promote partnerships between municipalities and traditional councils.

4. ELECTIONS

4.1 Recent local elections

Voter turnout in the 2016 local government elections was 58.0%, continuing an upward trend from 57.6% in 2011, 48.4% in 2006 and 48.1% in 2000.^{42.4a}

4.2 Voting system

There is a dual local government electoral system consisting of proportional elections based on party lists and ward elections for individual councillors. The division between proportional representatives and ward representatives is 50:50 for metropolitan and local councils.

4.3 Elected representatives

Any person who is entitled to vote for a municipal council can be elected as a councillor for a term of up to five years. There are three forms of executive that municipalities may adopt: collective executive system (executive authority exercised through an executive committee); mayoral executive system (executive authority exercised by an executive mayor assisted by a mayoral committee); and plenary executive system (executive authority exercised by the whole council). Provincial legislation determines the types of municipality for each of the three categories.

4.4 Women's representation

The Local Government: Municipal Structures Act of 1998 encourages political parties to field equal numbers of women and men as candidates. Following the 2016 local elections, women constituted 41.2% of councillors, up from 38.4% in 2011 and 40% in 2006, which were in turn a significant increase on the results of 2000 (29%) and 1995 (19%) (see Table 1b). This increase is due to the number of women councillors appointed via proportional representation via the party lists, which has increased from 43% in 2011 to 48% in 2016. Of elected ward representatives, women comprised 33% in both 2011 and 2016. Following the 2011 local elections, 41.4% of all mayors were women including 42 executive mayors, and 73 mayors as well as 18 deputy mayors – see Table 41.1b.

5. SYSTEMS FOR COMMUNITY INVOLVEMENT

5.1 Legal requirement

The constitution places an obligation on local government to encourage the involvement of communities and community organisations in matters of local government. Additionally, the Local Government: Municipal Structures Act 1998 sets clear guidelines for ward committees. Section 72 of the Act states that the objective of a ward committee is to enhance participatory democracy in local government. The Local Government: Municipal Systems Act 2000 binds local government to 'encourage the involvement of the local community and to consult the community about the level, quality, range and impact of municipal services provided by the municipality, either directly or through another service provider'. The establishment of ward committees as instruments of public participation is currently at 92% across the country.

5.2 Implementation

The most common structure established by municipalities to interact with the community (apart from ward committees) is the integrated development planning (IDP) forum. IDP forums are established


Table 42.1b Women councillors and mayors following the last five local elections

Election	1995		2000		2006		2011		2016	
	#	%	#	%	#	%	#	%	#	%
Councillors										
Female councillors	na	19	na	29	na	40	3,494	38.4	4,219	41.2
Male councillors	na	81	na	71	na	60	5,596	61.6	6,016	58.8
Total councillors	na	100	na	100	na	100	9,090	100.0	10,235	100.0
Chairpersons										
Female mayors	na	na	na	na	na	na	115	41.4	na	na
Male mayors	na	na	na	na	na	na	163	58.6	na	na
Total mayors	na	100.0	na	100.0	na	100.0	278	100.0	na	100.0

Source: Gender Links 2016^{42,4b}

specifically with the intention of involving the community in the development and review of the municipality's integrated development plan. Community development worker (CDW) programmes are another mechanism aimed at assisting local communities in accessing government services and in meeting their needs. CDWs have been appointed in various parts of the country.

5.3 ICT use in citizen engagement

No information is available.

6. ORGANISED LOCAL GOVERNMENT

6.1 National local government association

The South African Local Government Association (SALGA)^{42,6} is recognised by the Organised Local Government Act 1997 and its role is enshrined in Section 63 of the constitution. SALGA's key role is the effective representation of local government in the legislative processes of all spheres of government, and in intergovernmental processes. The 1997 Act allows organised local government to nominate up to ten part-time representatives to the National Council of Provinces and to further nominate two representatives to the Financial and Fiscal Commission, which advises the treasury on budgetary issues.

6.2 Other associations of local government

Nine provincial local government associations which are chapters of SALGA are also recognised by the Organised Local Government Act 1997.

7. INTERGOVERNMENTAL RELATIONS

Section 41 of the constitution requires the three spheres of government to consult and inform one another on issues of common concern. A number of executive intergovernmental instruments, most of which are non-statutory, have been developed at national and provincial level.

These include:

- the Presidential Coordination Council (PCC): comprising the president, the minister of COGTA and provincial premiers, with SALGA by invitation
- the Local Government Budget Forum: national ministers, representatives from SALGA, and one representative from each of the provincial local government associations
- the Forum of South African Directors General (FOSAD): national and provincial directors general of all ministries. FOSAD is chaired by the presidency director general, and is organised much like a 'cabinet committee cluster'
- 15 intergovernmental forums, called MinMecs, based on national sector departments with overlapping competencies
- premier coordinating forums: these exist within each provincial government and report both upwards to the PCC and downwards to all 46 mayoral forums
- mayoral forums: also known as district intergovernmental relations forums, these provide a supportive mechanism for district municipalities to engage with intergovernmental issues. District mayors rationalise and coordinate local structures, ensure that there is a district-wide development vision informed by local IDPs, and monitor national and provincial sector commitments.

In addition, COGTA has developed an intergovernmental relations toolkit consisting of a number of educational and informational publications, and a series of case-studies. Informal intergovernmental relations forums have also been formed along sectoral lines, consisting of national ministers and provincial members of executive committees. SALGA represents where local government interests are involved.

8. MONITORING SYSTEMS

There are a number of state institutions to support constitutional democracy and provide independent scrutiny, including the public prosecutor and the auditor general. The public prosecutor has the power to investigate the conduct of public administration in any sphere of government and to take remedial action. The auditor general is required to audit and report on the accounts and financial management of all local authorities.

9. FINANCE, STAFFING AND RESOURCES

9.1 Local government expenditure

The share of national revenues allocated to local government was 8.8% in 2012/13, up from 6.3% in 2006/07. In 2010/11 local government's share of national revenues was 7.9%. This compares to a share of 48.5% for national departments and 43.6% for provinces. However, national transfers to local government have consistently grown faster than total government expenditure. Each sphere of government has the right to determine its own budget and also the responsibility to comply with it. Municipalities are responsible for the remuneration of councillors and personnel. At an aggregate level, about 30% of the total municipal operating budget is spent on the remuneration of personnel. The Municipal Fiscal Powers and Functions Act 2007 regulates the exercise by municipalities of their power to impose surcharges or fees for services provided under Section 229(1)(a) of the constitution and provides for the authorisation of taxes, levies and duties that municipalities may impose under Section 229(1)(b) of the constitution. Section 229 of the constitution provides that municipalities may impose rates on property and surcharges or fees for services provided by the municipality or on behalf of the municipality. It also provides that a municipality may impose other taxes, levies and duties, if authorised by national legislation. Municipalities may charge for the services they provide in the form of service charges and administration fees.

9.2 Locally raised revenue

Municipalities raise a large proportion of revenue from their own sources, such as taxes and service charges. Service charges have tended to be the largest contributor to operating revenue, followed by government grants.

9.3 Transfers

The 'local government equitable share' (LGES) formula and allocation was first

introduced in the 1998/99 financial year. The size of the LGES grant takes into account each area's fiscal capacity, fiscal efficiency, developmental needs, extent of poverty and backlogs. The LGES grant is the largest national transfer to municipalities and has experienced a rapid growth over the last decade, largely due to increases in the allocations for indigent households. Unconditional transfers to local government were estimated at 59.4% of all transfers to local government in 2012/13 and consist of the LGES (47.9%) and the general fuel levy sharing with metropolitan municipalities (11.5%). In 2012/13, total conditional and indirect transfers amounted to 40.6%, made up of conditional grants from the national budget (34.7%) and indirect transfers from the national budget (5.9%).

9.4 Loans

No information is available.

9.5 Local authority staff

Each municipality recruits its own staff and also has the power to discipline and dismiss. The only officers local authorities are required to have by law are a municipal manager who acts as head of the administration, a chief accounting officer and a chief financial officer. Otherwise, each municipal authority is free to determine its own staffing structure. For the purpose of measuring municipal performance, local government legislation mandates municipalities to put in place performance management systems. Such performance management systems are required to set key performance indicators and targets, along with mechanisms to monitor, review and report on municipal performance. The Local Government: Municipal Finance Management Act binds the mayor of a municipality to ensure that the performance agreements of senior management are in line with sound financial management as prescribed in the Local Government: Municipal Systems Act.

10. DISTRIBUTION OF SERVICE DELIVERY RESPONSIBILITY

10.1 Overview of local government service delivery responsibility

The constitution assigns executive powers to local government for air pollution, building regulations, childcare facilities, electricity and gas

networks, fire services, local tourism, municipal planning, municipal health, public transport and public works, stormwater management, trading regulations, water, sewage and sanitation services, refuse removal, decisions about land use, and encouragement of the involvement of communities and community organisations in matters of local government. With regard to access to basic services and free basic services, the 2011 General Household Survey by Statistics South Africa shows the following percentages with access to a basket of basic services: water (89%), sanitation (87% and well within the timeframe of the Millennium Development Goals), electricity (83%) and refuse removal (61%). In the early 2000s, government announced its intention to roll out free basic services to the poor. All municipalities are expected to develop an indigent policy to determine who the beneficiaries of the programme should be within their jurisdiction. To assist the process, COGTA has developed an Indigent Policy Framework and Indigent Policy Implementation Guidelines to ensure that municipalities develop credible indigent registers. The framework provides a foundation upon which municipalities can build their own indigent policies in order to meet their responsibilities in respect of providing basic municipal services for all.

10.2 ICT use in service delivery

No information is available.

10.3 The role of local government in achieving the UN Sustainable Development Goals (SDGs)

The Minister of Local Government's speech to the Commonwealth Local Government Conference in 2016 reaffirmed the Government of South Africa's commitment to localising the Sustainable Development Goals and to ensure local governments are empowered with the functions and finance to promote human rights and plan for a sustainable future to meet human developmental needs through address service delivery backlogs and problems caused by a lack of resources.^{42.10}

REFERENCES AND USEFUL WEBSITES

42.1a Government of South Africa www.gov.za

42.1b Women in national parliaments. Inter-Parliamentary Union www.ipu.org/wmn-e/classif.htm

42.2a Constitution of South Africa www.gov.za/documents/constitution/constitution-republic-south-africa-1996-1

42.2b Organised Local Government Act 1997 www.saflii.org/za/legis/num_act/olga1997265.pdf

42.2c Integrated Urban Framework

42.3a South Africa 2011 Census www.statssa.gov.za/?page_id=595

42.3b Population estimates 2016 www.statssa.gov.za/publications/P0302/P03022017.pdf

42.4c Department of Cooperative Governance and Traditional Affairs website www.cogta.gov.za

42.3d Municipal Demarcation Board www.demarcation.org.za

42.4a Electoral Commission www.elections.org.za

42.4b Gender and 2016 South Africa – local elections <http://genderlinks.org.za/what-we-do/governance/advocacy/south-africa-gender-and-elections>

42.5 No reference for this section

42.6 South African Local Government Association www.salga.org.za

42.7 No reference for this section

42.8 No reference for this section

42.9 Data provided by COGTA in communication to CLGF; see Section 9.1 above

42.10 Minister Van Rooyen at the Commonwealth Local Government Forum Southern African Regional Conference www.cogta.gov.za/?p=789

42.11a UN statistics surface area <http://unstats.un.org/unsd/demographic/products/dyb/dyb2006/Table03.pdf>

42.11b Commonwealth Local Government knowledge hub www.clgf.org.uk/resource-centre/knowledge-hub

42.11c State of Local Government Report 2013 <http://ggln.org.za/1solg-publication-2014.pdf>

42.11d UNDP HDR South Africa country profile <http://hdr.undp.org/en/countries/profiles/ZAF>

Table 42.2b Local government expenditure as a percentage of total government expenditure 2006–2013

	2006/07 actual	2010/11 actual	2012/13 actual
Total government expenditure	na	na	na
Total local government expenditure	na	na	na
Local government expenditure as a percentage of total government expenditure	6.3%	7.9%	8.8%

Source: COGTA communication with CLGF



Annex 42a Summary of service provision in different spheres of government in South Africa

Services	Delivering authority					Remarks
	National government	Provinces	Metropolitan	District	Local	
GENERAL ADMINISTRATION						
Police	■		■			
Fire protection			■		■	
Civil protection		■	■		■	
Criminal justice	■					
Civil status register	■					
Statistical office	■					
Electoral register	■					
EDUCATION						
Pre-school (kindergarten and nursery)		■	■		■	
Primary	■	■				
Secondary	■	■				
Vocational and technical	■					
Higher education	■					
Adult education	■					
SOCIAL WELFARE						
Family welfare services	■					
Welfare homes	■					
Social security	■					
PUBLIC HEALTH						
Primary care	■	■	■		■	
Hospitals	■	■				
Health protection	■	■	■		■	
HOUSING AND TOWN PLANNING						
Housing	■	■	■		■	
Town planning			■		■	
Regional planning		■				
TRANSPORT						
Roads	■	■				
Transport	■	■	■		■	
Urban roads			■		■	
Urban rail	■					
Ports	■					
Airports	■		■		■	
ENVIRONMENT AND PUBLIC SANITATION						
Water and sanitation			■		■	
Refuse collection and disposal					■	
Cemeteries and crematoria			■		■	
Slaughterhouses			■		■	
Environmental protection	■	■	■		■	
Consumer protection	■		■		■	
CULTURE, LEISURE AND SPORTS						
Theatre and concerts	■	■				
Museums and libraries	■	■	■			
Parks and open spaces			■			
Sports and leisure	■	■	■			
Religious facilities						
UTILITIES						
Gas services	■		■		■	
District heating						
Water supply	■					
Electricity	■		■		■	
ECONOMIC						
Agriculture, forests and fisheries	■					
Local economic development/promotion	■	■	■		■	Local government has responsibility for local trading regulations
Trade and industry	■				■	
Tourism	■	■	■		■	

■ sole responsibility service ■ joint responsibility service ■ discretionary service