

ARRANGEMENT OF REGULATIONS

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S.I. 26, 1991.

PART I
Preliminary (regs 1-2)

1. Citation

These Regulations may be cited as the Sowa Township Regulations.

2. Interpretation

In these Regulations, unless the context otherwise requires-

"auditor" means the person appointed to carry out an audit in accordance with regulation 42;

"Chairman" means the person appointed to be the Chairman of the Township Authority in accordance with regulation 5, or any person for the time being acting as Chairman of the Authority;

"executive officer" means the person referred to as such in regulation 5;

"owner", in relation to land, includes-

- (a) the person receiving the rent or profits of any land from the occupier thereof on his own account or as agent for a person entitled thereto; or
- (b) any person who lawfully occupies or holds land in accordance with an agreement whereunder he is entitled to obtain transfer of such land on fulfilment by him of the conditions prescribed by such agreement;

"township" means the Sowa Township as defined in terms of the Township Act;

"Township Authority" means the Sowa Township Authority established by regulation 3;

"valuation officer" means any person so appointed in accordance with section 50 of the Town Council Regulations.

PART II

Establishment, Duties and Powers (regs 3-17)

3. Establishment of Sowa Township Authority

There is hereby established a township authority for the township, to be called the Sowa Township Authority.

4. Duties and powers of Township Authority

(1) The general duty of the Township Authority shall be to conduct the affairs of the township in accordance with these Regulations and any other law so as to secure and promote the health, order and good government of the township, and to that end the Township Authority may perform such functions as are specified in the First Schedule.

(2) The Township Authority shall appoint a Finance Committee and an Education Committee, and may from time to time appoint such other committees either of a general or a specific nature, consisting of such number of members as the Township Authority may think fit, for the purpose of transacting such business or performing any act or duty which in the judgement of the Township Authority would more conveniently be performed by means of a committee, and may delegate to any committee such powers, except the power to make bye-laws and any power to raise money by rates or otherwise, as it may think fit; and unless in appointing any such committee the Township Authority has appointed one of its members as the chairman thereof, the committee shall elect one of its members to be the chairman thereof.

(3) The Township Authority may revoke or amend any delegation made under the provisions of subregulation (2) and may attach conditions to such delegation, including general or particular directions as to the manner in which any delegated power is to be exercised.

(4) A committee other than the Finance Committee, may co-opt persons other than members of the committee, and such co-opted persons may take part in the proceedings of the committee, but shall not have the right to vote thereat.

5. Constitution of Township Authority

(1) The Township Authority shall consist of a Chairman, and not more than eight nor less than six other members to be appointed by the Minister by notice published in the *Gazette*.

(2) The Chairman shall be the executive officer responsible for administering the township.

(3) Whenever the Chairman is absent or for any reason unable to perform the functions of Chairman of the Township Authority, the other members of the Authority may elect one of their number to act as Chairman.

6. Meetings of Township Authority

(1) The Township Authority shall meet at such times and places as the Chairman may appoint, and in no case less often than once in every three months:

Provided that the Chairman may call a meeting at any time on his own motion or at the request in writing of not less than three members.

(2) The Chairman shall cause a notice showing the time and place of every meeting, to be exhibited on the township notice board and at such other places as the Township Authority may determine, and shall cause such notice to be sent to every member.

(3) Meetings of the Township Authority shall be open to the public and to the press :

Provided that the Township Authority may, by a majority of the members present, order that the press or the public should not be admitted; and Provided further that meetings of any committee of the Township Authority shall not be open to the public or the press.

(4) The Township Authority may make standing orders to regulate the conduct of its business at meetings.

(5) A quorum of the Township Authority shall be constituted by not less than half the total number of members appointed under regulation 5(1).

7. Voting of Township Authority

(1) All matters to be decided upon, or all acts required to be done by the Township Authority, shall be determined by a majority of votes of the members present at a duly convened meeting.

(2) The Chairman shall, when the votes on any question are equal, have a casting vote in addition to his ordinary vote as a member.

8. Minutes of meetings

(1) The Chairman shall cause minutes of each meeting of the Township Authority to be kept, and such minutes shall be submitted for confirmation at the next meeting, and after being confirmed or altered, as the case may be, shall be signed by the Chairman.

(2) Copies of the minutes of the meetings of the Township Authority shall be available to the Minister and to such other persons as the Minister may specify.

(3) The minutes shall, during normal business hours, be open to inspection by any member of the public, who may obtain a copy thereof on payment of such fees as may be fixed by the Township Authority in its bye-laws.

9. Interest of members of Township Authority

(1) Subject to the provisions of the Public Service Act, no member of the Township Authority shall be disqualified by his office from entering into any contract with the Township Authority nor shall any such contract entered into by or on behalf of the Township Authority in which any member of the Township Authority shall be in any way directly or indirectly interested, be on account of such interest voided or set aside, nor shall any member of the Township Authority so contracting or being so interested be liable to account to the Township Authority for any profit realized by any such contract by reason of any member of the Township Authority holding that office :

Provided that the nature and extent of his interest shall be disclosed by him so that such disclosure is duly minuted prior to or at the meeting of the Township Authority at which the contract is determined upon, if the interest then exists, or in any other case at the first meeting of the Township Authority after the acquisition of his interest.

(2) No member of the Township Authority shall vote upon or take part in any discussion of any matter in or before the Township Authority in which he or his wife, partner or relative within the first degree of consanguinity or affinity is interested, either directly or indirectly, or in which any company of which he is an officer or shareholder is interested, either directly or indirectly.

(3) Any member of the Township Authority who contravenes the provisions of this regulation shall be guilty of an offence and liable to a fine of P200 and to imprisonment for three months, and in addition shall become disqualified from continuing to be a member of the Township Authority, and shall account to the Township Authority for any profit which may accrue to him in respect of such contract.

10. Defects in appointment of members of Township Authority

All proceedings of the Township Authority, and the actions and statements of any person acting as Chairman thereof, shall, notwithstanding that it is later discovered that there was some defect in the appointment of any such member or the Chairman, be as valid and effectual as if every such member, or the Chairman, had been duly appointed.

11. Township Authority to be a body corporate

The Township Authority shall be a body corporate with perpetual succession and shall be capable of suing or being sued in its own name and, subject to the provisions of these Regulations and any written law, of purchasing, holding and alienating land and performing all acts and things that bodies corporate may by law do and perform.

12. Powers of executive officer

(1) The Chairman as executive officer shall, subject to the general directions of the Township Authority, exercise such powers of the Township Authority as may be delegated to him by the Township Authority, and all such acts done by him in the exercise of these powers shall be deemed to be done by the Township Authority.

(2) In any case of emergency any member of the Township Authority, or, in any case where no such member is available, any fit and proper person authorized in writing in that behalf by the Chairman for a period not exceeding twenty-four hours at a time, may exercise the powers of the Township Authority, and all acts done by him in the exercise of those powers shall be deemed to be done by the Township Authority.

13. Appointment of employees

(1) Subject to the provisions of the Unified Local Government Service Act, the Township Authority shall appoint such employees as it may deem necessary.

(2) The Township Authority shall pay to its employees such emoluments as are consistent with the conditions of service provided for under the Unified Local Government Service Act in the case of permanent and pensionable employees, and under the Local Authorities Regulations for Industrial Employees in the case of industrial class employees.

14. Power of Township Authority to make bye-laws

(1) The Township Authority may, subject to the approval of the Minister, make bye-laws for the health, order and good government of the township, and without prejudice to the

generality of the foregoing, may make bye-laws for all or any of the purposes set out in the Second Schedule.

(2) Such bye-laws may prescribe what licences or permits may be required thereunder, and may lay down the fees to be paid for any services to be rendered by the Township Authority.

(3) Such bye-laws may prescribe what acts or omissions shall constitute offences under the bye-laws and what penalties may be incurred thereby:

Provided that no penalty shall exceed a fine of P200 and imprisonment for six months.

(4) Any bye-law may require acts or things to be performed or done to the satisfaction of a prescribed person, and may empower a prescribed person to issue directions to any other person requiring acts or things to be done, imposing conditions and prescribing periods within or before which such acts or things shall be performed or done or such conditions shall be fulfilled.

(5) All such bye-laws shall, after approval by the Minister, be published in the *Gazette* and the Chairman of the Township Authority shall cause a copy of such bye-laws to be exhibited on the township notice board and at such other places as the Township Authority may determine.

15. Powers of entry

The Township Authority may, through its members or officers enter into or upon any land or premises within the jurisdiction at all reasonable times for the purpose of the powers conferred under these Regulations or under the provisions of any bye-laws made under these Regulations:

Provided that, if the owner or occupier of such land or premises so requests, the Township Authority or its officers shall give such owner or occupier at least twenty-four hours notice of the intention to enter such land or premises.

16. Authentication of powers

Every order, notice or other document requiring authentication by the Township Authority may be sufficiently authenticated if signed by the Chairman or any person duly authorized by him in that behalf.

17. Penalty for obstruction

Any person who at any time obstructs the executive officer or any person employed by the Township Authority or acting under the directions of the Township Authority in any duty or function which he is empowered or required to exercise or perform by these Regulations or any bye-laws made hereunder, shall be guilty of an offence and liable to a fine of P100 and to imprisonment for three months.

PART III

Contracts and Tenders (regs 18-29)

18. Contracts for more than P5000

(1) If the liability of the Township Authority under any contract for the supply of any goods

or materials or the execution of any works or the provision of any services other than professional or technical services, to or for the Township Authority, is to exceed P5000 but not P25 000 the contract shall be in writing and the Township Authority shall not enter into it without inviting at least three tenders.

(2) This regulation and regulation 19 shall not apply to any contract for the purchase by the Township Authority of perishable goods bought at a public market, or any purchase entered into by the Township Authority as a result of bidding at a public auction.

19. Contracts for more than P25 000

If the liability of the Township Authority under any contract for the supply of any goods or materials, or the execution of any works or the provision any services, other than professional or technical services to or for the Township Authority is to exceed P25 000, the contract shall be embodied in a formal document approved by the Township Authority, and the Township Authority shall not enter into it without inviting tenders.

20. Three tenders to be considered

Where under the provisions of these Regulations the Township Authority may not enter into a contract without inviting tenders, it shall not be competent for the Township Authority to enter into such contract except after consideration of the tenders, unless for good and sufficient reasons recorded in the Township Authority's minutes such tenders cannot be obtained.

21. Notice calling for tenders to be published and posted

(1) Whenever the Township Authority is required to invite tenders in terms of regulation 19 it shall, in addition to any individual invitation it may issue, call for tenders by notice published in the *Gazette* and a newspaper circulating in Botswana, which notice shall also be posted on the township notice board.

(2) Such publication and posting shall be effected twenty-eight clear days before tenders are to be considered by the Township Authority.

22. Contents of notice and delivery of tenders

Any notice published and posted as is required in regulation 21, and any individual invitation for tenders, shall call for tenders to be delivered to the Township Authority by a specified time and a specified date, not being less than fourteen days after the date when the notice is last published or posted, in plain sealed envelopes marked "Tender for".

23. Particulars of contract to be supplied

The Township Authority shall not enter into any contract to which regulation 19 applies unless full and identical particulars have been supplied to every person who, not later than seven days after the notice calling for tenders was last published or posted, applied to the Township Authority therefor, and such particulars shall be supplied to the applicants by the Township Authority within seven days after the said notice was last published and posted.

24. Opening of tenders

(1) All tenders for any one contract shall be opened at one time in the presence of the

Township Authority or the appropriate committee thereof, and the treasurer.

(2) No later than seven days before any meeting for the opening of tenders is held, written notice thereof shall be posted by the Township Authority to every person who has informed the Township Authority in writing of his wish to receive such notice.

25. Tenders to be considered by Township Authority

(1) Whenever the Township Authority is required to invite tenders those which have been received shall be placed before the Township Authority and considered by it.

(2) For the purpose of considering tenders the Township Authority may obtain such professional or technical advice as it considers necessary or advisable.

26. Matters to be taken into account

(1) In considering tenders the Township Authority shall take into account the contractual reliability of the tenderers as well as the need to achieve economy, efficiency and the development of Botswana industries.

(2) The Township Authority shall not be obliged to accept the lowest or any tender but in any case where the lowest tender is not accepted the reasons why it is not accepted shall be recorded in the Township Authority's minutes, and the Township Authority shall report the reasons to the Minister.

27. Signing of contracts

Contracts required by these Regulations to be in writing or to be embodied in a formal document shall be signed on behalf of the Township Authority by the Chairman and the treasurer.

28. Tenderers to be informed

When the Township Authority has decided upon the question of acceptance of tenders it shall forthwith inform the tenderers, whether they have been successful or unsuccessful.

29. Power of waiver

Notwithstanding the provisions of this Part, the Minister may approve a request made by the Township Authority to waive anything required to be done or written under this part in relation to contracts.

PART IV

Valuation and Rating (regs 30-34)

30. Application of Part VI of Town Council Regulations

With the exception of regulations 65, 66, 94 and 95 of the Town Council Regulations, Part VI of those Regulations shall *mutatis mutandis* apply within the township, and for the purpose of such application-

- (a) the Township Authority shall be deemed to be a "council";
- (b) for "District Commissioner" shall be read "Township Authority";

- (c) for "Mayor" shall be read "Chairman of the Township Authority";
- (d) for "council area" shall be read "township"; and
- (e) for "Town Clerk" shall be read "executive officer".

31. Basis of valuation

Subject to the provisions of regulation 62(2) of the Town Council Regulations, where a general or interim valuation is made-

- (a) if any land is to be valued with improvements, the basis of valuation of such land shall be the capital sum which that land might be expected to realize if offered for sale with all improvements thereon at the time of the valuation, on such reasonable terms and conditions as a *bona fide* seller would require; and
- (b) if any land is to be valued without improvements, the basis of valuation of such land shall be the capital sum which that land might be expected to realize if offered for sale exclusive of the improvements existing thereon at the time of the valuation, on such reasonable terms and conditions as a *bona fide* seller would require,

due regard being had in either case not only to such particular rateable land but to other rateable land of a similar class, character, value or position, and the land shall be considered subject to any restrictions imposed on it by the Township Authority under its bye-laws or by any town planning scheme which may either increase or decrease the value of such land:

Provided that any exceptional circumstance of a temporary nature which is likely to cause an abnormal price to be paid shall be disregarded in arriving at the estimated price.

32. Particulars to be inserted in valuation roll

The Valuation Officer shall frame any valuation roll in such manner as to show-

- (a) the situation of the land;
- (b) the full name of the owner, and his address;
- (c) the description of the land; and
- (d) the value of the land both with and without improvements.

33. Resumption of possession by owner

Within three months after demand by the owner of any land taken possession of by the Township Authority in pursuance of regulation 91 of the Town Councils Regulations, made within thirty years after the date of taking possession, and after payment of all arrears of rates due in respect thereof and interest upon all such arrears at the rate of one per centum per month or part thereof, such owner shall be entitled to resume possession of such land, subject to the terms of any lease theretofore lawfully granted by the Township Authority under the provisions of these Regulations.

34. Application of moneys received under leases by the Township Authority

All rent, and all other moneys payable under any such lease as is referred to in regulation 33, shall, until the payment of all arrears and interest by the owner in accordance with

regulation 33, or the expiration of thirty years from the date of taking possession of such land by the Township Authority, whichever first happens, be received by the Township Authority and shall be applicable-

- (a) in defraying the expenses of and incidental to the giving of the notices as aforesaid, and the execution of such lease and the collection of the rents;
- (b) in payment to the Township Authority of all arrears of rates and other payments due in respect of such land, together with interest on all arrears of rates at the rate of one per centum per month or part thereof, from the time when interest upon such rates accrues respectively, and in payment of all rates and other payments becoming due thereon, and the residue of such money shall belong to such person as would have been entitled to receive the rents or profits of such land if these Regulations had not been brought into operation.

PART V

Financial Provisions (regs 35-41)

35. Financial year of Township Authority

The financial year of the Township Authority shall be from the first day of April to the 31st day of March in the next succeeding year, and the Township Authority shall cause its books to be balanced within three months of the end of each financial year.

36. Banking account

The Township Authority shall open in its name a banking account into which all moneys received by it under the provisions of these Regulations or any other written law shall be paid, unless such other law makes different provision with respect thereto.

37. Estimates

(1) The Township Authority shall, not later than six months before the end of its financial year, draw up estimates of probable revenue and expenditure for the financial year next ensuing. Such estimates shall be in the form prescribed by the Minister, and a copy thereof signed by the Chairman of the Township Authority shall be submitted to the Minister, who may approve, amend or disallow them in whole or part as he thinks fit.

(2) The Minister shall direct the Township Authority to make a copy of the said estimates, as approved or amended by him, available for inspection by the public at the offices of the Township Authority.

(3) Whenever any estimate has been approved by the Minister, the Township Authority shall not, except with the approval of the Minister, place any new revenue or expenditure item thereon, or increase any expenditure item, or incur expenditure in excess of any item, whether against a saving under any other item or not.

38. Books to be kept

(1) The Minister shall direct what books and forms of account shall be maintained by the Township Authority, which shall enter therein all sums of money received by it or expended by or for it.

(2) The Township Authority shall issue such financial instructions as are necessary to

give proper effect to the provisions of the preceding subregulation.

39. Loans and overdrafts

(1) The Township Authority may, with the approval of the Minister, incur such loans of money as may be necessary from time to time for the proper carrying out of the provisions of these Regulations or any bye-laws made by it.

(2) The Township Authority may arrange overdraft facilities with its bankers for an amount not exceeding one-third of its total income in the proceeding financial year, provided the approval of the Minister, acting in accordance with the advice of the Minister responsible for finance, is first obtained.

(3) All moneys borrowed in accordance with this regulation and the interest thereon shall be a charge of the rates and revenues, present and future, of the Township Authority.

40. Investments of funds

The Township Authority may invest all or any part of its moneys in such manner as the Minister acting in accordance with the advice of the Minister responsible for finance may approve.

41. Books and accounts to be audited

(1) The books and accounts of the Township Authority shall be audited annually by an auditor appointed by the Minister.

(2) The Township Authority shall, within one month after the books have been balanced in accordance with the provisions of regulation 35 and have been laid before the Township Authority, make available for inspection by the Local Government Audit Department, or by the auditor appointed by the Minister, a balance sheet and revenue and expenditure account signed by the Chairman of the Township Authority and books so balanced together with all vouchers in support of the same and all books, papers and writings in its custody or power relating thereto.

PART VI

Audit (regs 42-46)

42. Duties and powers of auditor

(1) The auditor shall examine, enquire into and audit the revenue and expenditure account and balance sheet referred to in regulation 41 and the books and accounts of all persons entrusted with the receipt, custody or issue of moneys, securities or other property of the Township Authority or for which the Township Authority is responsible.

(2) When the auditor has completed his examination in terms of subregulation (1), he shall make a report to the Minister certifying that the accounts and books of the Township Authority have been duly examined and signifying his acceptance or otherwise of such accounts and books. The report rendered in terms of this subregulation shall include the auditor's comments on the manner of collection, accounting for, custody and disbursement by the Township Authority of moneys payable to the Township Authority, the necessity for and adequacy of any reserve funds and the amounts set aside for depreciation and obsolescence of plant, and any matters as to which he has not been satisfied or which in his

opinion call for special notice particularly with regard to any assets taken into account.

(3) The Minister shall submit the report by the auditor to the Township Authority with such further comment as he may himself desire to make.

43. Township Authority to give notice

Upon the receipt by the Township Authority of the auditor's certificate and report it shall give notice by publication in the *Gazette* that the revenue and expenditure account and the balance sheet as certified by the auditor together with a copy of his report are open to inspection during normal office hours at the Township Authority's offices for a period of not less than fourteen days from the date of publication of the notice.

44. Consideration of auditor's report by Township Authority

(1) Immediately after the expiration of the period during which the revenue and expenditure account and the balance sheet were open to inspection, the Township Authority shall consider such accounts and the auditor's report on them together with any other representations which may have been made.

(2) In the event of the auditor having reported on any irregularities, the Township Authority shall decide what action should be taken in regard to the matters reported upon by the auditor, and shall advise the Minister of the action taken or proposed to be taken.

45. Disallowance and surcharge

(1) The auditor may make objection in his report to any item of the expenditure.

(2) The auditor shall disallow any such item of expenditure or any part of such item on the ground that the expenditure is wrongful or unreasonable or on any other ground, and the auditor may by order in writing surcharge any person as the person responsible for the payment of any such item having been made.

(3) If it appears to the auditor that any failure to collect money due to, or any loss of money or damage to the property of, the Township Authority has occurred through the wilful or negligent or wrongful act of any member, officer, or employee of the Township Authority, he shall by order in writing surcharge the amount thereof to such member, officer or employee.

(4) On ordering such surcharge, the auditor shall forthwith report the details thereof to the Minister in writing and notify in writing the person surcharged that he may within twenty-one days of such notification make representations respecting such surcharge to the Minister.

(5) After the expiry of the period of twenty-one days referred to in subregulation (4) the Minister may confirm the surcharge or remit all or any portion thereof as he may deem fit, and the surcharge shall be effective only to the extent to which it is so confirmed.

46. Recovery of surcharge

Any surcharge raised in terms of regulation 45 shall be a debt due to the Township Authority, which may be sued for and recovered by action in any court of competent jurisdiction at the suit of the Township Authority.

FIRST SCHEDULE

FUNCTIONS WHICH MAY BE PERFORMED BY THE SOWA TOWNSHIP AUTHORITY

(Regulation 4(1))

1. Education

To provide primary schools and other education services in relation to primary education.

2. Health

(1) To provide sewerage and sewage treatment works and sanitary service for the removal and destruction of, or for otherwise dealing with, nightsoil and refuse.

(2) To take steps in addition to those taken by any other authority to safeguard and promote public health and prevent the occurrence of or deal with any outbreak or prevalence of any disease.

(3) To provide public lavatories.

(4) To prevent the breeding of disease-carrying animals and insects.

(5) To provide for the destruction of dogs and other animals believed to be, or suspected of being rabid.

3. Communications

To make, alter and maintain public roads and streets other than those the maintenance of which has been undertaken by the Government, and to name all roads and streets within the township.

4. General administration

(1) To provide for the protection, maintenance and administration of township property.

(2) To protect and administer township land.

(3) To establish and maintain markets and public swimming baths.

(4) To establish and maintain recreation grounds and other public places and to provide for the planting and protection of plants and shrubs.

(5) To establish and maintain abattoirs.

(6) To collect and dispose of stray livestock and other domestic animals, and to establish, maintain and operate pounds.

(7) To establish and maintain mortuaries, cemeteries and burial grounds.

(8) To provide services or assist in the provision of services giving relief from or attempting to avert natural calamity.

(9) To undertake or assist associations existing for the promotion of recreation and sport, arts and crafts or for the welfare of children and young persons or for the relief and support of blind, infirm, indigent, aged or destitute persons.

5. Commercial

Subject to any written law, to enter into contracts or concessions for the sale or other disposition of land or premises owned by the Township Authority or of any interest therein.

6. Bye-laws

To carry into effect any bye-laws made by the Township Authority.

7. Employees

To secure the proper working of the Township Authority and the welfare of its employees.

8. Development of land

(1) With the approval of the Minister, on land vested in the Township Authority, to develop such land and build, maintain and let out housing.

(2) Subject to the directions of the President, to grant certificates of rights and temporary occupancy certificates in respect of State Land designated for site and service housing.

SECOND SCHEDULE PURPOSES FOR WHICH THE SOWA TOWNSHIP AUTHORITY MAY MAKE BYE-LAWS

(Regulation 15)

1. For the better carrying into effect of any function conferred on the Township Authority in terms of regulation 4 as read with the First Schedule.

2. To control township buildings and other property.

3. To control recreation grounds, parks and other public places.

4. To control markets.

5. To control mortuaries, cemeteries and burial grounds.

6. To regulate, control or prevent advertising, dangerous trades, noises, collections, hawking, street vending or any nuisance.

7. To regulate, control and license laundries.

8. To regulate the keeping of domestic or wild animals or bees, poultry or pigeons, to fix a minimum size of any stand, lot, premises or area upon which such animals may be kept and to prohibit the use of any stable, cowshed, pen or sty which in the opinion of the Township Authority is unfit, undesirable or objectionable by reason of its locality, condition or manner of use.

9. To regulate, control and to arrange the brewing, distribution and sale of traditional beer.

10. To fix levy rates upon land, which may include different rates upon different classes of land, for municipal purposes.

11. To fix fees payable for inspection of the minutes of the Township Authority.