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**Local Government Act 1996**

**An Act to make provision for the establishment of Local Authorities and for the purpose of Local Government in Lesotho and for matters incidental thereto.**

**Enacted by the Parliament of Lesotho**

**Part I  
Preliminary**

**Short title and commencement**

1. This Act may be cited as the Local Government Act 1996, and shall come into operation in respect of all or any of its provisions on such date or dates as the Minister may appoint by notice published in the Gazette.

**Interpretation**

2. In this Act, unless the context otherwise requires-

“boundaries commission” means the boundaries commission established under section 82;

“Council” means a Community Council, a Rural Council an Urban Council or any Municipal Council, constituted for any Community area, Rural area, Urban area or Municipal area respectively,”

“Council secretary” means the officer appointed by the Local Government Service Commission to be or to act for the time being as the Council Secretary of a Community, or Rural Council;

“district” means an administrative district;

“district development co-ordinating committee” means the district development co-ordinating committee established under section 78;

“elections officer” means the elections officer for the local authority appointed under the provisions of written law for the time being applicable in that behalf and includes any Assistant Elections Officer so appointed;

“financial year” means the period of 12 months ending on the 31st day of March in each year;

“fund” in relation to any Council means the fund established by the Council under section 47;

“local authority” means a Community, Rural, Urban or Municipal Council;

“local government service commission” means the Local Government Service Commission established under section 67;

“local government service tribunal” means the Local Government Service Tribunal established under section 75;

“mayor or chairman” means a Mayor or Chairman of a Municipal, Urban, Rural or Community Council, as the case may be, and elected in accordance with the provisions of section 14;

„minister” means the Minister to whom the subject of Local Government has been assigned;

„property” means any house, building or other erection as well as fixtures thereto and improvements to, in, over or under land which is held by an owner or any person holding for that owner and includes the owner’s legal interest in that land;”

„rule” means a rule made by the Minister under section 66; and

„town clerk” means the officer appointed by the Local Government Service Commission to be or to Act for the time being as the Town Clerk of a Urban or Municipal Council.

### **Power to declare Community, Rural, Urban and Municipal Councils**

3. (1) The Minister may by notice published in the gazette-
- (a) declare
    - (i) any area, having the characteristics or requirements prescribed for the purpose, to be a Community Council;
    - (ii) any area, having the characteristics or requirements prescribed for the purpose, to be a Rural Council;
    - (iii) any area, having the characteristics or requirements prescribed for the purpose, to be an Urban Council;
    - (iv) any area, having the characteristics or requirements prescribed for the purpose, to be a Municipal Council;
  - (b) define each area so declared; and
  - (c) assign a name to such Council.
- (2) A declaration under subsection (1) may be made by the Minister in respect of two or more areas jointly, notwithstanding that such areas are not contiguous; and the areas in respect of which any such declaration is made shall accordingly be deemed to constitute jointly one single Council for all purposes of this Act.

### **Composition of Councils**

4. In accordance with the provisions of this Act there shall be constituted the following Councils:

- (a) a Community Council shall consist of not less than 9 elected members but not exceeding 15 elected members and not exceeding 2 gazetted chiefs (other than principal chiefs) who shall also be elected;
- (b) an Urban Council shall consist of not less than 9 elected members but not exceeding 13 elected members and not exceeding 2 gazetted chiefs (other than principal chiefs) who shall also be elected;
- (c) a Municipal Council shall consist of not less than 11 elected

members but not exceeding 15 elected members and not exceeding 3 gazetted chiefs (other than principal chiefs) who shall also be elected; and

(d) a Rural Council shall consist of not less than 37 members but not exceeding 45 members representing each of the Community Councils, within its jurisdiction as follows:-

- (i) the Chairman of a Community Council;
- (ii) a member of a Community Council elected by the Councillors from amongst them; and
- (iii) three gazetted chiefs, (other than principal chiefs) who are members of a Community Council and elected from amongst the chiefs who are members of a Community Council.

2. The total number of members of the council including elected chiefs in any council shall be an odd number.

### **Functions of Local Authorities**

5. (1) Subject to sub-section (2), every local authority shall, subject to the powers reserved to or vested in any other authority by this Act, or by any other written law, be the authority, within its administrative limits, charged with the regulation, control and administration of all matters as set out in the First Schedule.

(2) A Community Council shall perform those subject and functions as specified in the Second Schedule.

### **Electoral Divisions**

6. (1) The area for which a Local Authority is to be constituted under this Act, shall be divided by the Minister by Notice published in the gazette into the following electoral divisions:-

- (a) a Community Council shall consist of not less than 9 electoral divisions but not exceeding 15 electoral divisions which shall be constituted only within the jurisdiction of a Rural Council area;
- (b) an Urban Council shall consist of not less than 9 electoral divisions but not exceeding 13 electoral divisions; and
- (c) a Municipal Council shall consist of not less than 11 electoral divisions but not exceeding 15 electoral divisions.

(2) In the case of a Rural Council that may be declared by the Minister under section 3, such Council shall consist of not less than 17 Community Councils but not exceeding 21 Community Councils.



## **Arrangements preliminary to constitution of councils**

7. For the purpose of any preliminary arrangements in connection with the constitution of any Council under this Act, it shall be lawful for the Minister, by Notice published in the Gazette, to issue all such directives as may be necessary or expedient.

## **Election and Term of Office of Councillors.**

### **Local Government election of Councillors**

8. Where a Council is to be constituted for any area under this Act, a local government election in accordance with the provisions of written law for the time being applicable in that behalf shall be held for the purpose of electing the first Councillors of that Council.

### **Commencement of term of office of Council and date of constitution of such Council**

9. The term of office of each Council to be constituted under this Act shall commence on such date as the Minister may appoint by Notice published in the gazette, and the Council shall be deemed to be constituted on that date notwithstanding that the full number of Councillors specified under section 4 may not have been duly elected.

### **Term of office of Councillors**

10. The term of office of each Councillor elected at a Local Government election shall be for a period not exceeding five years from the date of election, but in the case of a by-election the member elected shall serve for the period remaining up to the next Local Government election.

### **Refusal or vacation or resignation of office**

11. (1) Where any person elected as a Councillor of a local authority decides for any reason not to serve as a Councillor thereof, he may tender:-

- (a) a written communication of his refusal of office addressed to the Elections Officer at any time before the date fixed for the first meeting of the Council to be held after it is elected; or
- (b) a written communication of his resignation of office addressed directly to the Mayor or Chairman at any time after such meeting,

and such refusal or resignation of office of a Councillor shall have no effect until such resignation has been accepted by the Elections Officer or the Mayor or Chairman, as the case may be, who shall refuse to accept such resignation, if there is any enquiry or investigation pending against such Councillor.

(2) Where the Elections Officer or the Mayor or Chairman, as the case may be, accepts the refusal or resignation of office under the preceding provisions of this section he shall send a written communication to that effect to the Town Clerk or the Council Secretary.

(3) Any Councillor who, without leave of the Council first obtained, fails to attend three consecutive general meetings of the Council, shall ipso facto vacate his office.

## **Filling of casual vacancies**

12. Where any Councillor refuses or resigns his office or dies, or vacates his office under section 11, or if a casual vacancy occurs in any other manner in such office the Mayor or the Chairman, as the case may be, shall send or cause to be sent a written communication to the Elections Officer for the local authority, upon receipt of such communication a by-election in accordance with the provisions of written law for the time being applicable in that behalf shall be held for the purpose of filling such vacancy and the person so elected shall hold office until the expiry of the term of office of the Councillors elected at the last preceding Local Government election.

## **Part II**

### **Meetings and Conduct of Business and Election of Mayor, Deputy Mayor Chairman and Vice-Chairman**

#### **First meeting and election of Mayor, Deputy Mayor, Chairman and Vice-Chairman**

13. (1) As soon as may be after the term of commencement of the term of office of the Councillors elected at any general election of a Council, the Minister shall, cause to be convened the first meeting of the Council by notice.

(2) The notice under subsection (1) shall, at least five days before the date fixed for the meeting, be dispatched by registered post or delivered to each elected Councillor.

(3) Every notice under subsection (1) shall specify the date, time and place of the meeting and the date specified shall be within a period of one month of the date of commencement of the term of office of the Councillors elected at the general election of the Council.

(4) Where for any reason the meeting is not held on the date specified in the notice under subsection (1), the Minister, may by such further notice, cause to be convened the meeting for any other date, but so however that such other date shall be within the period of one month prescribed in subsection (3).

(5) At the meeting convened under subsection (1) or subsection (4), the Councillors shall in the case of a Municipal Council elect one of their members to be, the Mayor and another member to be the Deputy Mayor, and in the case of a Community, Rural, and an Urban Council elect one of their members to be the Chairman and another member to be the Vice-Chairman.

(6) Whenever the office of Mayor, Deputy Mayor, Chairman or Vice-Chairman falls vacant in any manner other than by the removal of Mayor, Deputy Mayor, Chairman, or Vice-Chairman under section 16, information of the occurrence of the vacancy shall forthwith be given to the Elections Officer for the local authority in writing by the Town Clerk in the case of a Municipal or an Urban Council, and in the case of a Community or Rural Council by the Council Secretary. Upon receipt of such information the Elections Officer shall proceed to fill the vacancy in the manner prescribed under section 14.



## **Mode and manner of election of Mayor, Deputy Mayor, Chairman, or Vice-Chairman**

14. (1) Any Councillor may, with his consent be proposed and seconded for election as Mayor, Deputy Mayor, Chairman or Vice-Chairman and the Councillors present shall thereupon elect in accordance with the provisions of subsection (2), a Mayor, Deputy Mayor, Chairman or Vice-Chairman from amongst the Councillors proposed and seconded for election as Mayor, Deputy Mayor, Chairman or Vice-Chairman.

(2) Where only one candidate is proposed and seconded for election as Mayor, Deputy Mayor, Chairman or Vice-Chairman, the Elections Officer presiding at the meeting, at which the election takes place, shall without question declare that candidate to be elected.

(3) Where two or more candidates are proposed and seconded for election as Mayor, Deputy Mayor, Chairman or Vice-Chairman the mode of election shall be by secret ballot and by a simple majority.

## **Term of office and functions of Mayor, Deputy Mayor, Chairman and Vice-Chairman**

15. (1) A Mayor, Deputy Mayor, Chairman or Vice-Chairman shall, unless he earlier resigns or is removed from that office or vacates the office of Councillor, hold office until the date on which his term of office as Councillor is due to expire.

(2) The Mayor or Chairman shall be:-

(a) the elected head of the Council;

(b) responsible for giving policy directives to the Town Clerk and the Council Secretary, as the case may be; and

(c) subject to section 18 preside at all meetings of the Council.

(3) In the exercise, performance and discharge of the powers, duties and functions conferred or imposed on or assigned to him under the Act the Mayor, Deputy Mayor, Chairman or Vice-Chairman shall be subject to the general or special directions of the Council.

(4) The Mayor or Chairman or the Deputy Mayor or the Vice-Chairman may, in writing, delegate to a Councillor, Town Clerk, Council Secretary or any officer of the Council any of the powers, duties or functions conferred or imposed or vested in the Mayor or Deputy Mayor, Chairman or Vice-Chairman by this Act or any other written law.

(5) The Mayor, Deputy Mayor, Chairman or Vice-Chairman may, at any time without vacating his office as a Councillor, resign the office of Mayor, Deputy Mayor, Chairman or Vice-Chairman by a written communication addressed to the Minister. The resignation of the Mayor, Deputy Mayor, Chairman or Vice-Chairman of his office shall have no effect until such resignation has been accepted by the Minister, as the case may be, who shall refuse to accept such resignation, if there is any inquiry or investigation pending against such Mayor, Deputy Mayor, Chairman or Vice-Chairman.

## **Removal of Mayor, Deputy Mayor, Chairman or Vice-Chairman from office by resolution of the Council**

16. (1) The Town Clerk or the Council Secretary shall, whenever requested in writing by not less than one half of the total number of Councillors constituting such Council, convene a special meeting of the Council for the purpose of considering a resolution for the removal from office, of the Mayor, Deputy Mayor, Chairman or Vice-Chairman under subsection (2).

(2) A Mayor, Deputy Mayor, Chairman or Vice-Chairman may be removed from such office on a resolution for such removal duly passed by not less than two-thirds of the total number of Councillors constituting the Council, at a special meeting convened for the purpose in the case of a Municipal Council and Urban Council by the Town Clerk and in the case of a Community or Rural Council by the Council Secretary.

(3) Where at any special meeting of a Council convened under subsection (2), a resolution for the removal of a Mayor, Deputy Mayor, Chairman or Vice-Chairman of that Council, from office of Mayor, Deputy Mayor, Chairman or Vice-Chairman is passed by not less than two-thirds of the total number of Councillors constituting that Council he shall be deemed to vacate such office on the date such resolution is passed and the Councillors present at such meeting shall forthwith proceed to the election of, and shall elect one of their members to be, the Mayor, Deputy Mayor, Chairman or Vice-Chairman, as the case may be.

## **Town Clerk or Council Secretary to exercise powers of Council in certain cases**

17. Where a Council is unable to discharge its functions by reason of the Mayor or the Chairman and Deputy Mayor or Vice-Chairman ceasing to hold office, the Town Clerk or the Council Secretary, as the case may be, shall, during any period that elapses between the occurrence of the vacancies in respect of those offices and the filling of those vacancies in accordance with the provisions of this Act governing elections, exercise, perform and discharge all the rights, privileges, powers, duties and functions vested in, or conferred or imposed on, the Council, the Mayor or the Chairman or Deputy Mayor or Vice-Chairman by this Act or by any other written law.

## **Meetings**

### **General Meetings**

18. (1) The general meetings of a Council shall be held for the transaction of business upon such day or days every month as may be fixed by a Council.

(2) The Mayor or Chairman may convene a special general meeting of the Council whenever he may consider it desirable and shall, whenever requested in writing by the members of the Council not less in number than the quorum prescribed for ordinary meetings of the Council, to convene a special meeting for any purpose specified in such writing, forthwith convene a special meeting for that purpose. Two days notice of the day appointed for any such meeting shall be given to or left at the residence of each Councillor.



## **Mayor or Chairman to Preside at Meetings**

19. (1) The Mayor or the Chairman, as the case may be, shall preside at all meetings of the Council, except while any resolution for the removal of the Mayor or Chairman is under consideration in which event the Deputy Mayor, or the Vice-Chairman, shall preside at such meeting.

(2) In the absence of the Mayor or the Chairman, the Deputy Mayor or the Vice-Chairman shall preside at such meeting except, while any resolution for the removal of the Deputy Mayor or the Vice-Chairman is under consideration in which event, the Councillors present shall elect one of their members to preside at the meeting.

## **Decisions of questions and quorum**

20. (1) All matters or questions authorised by this Act or by any other written law to be decided by a Council shall be decided by a majority of the Councillors present and voting at any ordinary or special meeting.

(2) No business shall be transacted at any meeting of the Council unless one third of the number of Councillors in office on the day of that meeting is present.

(3) Where the votes of Councillors present at any meeting are equally divided in regard to any question, the person presiding at such meeting shall in addition to his vote as a member, have a casting vote.

## **Minutes**

21. All Acts, decisions and orders done or made at all meetings of a Council shall be entered in a book of minutes to be kept for that purpose, and shall be signed after each meeting, by the persons presiding at such meeting. Such minutes shall be confirmed with such amendments as may be necessary at the next ordinary meeting of the Council, and a copy thereof or extract therefrom certified by the Mayor or Chairman as a true copy or extract shall be admissible in any court of law.

## **Committees**

22. (1) Every Council shall at its first general meeting in each year elect by ballot from amongst the Councillors a standing committee on finance and such other standing committees as the Council may deem necessary from time to time.

(2) Every standing committee shall consist of at least three Councillors. The Mayor or Chairman shall preside at a meeting of the Finance Committee and shall be entitled to vote at such meeting and be present and vote at meetings of any other standing committee.

(3) The term of office of every standing committee shall be for such period as may be determined by the Council, but not exceeding one year, from the date of election. If during the year any vacancy occurs in any standing committee the Council shall at a general or special meeting elect a Councillor to fill the vacancy.

(4) On the expiry of the term of office of a standing committee, a new standing committee shall be elected at any ordinary or special meeting of the Council within one month after the expiry of the term of office of that standing committee.



(5) Every standing committee other than Finance shall at its first meeting elect by ballot its own Chairman.

(6) In the absence of the Mayor or Chairman from any meeting of the standing committee on Finance or from any joint meeting of that committee and any other standing committee, and in the absence from such other committee of the chairman elected under subsection (5), the members of the committee or committees concerned shall elect a chairman for the meeting from amongst their own members.

(7) Every standing committee shall exercise, perform and discharge such powers duties and functions as are delegated to it by the Council, or otherwise conferred or imposed upon or vested in it.

(8) The quorum for any meeting of a standing committee shall be three members. The quorum at any joint meeting of two or more standing committees shall be one-third of the total number of the members of such committee or committees, as the case may be; Provided that at least one member of each such committee is present.

### **Special Committees**

23. (1) A Council may, from time to time, appoint from amongst the Councillors or partly from amongst the Councillors and partly from other persons, special committees, consisting of such number of members as it deems fit for the purpose of inquiring into and reporting, within such period as the Council may determine, upon any matter relevant to the affairs of the Council.

(2) At the time of appointing such special committee the Council shall nominate the Chairman and determine the number of members to form the quorum. Every such committee shall continue to function until it has reported to the Council on any matter referred to such committee under subsection (1) and such report has been finally considered by the council.

### **Joint Committees**

24. For the purpose of any matter which any Council is jointly interested with any other Council, it may make arrangements by mutual consent with such other authority for the constitution of a joint committee, for such period as it may determine, for the appointment of Councillors upon such joint committee and for the delegation to such joint committee of any of its powers or duties, other than that power to raise any loan, to levy any rate or to impose any tax.

### **Financial matters and Finance committee**

25. No financial matter which has not been provided for in the annual budget of a Council shall be finally dealt with by a local authority unless such matter has been first dealt with and reported on by the Standing Committee on Finance.

### **Meetings of Standing Committee, Special Committee or Joint Committee**

26. Every meeting of a standing committee or a special committee or a joint committee shall be held at the office of the Council or one of the Councils, as the case may be, or at such other place as the committee may direct and any such committee shall at any such meeting have access to the books, deeds, contracts, accounts, vouchers and other documents and papers of the Council or Councils, as the case may be.

## **Development plans and schemes**

27 (1) A standing Committee on planning elected by a Council shall consist of the Mayor or Chairman who shall be the chairman of such a committee and such other members as shall be determined in terms of section 22 (2) of this Act.

(2) The Committee shall submit development plans and schemes for projects to the District Development Co-ordinating Committee for their consideration in drawing up the District Development Plan.

## **District Planning Unit.**

28. There is established a District Planning Unit for each administrative district.

## **Composition of a District Planning Unit**

29. (1) A District Planning Unit shall consist of Planning Officers and such other public officers of any Ministry, who are engaged in performing their functions or carrying out any work within the administrative district in respect of their Ministries.

(2) The number of Planning Officers and other public officers that would constitute a District Planning Unit shall be determined by the Minister.

## **Functions of the District Planning Unit**

30. The functions of the District Planning Unit are:-

- (a) to provide planning services for the Councils within its district;
- (b) to consider draft development proposals submitted by Councils and formulate and prepare an annual district development plan incorporating all or any such proposals and submit such plans to the District Development Co-ordinating Committee;
- (c) to finalise the District Development Plan having regard to the recommendations made by the District Development Co-ordinating Committee and submit such plan to the Ministry; and
- (d) to ensure that the District Development Plan conforms reasonably to the overall National Development Plan formulated by the Ministry responsible for Economic Planning.

## **Part III**

## **Status Powers and duties of Councils and officers and Servants of the Council**

### **All Councils to be corporations**

31. (1) Every Council constituted under this Act shall be a body corporate with perpetual succession and a common seal and shall have the power subject to this Act, to acquire, hold or sell property, and may sue and be sued by such name as may assigned to it under this Act.

(2) The common seal of the Council shall remain in the custody of the Mayor or the Chairman and shall not be affected to any contract or other instrument



on behalf of the Council, except in the presence of the Mayor, or Chairman of the Council, as the case may be, and the Mayor or Chairman, as the case may be, who shall sign names to such contracts or other instruments in token of their presence.

### **General duties and powers**

32. (1) The Council of each Local Authority shall:-

- (a) within its administrative limits exercise, discharge, or perform all or any of the functions or duties in regard to the subjects as are specified in the Schedules hereto; and
- (b) exercise, perform and discharge any power, duty or function delegated to the Council by this or any other Act.

(2) The Minister may, by regulation amend or vary the Schedules.

### **Council Office**

33. (1) Every Council, other than a Community Council, shall establish and maintain an office for the transaction of business.

(2) In the case of a Community Council it shall designate an office where business of such Council is to be transacted, and the public shall be informed of the venue of such office at a Pitso.

### **Municipal or Urban Town Clerk or Council Secretary of Rural or Community Council**

34. (1) There shall be a Town Clerk for each Municipal or Urban Council and a Council Secretary for each Rural or Community Council who shall be the chief executive officer of the Council and all other officers and servants shall be subordinate to him.

(2) Each such Town Clerk or Council Secretary shall exercise, perform and discharge all powers duties and functions conferred or imposed upon or vested in or delegated to him by or under this Act or any other written law.

(3) In the event of vacation of office of the Mayor or Chairman by death, resignation or for any other cause, then during the period intervening between the vacation of office of the Mayor or Chairman and the election of a new Mayor or Chairman or during the period of absence of both the Mayor or the Chairman the powers duties and functions of the Mayor or Chairman shall be exercised discharged and performed by the Deputy Mayor in the case of a Municipal and in the case of Community, Rural or Urban Council by the Vice-Chairman.

### **Delegation of powers duties and functions of the Council**

35. (1) A Council may, by resolution, delegate, generally or specifically, to the Town Clerk in the case of a Municipal Council or Urban Council and to the Council Secretary in the case of a Community or Rural Council or to anyone



or more of its officers or Committees any of the powers duties or functions conferred or imposed or vested in it by or under this Act or by any other written law:

Provided, however, that such Town Clerk, Council Secretary or each such officer or Committee, in the exercise discharge or performance of the powers duties and functions delegated under this Act or any other written law shall not act in opposition to or in contravention of any resolution, decision, directions or orders of the Council.

(2) Notwithstanding any delegation under subsection (1) the Council shall have the right to exercise, discharge or perform any such power, duty or function and such delegation may, at any time be varied or revoked by resolution of the Council.

### **Delegation of Town Clerks or Council Secretary's powers**

36. (1) The Town Clerk or the Council Secretary may, with the consent of the Council, by general or special order in writing delegate to any officer of the Council any of the powers duties or functions conferred or imposed upon or vested in or delegated to him as Town Clerk or the Council Secretary, as the case may be, by this Act any other written law.

(2) The exercise, discharge or performance by any officer of the Council of any power, function or duty delegated to him by the Town Clerk or the Council Secretary, as the case may be, shall be subject to such conditions and restrictions, and limited to such purpose or purposes, as may be specified in the order, and any such delegation may at anytime be varied or revoked by order of the Town Clerk or the Council Secretary.

### **Town Clerk or Council Secretary to have custody of books etc.**

37. The Town Clerk or the Council Secretary shall be responsible for the custody of all books, deeds, contracts, accounts, vouchers and other documents and papers of the Council and shall permit any Councillor to inspect or peruse the same in the Council office.

### **Executive Officers and Public Officers**

38. (1) The salary, allowances and conditions of service of an executive officer of a Council shall be determined by the Local Government Service Commission.

(2) Those public officers who have been seconded by the Government to the Local Government Service, shall within a period of two years decide whether they wish to remain with the Local Government Service or would revert to their substantive posts in the public service, in which case such officer

shall in writing inform of his decision to the Local Government Service Commission.

### **District Administrator**

39. (1) The Minister shall, in consultation with the Prime Minister, appoint a person by name or by office to be the District Administrator for each Administrative District.

(2) The District Administrator shall be the person who shall represent the interests of the Central Government at district level and shall be responsible for co-ordinating the duties and functions of all public officers in that district, other than those employed by local authorities.

(3) All public officers in that district, other than those employed by the local authorities shall function under the direct supervision of the District Administrator.

(4) The District Administrator shall, in carrying out his functions and duties under this Act, be responsible to the Minister.

### **Councillors, Officers and Servants of Council not to be interested in contracts etc.**

40. (1) No Councillor, officer or servant of any Council shall whether directly or indirectly, be concerned or have any financial interest in any contract or work made with or executed for the Council.

(2) If any Councillor, officer or servant of the Council is concerned or has any financial interest in any contract or works made with or for the Council, he is guilty of an offence and is liable on conviction to a fine not exceeding Five Thousand Maluti and be disqualified as sitting as a member of the Council or from holding any office or employment under the Council: Provided, however, no person being a minority shareholder of any incorporated company is liable to such fine or disqualification by reason only of any contract between such company and the Council or of any work executed by such company for the Council.

### **All employees to retire on attaining the age of fifty five years**

41. Every person employed by the Local Government Service Commission or by a Council shall retire on attaining the age of fifty-five years: Provided, however, that any such employee may be given an extension of service beyond the age of fifty-five years but not beyond the age of sixty-five years.

## **Part IV**

### **By-Laws**

#### **Power of Council to make by-laws**

42. (1) Every Council shall have power to make, or to adopt with such modifications as circumstances may require, from time to time, such by-laws not inconsistent with the provisions of this Act, as may be authorized or required by this Act, or may appear to the Council to be necessary for the purpose of the exercise of its powers and the discharge of its duties under this Act, and to amend, vary or rescind any by-law so made.

(2) Notwithstanding the generality of the provisions in sub-section (1) the Council may make by-laws, in respect of all or any of the following matters:-

- (a) land and property, including the regulation and management of places for public recreation;
- (b) public health and sanitation;
- (c) itinerant vendors, including supervision of licences, regulation or prohibition of the sale of any article in any specified place;
- (d) thoroughfares including the cleaning, watering and lighting of streets and the use of and the regulation of traffic in streets and thoroughfares including the weight and speed of vehicles and the prevention or restriction of the use of vehicles upon any bridge, road or street or in any place where such use may be attended with danger to the public, or may be likely to damage such bridge, road or street;
- (e) the prevention, abatement, supervision and regulation of obstructions, encroachments, projections and other interference;
- (f) the abatement of nuisance, including the regulation and control of the operation of loud speakers, amplifiers and other instruments automatically or mechanically producing or reproducing sound; and
- (g) the payment of any allowance to Councillors.

(3) A by-law made by a Council may provide the penalty of a fine for any contravention thereof, such fine not exceeding One Thousand Maluti for any one act or omission constituting such contravention, and in the case of a continuing contravention and additional fine not exceeding One Thousand Maluti, for every day, during which the contravention is continued after a conviction thereof by a court of competent jurisdiction or after service of a written notice from the Mayor or Chairman or other authorized officer directing attention to such contravention.

### **Power to compound offences**

43. (1) When any person contravenes any by-law made under section 42 and where such person has not been previously convicted the Mayor or the Chairman shall compound such offence, if so requested by the offender, for a sum of money equal to one-fourth of the maximum fine imposable for such offence and where a prosecution has been entered against any such offender, the Mayor or Chairman shall compound such offence at any time before judgement with the consent of Court.

(2) Any sum of money accepted by the Council under subsection (1) shall be credited to the Fund of the Council.

### **Approval and publication of by-laws**

44. (1) No by-law, and no amendment, variation or rescission of any by-law under this Act shall have effect until it has been approved by the Minister and notification of such approval is published in the Gazette.

(2) Every by-law made under this Act shall be published in the Gazette with the notification required by subsection (1) and upon such publication, every such by-law purporting so to be made shall be as valid and effectual as if it had



been enacted in this Act, and every contravention thereof shall be an offence under this Act.

### **Supply of copies of by-laws**

45. Copies of all by-laws made under this Act shall be kept at the office of the Council of the local authority area to which they relate and shall be open for inspection and be available for sale to the public.

### **By-laws to be subject to allowance of amendment**

46. Every by-law made under this Act shall as soon as conveniently may be after the publication thereof under section 44, be brought before the National Assembly by a motion that such by-law be not disallowed and may by resolution of the National Assembly be rescinded or amended. Notification of the rescission or amendment of a by-law by the National Assembly shall be published forthwith in the Gazette, and such rescission or amendment shall take effect from the date of such publication but without prejudice to anything that may have been done or any proceedings that may have been instituted under that by-law prior to that date.

## **Part V Finance Fund**

### **Council fund and its constituents**

47. (1) Every Council for its general financial purposes shall establish a Council Fund, (hereinafter referred to as "the Fund").

(2) There shall be payable into the Fund:-

- (a) the fines and penalties imposed under this Act;
- (b) subject to any special appropriation made by the Minister all grants allocated to the Council by the Minister;
- (c) all rates, taxes, duties, fees and other charges levied under the authority of this Act;
- (d) all sums realized by sales, leases or other transactions of the Council;
- (e) all revenue derived by the Council from any property vested in the Council, or by the administration of any utility services;
- (f) all sums derived from any source of revenue made over to any Council to which the Council is the successor in pursuance or in supposed pursuance of any repealed enactment;
- (g) all sums and all sources of revenue from time to time appropriated or made over to the Council by the Minister;
- (h) all donations, gifts, grants or other sums otherwise accruing to the Council in the course of the exercise of its powers, duties and functions.

- (i) all sums and all sources or revenue, from time to time, appropriated or made order to the Council by the National Assembly, whether by resolution or otherwise.

### **Moneys received by the Council to be lodged with the Bank**

48. All moneys received by a Council and payable into the Fund shall be lodged with an approved bank, and shall be credited to an account entitled "the Fund".

In this section "approved bank" means a bank specified by the Minister by notice published in the Gazette as a bank in which the moneys of a Council, may be deposited.

### **Application of the Fund**

49. There shall be paid out of the Fund established by each Council-

- (a) all sums incurred by the Council in the exercise of its powers and the discharge of its functions and duties under this Act, or any other enactment or any regulation, rule or by-law made thereunder;
- (b) all sums which the Council is authorised or required to refund by or under this Act or any written law;
- (c) all expenses incurred by the Council in the establishment and maintenance of utility services;
- (d) all sitting allowances payable to the Councillors at such rates as may be prescribed by by-laws; and
- (e) all expenses incurred by the Council, the Mayor, Deputy Mayor, Chairman, Vice-Chairman, Town Clerk, Council Secretary, or any officer of a local authority in the exercise of its or his powers and the discharge of its or his functions and duties under this Act, or any other written law or any regulation, rule or by-law made thereunder.

### **Orders, cheques etc. for payment out of the fund**

50. All orders or cheques for the payment of money out of the Fund shall be signed by the Town Clerk or the Council Secretary, as the case may be, and by any of the two officers specially authorized by the Council for that purpose, and the bank in which the fund is established may pay orders or cheques against the said fund which are so signed.

### **Statements of receipts, disbursements etc, on account of the fund**

51. At each general meeting of a Council, the Mayor or Chairman, as the case may be, shall cause a statement of receipts and disbursements on account of the Fund from close of the previous term up to the close of the month preceding that in which the meeting takes place to be submitted to the Council. Such statement, together with the minutes of the proceedings of the meeting, shall be forwarded to the Minister.

## **Loans**

### **Power of Councils to borrow on the security of rates and taxes etc**

52. (1) It shall be lawful for a Council, subject to the limits as may be specified by the Minister by regulation, to borrow from the Government or any person or body of persons, whether incorporated or not, such sums of money as may be necessary for any of the purposes of the Council:

Provided that the approval of the Minister shall not be necessary for borrowing any such sums if the amount outstanding in respect of all loans already raised by such Council does not exceed the total income received by such Council during the two years immediately preceding the year in which the sum is to be borrowed.

(2) Every loan raised by the Council shall be subject to such rate of interest and to such conditions for the repayment thereof as may be specified by the Minister by regulation, but in the case where the interest rates are higher than those specified by the Minister by regulation, then, such loan may not be raised except with the approval of the Minister.

(3) For the purpose of securing the repayment of the sum or sums borrowed by a Council and in the interest accruing thereon the Council may with the approval of the Standing Committee on Finance mortgage and assign to the lender or lenders, by on whose behalf such sum or any part thereof may be lent, the proceeds of any rate or tax levied or imposed under this Act or any portion thereof, or any property belonging to the Council, or any other source of income accruing to the Council.

### **Form of security etc**

53. The form and manner of execution of any security given for the purpose of any loan, given under this Part, the mode and order of repayment of any sums borrowed, and the arrangement from the liquidation of any loans shall be such as may be prescribed by regulations, rules or by-laws made under this Act.

### **Limitation of borrowing powers**

54. The amount at any time outstanding in respect of all loans due from any Council, whether raised under the authority of this Act or any other enactment, shall not exceed in the aggregate five times the fair average annual income received by the Council from all rates, taxes, property and other sources of income for two years, or in the case of the Council which has not been for two years five times its income for one year as appraised by the Council, subject to the approval of the Minister.

### **Grants**

55. (1) A Council may, in order to implement its development programme, as recommended by the District Development Co-ordinating Committee, make a written application to the Minister for the allocation of a grant.

(2) An application under sub-section (1) shall be submitted in such form as may be prescribed by the Minister, containing such particulars, together with such documents as the Minister may determine.



(3) The Minister shall evaluate the merits of such application having regard to the development priorities of that district, and recommend such application to the Minister responsible for Finance.

(4) Where the Minister of Finance considers such application and allocates a sum of monies by way of grant in respect of an application made under sub-section (1), such monies shall be credited to the Fund of the Council.

### **Imposition of Rates and Taxes**

#### **Power to impose and levy rates**

56. (1) A local authority may subject to such limitations, qualifications and conditions as may be prescribed by the Minister, impose and levy a rate on any property situated within its jurisdiction.

(2) Where a local authority is empowered to make, impose, or levy a rate or rates on any property in any area the Minister may, by an order published in the gazette, declare that the provisions of the Valuation and Rating Act 1980 shall apply for the making, imposition, levy and payment of the rate or rates which may be made or levied by that local authority for that area in respect of such year as shall be specified in such order, and of every subsequent year.

(3) Where the provisions of the Valuation and Rating Act have by an order under sub-section (2) been made applicable to any local authority for any area, that local authority, and that area shall be a rating authority and a designated area respectively, for the purpose of the Valuation and Rating Act.

(4) Where any limitation qualification or condition is prescribed by the Minister under sub-section (1) in relation to the power of a local authority to make and levy a rate, nothing in the Valuation and Rating Act, shall be deemed to modify or affect the limitation, qualification or condition so imposed;

#### **Power of Council to impose taxes, etc**

57. (1) The Minister shall publish in the gazette a list of items that are subject to any tax, levy or service charge that a Council may impose and levy within its jurisdiction and specify the maximum amount that may be taxed, levied or charged in respect of such items.

(2) The Council may, subject to such limitations as may be specified by the Minister, impose a tax, levy or service charge in respect of items gazetted under sub-section (1).

#### **Recovery of rates, taxes etc**

58. (1) Any rate, tax or service charge due and payable under this Act, is a debt due to the Council and is payable to the Council by the person liable for such rate, tax or service charge.

(2) The Council may make such arrangements as it considers appropriate to facilitate the collection of such rate, tax or service charge.

(3) If a person fails to pay such rate, tax or service charge when it is due and payable, the Town Clerk in the case of Municipal and Urban Council or the Council Secretary in the case of Community or Rural Council may file, with the clerk of a court of competent jurisdiction, a statement certified by the Town Clerk or the Council Secretary, as the case may be, setting forth the amount of the rate, tax, or the service charge, and that statement is treated for all purposes as a civil judgement lawfully given in that court in favour of the Council for a debt in the amount set forth.

(4) The statement referred to in subsection (3) may be filed with the Subordinate Court having jurisdiction over the person, notwithstanding any provision of the Subordinate Courts Order, 1988 to the contrary.

### **Statement etc. not to be impeached for want of form**

59. No statement filed under sub-section (3) of section 58, shall be impeached or affected by reason of any mistake, in the name of the person liable to pay the rate tax, or service charge or in the description of any property or thing liable to any rate tax or service charge or any mistake in the amount of assessment, and no proceedings under this Act or any regulation, rule or by-law made thereunder shall be quashed or set aside for want of form by any Court if the provisions of this Act such regulation, rule or by-law in substance and effect have been complied with.

## **Accounts and Budget**

### **Preparation and publication of annual accounts**

60. Every Council shall cause to be prepared, annually, in writing, a true account of all the moneys received and paid by virtue of this Act during the financial year.

### **Budget**

61. (1) The Council shall prepare and submit a statement annually, in such form as may be prescribed by the Minister containing:-

- (a) the details of the proposed expenditure set out in items under appropriate heads;
- (b) an estimate of the available income of the Council from sources other than rates; and
- (c) an estimate of the rate or rates necessary for the purpose of providing for the proposed expenditure.

(2) A copy of every annual or supplementary budget of the Council shall:-

- (a) be kept in the Council office for inspection; and
- (b) be submitted to the Minister.

### **Financial Statements**

62. (1) The Town Clerk or the Council Secretary of any Council shall submit on a monthly basis an income and expenditure statement to the Council.

(2) The Town Clerk or the Council Secretary of a Council shall at the end of each year submit to the Council a detailed financial statement reflecting the financial status of the Council.

## **AUDIT**

### **Audit**

63. (1) The accounts of every Council shall be audited during each half of the financial year by the Government Auditor or by such other professionally qualified auditor as may be appointed by the Minister.

(2) For the purposes of any audit and examination of accounts under this Act, the auditor may, by notice in writing require the production before him of any books, deeds, contracts, accounts, vouchers, and any other documents and papers which he may deem necessary, and may require any person holding or accountable for any such books, deeds, contracts, accounts, vouchers, documents, or papers to appear before him at any such audit and examination or adjournment thereof, and to make and sign a declaration in respect of the same.

(3) If any person neglects or refuses to produce any book, deed, contract, account, voucher, document or papers, or to make or sign any declaration when required so to do under subsection (2), he is guilty of an offence punishable with a fine not exceeding one thousand Maluti, and a further fine not exceeding Five Hundred Maluti for each day during which the offence is continued after he has been convicted of such offence.

### **Inquiries**

64. (1) The Minister may, from time to time, cause to be made all such inquiries as may appear to him to be necessary in relation to any matters concerning public administration in any Council or any matters with respect to which his sanction, approval, or consent is required under this Act.

(2) For the purpose of any inquiry under this section, the person appointed by the Minister and holding the inquiry shall have, in relation to witnesses and their examination and production of papers and accounts, the same powers as those accorded to a Commissioner under the Commissions of Inquiry Act and all such powers of inspection of places and matters required to be inspected as may be necessary for the purpose of the inquiry.

## **Suspension or dissolution of Council and appointment of Local Government Administrator**

65. (1) Whenever by reason of the refusal, failure or inability of a Council adequately to discharge all or any of its functions, the Minister considers it necessary or expedient in the interest of local administration to do so, he may, by order published in the gazette:-

(a) appoint an officer from the Local Government Service or from the public service to be the Local Government Administrator for that Council; and



(b) notwithstanding anything contained in this Act:-

- (i) suspend all Councillors of the Council from performing all of their functions as Councillors and empower the Local Government Administrator to discharge all the functions of the Council; and
- (ii) after due inquiry held under section 64 dissolve the Council after receiving prior approval of the Prime Minister, and direct the holding of elections within ninety days or such other period as may be determined by the Minister with the concurrence of the Prime Minister from the date of the dissolution.

(2) Any function of the Council discharged by a Local Government Administrator under subsection (1) shall be deemed to have been discharged by the Council in accordance with this Act.

(3) The Local Government Administrator shall relinquish office upon the lifting of the suspension or the election of a new Council, as the case may be.

#### **Power to make general rules of procedure.**

66. (1) The Minister may make rules of procedure not inconsistent with the provisions of this Act for the guidance of Councils and on any matter connected with the execution or enforcement of the provisions of this Act.

(2) Every rule made by the Minister under this section shall be published in the Gazette and shall be brought before the National Assembly, as soon as may be after such publication, by a motion that such rule shall be approved. Notification of such approval shall be published in the Gazette.

### **PART VI**

#### **LOCAL GOVERNMENT SERVICE COMMISSION**

##### **Establishment of Local Government Service Commission**

67. (1) There is established a Commission to be known as the Local Government Service Commission (hereinafter referred to as "the Commission").

(2) The Commission shall by the name assigned to it under sub-section (1) be a body corporate with perpetual succession and a common seal and may sue and be sued in such name.

(3) The Commission shall consist of a Chairman and four other members all of whom shall be appointed by the Minister.

(4) A person shall be disqualified from being appointed or continuing as the Chairman or a member of the Commission:-

- (a) if he becomes a member of the National Assembly or the Senate;
- (b) if he is a Councillor or employed by any Council;
- (c) if he is adjudged bankrupt or declared to be of unsound mind; and

(d) if he is convicted of a criminal offence involving moral turpitude.

(5) Where any member of the Commission, other than the Chairman, is, by reason or other infirmity or absence from Lesotho, temporarily unable to perform the duties of his office, the Minister may appoint any person to act in his place.

(6) Where the Chairman is, by reason or other infirmity or absence from Lesotho, temporarily unable to perform the duties of his office, the Minister may appoint any other member of the Commission to act in his place.

(7) Any member of the Commission including the Chairman may resign his office by letter addressed to the Minister.

(8) Subject to the provisions of subsection (7), the term of office of each member of the Commission, including the Chairman shall be five years:

Provided that if the Chairman or any other member of the Commission vacates his office prior to the expiration of his term of office his successor shall, unless such successor vacates his office earlier, hold office for the unexpired portion of the term of office of the person whom he succeeds.

### **Conduct of business**

68. (1) The Chairman shall preside at every meeting of the Commission. In the absence of the Chairman from any meeting of the Commission the members present at such meeting shall elect one of their members to be the Chairman for that meeting.

(2) Every question that comes up for consideration shall be determined by the majority of the members of the Commission present at such meeting.

(3) The quorum for any meeting of the Commission shall be three members.

(4) The Commission may regulate its own procedure.

### **Remuneration of Chairman and other members of the Commission**

69. The Chairman and other members of the Commission shall be entitled to receive such remuneration and allowances as the Minister may, with the concurrence of the Minister responsible for Finance, determine.

### **Staff of Commission**

70. (1) There shall be a Secretary of the Commission who shall be an officer of the Local Government Service.

(2) The other members of the staff of the Commission shall be appointed from the Local Government Service.

### **Powers of the Commission**

71. (1) The Commission shall have the following powers:-

(a) to declare the posts or officers of a Council which are deemed to be executive posts;

- (b) to determine all matters relating to methods of recruitment to, and conditions of employment, in executive posts in the service, and the principles to be followed in making appointments to such posts including making promotions and transfers in the service;
- (c) to recruit, appoint, promote, transfer, dismiss, retire, interdict or otherwise punish members who hold executive posts in the service, in consultation with the relevant local authority, and generally to maintain discipline amongst holders of such posts in the service;
- (d) to classify into classes or grades executive posts in the service and to determine qualifications necessary for appointment to any such posts or to a post in any class or grade and to revise or adjust with effect from such date as the Commission may determine any scales so fixed;
- (e) to conduct examinations for the purpose of:-
  - (i) appointments to the service or to appoint boards of examiners for the purpose of conducting such examinations and to charge fees from candidates presenting themselves for examinations; and
  - (ii) grading and promoting of members holding executive posts in the service.
- (f) to delegate, subject to such terms and conditions, as may be determined by the Commission, to local authorities any of the powers (other than the power to appoint or dismiss officers holding executive posts in the service), duties or functions conferred or imposed upon, or vested in the Commission by or under this Act;
- (g) to call upon any local authority to keep the prescribed records relating to officers of the service;
- (h) to call upon any local authority to furnish before a specified date such files, other documents or information as the Commission may require in respect of any officer of the service in the employment of that local authority;
- (i) upon failure of any local authority to furnish any files or other documents or information required under paragraph (h), to authorise with the approval of the Minister, any member or officer of the Commission to enter the office of the local authority and to inspect and take any copies of any books, accounts or other documents that are kept in the office of such local authority or to obtain such files, other documents or information and remove such files or other documents from that office to the office of the Commission for such period as the Commission may deem necessary;



- (j) to make rules; and
- (k) to exercise such other powers as may be vested in the Commission by the Minister under this section and published by Notice in the gazette.

(2) In the exercise of the powers vested in the Commission by subsection (1) the Commission may modify, vary, revise or set aside any decision or determination made by the Commission

### **Power of Minister in relation to Commission**

72. The Minister may call upon the Commission to furnish such files, other documents or information as the Minister may require in respect of the performance of the duties and the exercise of the powers of the Commission.

### **Immunity of members of Commission**

73. No action or other proceedings shall be brought against any member of the Commission or any other person acting under its authority for or in respect of any act done or omitted to be done in good faith in the exercise or purported exercise of its or his powers under this act or any regulation, rule or by-law made thereunder.

### **Constitution of a Local Government Service and provisions relating to members of that service**

74. (1) A Service to be called and known as the Local Government Service is hereby constituted.

(2) The Local Government Service shall consist of all monthly paid executive officers of any Community, Rural, Urban and Municipal Council, other than those officers in the Public Service.

(3) At the date of commencement of this Act, the Minister may, having regard to the financial resources and the manpower needs of a Council determine which monthly paid executive posts of a Council shall be retained to be absorbed into the Local Government Service.

(4) Every person who was the holder of a post as determined by the Minister under sub-section (3), on the day immediately preceding the date of commencement of this Act shall, with effect from that date, be deemed to be a member of the Local Government Service constituted under this Act, and every member of the service shall so long as he continues as such member, be deemed for all purposes to be in the service of the commission notwithstanding that he is for the time being employed under the local authority and that his salary is paid out of the fund of that local authority.

(5) No member of the service shall be dismissed or otherwise punished except in accordance with the provisions of this Act or any regulations or rules made thereunder.

## **Local Government Service Tribunal**

75. (1) There is established a tribunal to be called a Local Government Service Tribunal (hereinafter referred to as "the Tribunal").
- (2) The Tribunal shall consist of:-
- (a) a chairman who shall be a legal practitioner of not less than five years' standing and shall be appointed by the Commission after consultation with the Minister; and
  - (b) two other members appointed by the Commission after consultation with the Minister.
- (3) A member of the Tribunal holds office for such term not exceeding five years and is eligible for re-appointment.
- (4) Where any member of the Tribunal, other than the Chairman, is, by reason or other infirmity or absence from Lesotho, temporarily unable to perform the duties of his office, the Minister may appoint any person to act in his place.
- (5) Where the Chairman is, by reason or other infirmity or absence from Lesotho, temporarily unable to perform the duties of his office, the Minister may appoint any other member of the Tribunal to act in his place.
- (6) Any member of the Tribunal including the Chairman may resign his office by letter addressed to the Minister.
- (7) The Chairman shall preside at every meeting of the Tribunal. In the absence of the Chairman from any meeting of the Tribunal the members present at such meeting shall elect from one of their members to preside at such meeting.
- (8) Every question that comes up for consideration shall be determined by the majority of the members of the Tribunal present at such meeting.
- (9) Two members of the Tribunal shall form a quorum.
- (10) At a meeting of the Tribunal the chairman shall have a deliberative vote, and in case of an equality of votes shall also have a casting vote.
- (11) The Tribunal may regulate its own procedure.
- (12) There shall be a Secretary of the Tribunal who shall be an employee of the Local Government Service or a public officer appointed by the Commission in consultation with the Minister responsible for the Public Service.
- (13) Where a person who is not an employee of the Local Government Service or of the public service, is appointed a member of the Tribunal, he shall receive such remuneration as the Minister may after consultation with the Minister responsible for finance, determine.

## **Appeals to the Tribunal**

76. (1) A person who is aggrieved by a decision of the Commission shall within twenty-one days as from the date upon which he is informed of such decision, appeal to the Tribunal by giving to the Secretary of the Tribunal written notice of appeal where he shall set out fully the grounds upon which the appeal is based.

- (2) A person may appeal against:-
- (a) the finding of an officer who held the inquiry; or
  - (b) the severity or leniency of the punishment.
- (3) The Tribunal shall within three months hear such appeal, confirm, set aside or vary the decision appealed against, subject to confirmation by the Commission.

### **Service of notice etc**

77. Where under this Part a notice is required to be given or served on a person, that notice may be given or served:-

- (a) by delivering it personally to the person to be served; or
- (b) by leaving it at the last known place of residence of the person to be served; or
- (c) by sending it by post addressed to the person to be served at the usual or last known place of residence of that person; or
- (d) by serving it in such other manner as the Minister may prescribe.

## **PART VII**

### **District Development Co-ordinating Committees and Boundaries Commission**

#### **District Development Co-ordinating Committees**

#### **Constitution, and composition of a District Development Co-ordinating Committee**

78. (1) There shall be established a District Development Co-ordinating Committee (hereinafter referred to as "the Committee") for each district.

(2) A Committee shall consist of the following:-

- (a) the Mayor and two elected members representing a Municipal Council;
- (b) the Chairman and two elected members representing an Urban Council; and
- (c) the Chairman, two elected members, and three Chiefs representing a Rural Council.

(hereinafter referred to "as elected members");

(d) the following public officers (hereinafter referred to as "the ex-officio members"):-

- (i) the District Administrator who shall be the Secretary of the Committee;
- (ii) an officer representing the District Planning Unit;
- (iii) such other public officers as may be determined by the Minister, to represent Ministries that are operating within the administrative districts.



## **Term of office of elected members of a Committee**

79. (1) The term of office of the elected members of Committee shall be for the period such members have been elected to the Council.

(2) Where a member is elected in place of an elected member of Committee who dies, resigns or otherwise vacates office, he shall, subject to the provisions of this Act hold office for the unexpired period of the term of office of his predecessor.

## **Meetings of the Committee**

80. (1) The District Administrator shall as soon as convenient after the commencement of the term of office of the elected members of a committee, by written notice summon all the members of the committee to the first general meeting.

(2) The Chairman, who shall be elected from amongst the elected representatives may, whenever he deems fit, and shall upon written requisition signed by one third of the elected representatives call a meeting of the Committee at the office of the District Administrator.

(3) The Chairman shall cause notice in writing of every general meeting, which shall be held at least once in every three months, or a special meeting of the Committee and of the business to be transacted thereat to be served on each member at least four days before the meeting.

(4) The quorum of each meeting shall be one third of the elected representatives present at a meeting.

(5) The Chairman shall preside at all meetings of the Committee, or if he is absent the elected representatives present shall elect another member to preside at the meeting.

(6) Every question that comes up for consideration shall be determined by the majority of the members of the Committee present at such meeting but the ex-officio members shall not be entitled to vote.

(7) The Committee may regulate its own procedure.

(8) The District Administrator shall keep minutes and a record of all meetings of the Committee and such minutes shall at all reasonable time be open for inspection at the office of the District Administrator, free of charge.

## **Functions of the Committee**

81. The functions of a Committee shall be:-

- (a) to consider draft development plans for the District prepared by each Council; and
- (b) to co-ordinate such plans into a composite District Development Plan and to approve such plan.

## **Boundaries Commission**

82. (1) The Minister may, whenever he deems it necessary to do so, appoint

by a Notice published in the Gazette a Boundaries Commission (hereinafter referred to as "the Commission").

(2) The Commission shall consist of a Chairman and four other members all of whom shall be appointed by the Minister from among persons appearing to the Minister to be suitably qualified for such appointment.

(3) A Commissioner shall unless he earlier vacates his office, hold office for such period not exceeding five years as may be determined by the Minister and shall be eligible for re-appointment:

Provided however if a Commissioner vacates his office prior to the expiration of his term of office, his successor shall unless he earlier vacates his office, hold office only for the unexpired portion of such term.

(4) A Commissioner may resign his office by letter address to the Minister.

(5) The Chairman shall preside at every meeting of the Commission. In the absence of the Chairman from any meeting of the Commission the members present at such meeting shall elect another member to preside at such meeting.

(6) Every question that comes up for consideration shall be determined by the majority of the members of the Commission present at such meeting.

(7) The quorum for any meeting of the Commission shall be four members.

(8) The Commission may regulate its own procedure.

(9) There shall be paid to a Commissioner such remuneration as the Minister may, with the concurrence of the Minister of Finance, determine.

### **Functions of the Commission**

83. (1) The Commission shall:-

- (a) review existing administrative and electoral boundaries;
- (b) receive and consider any proposals from the public for the revision of administrative or electoral boundaries which may be made or referred to them;
- (c) summon any person to attend any meeting of the Commission or produce any documents in his position and to procure and receive all such evidence written or oral, and to examine him as a witness as the Commission may think it necessary or desirable to procure or examine;
- (d) demarcate new administrative and electoral boundaries having regard to the interests and identity of local communities, to secure effective local governance and development; and
- (e) prepare and submit to the Minister, from time to time, their proposals and recommendations for the revision of any administrative or electoral boundaries.

(2) The Minister shall lay before the National Assembly any proposals or recommendations made by the Commission and approved by him, for revision of any administrative or electoral boundaries.

(3) The members of the Commission shall in relation to any inquiry have the powers of a commission of inquiry appointed under Commission of Inquiry Act.

(4) The expenses of the Commission including the remuneration of the Commissioners and all other expenses incurred by them in the performance of their duties under this Act, shall be defrayed out of moneys provided by the National Assembly for the purpose.

### **Regulations**

84. (1) The Minister may make regulations generally for the purpose of giving effect to the principles and provisions of this act, and in respect of all matters required or stated to be prescribed or in respect of which regulations are required or authorised to be made.

(2) Without prejudice to the generality of the provisions of sub-section (1) the Minister may make regulations:-

(a) for the procedure for the conduct of business of Councils and Co-ordinating Committees;

(b) for the accounting and financial procedures of Councils and Co-ordinating Committees;

(3) The Minister may under this section make regulations applicable to all Councils or to any class of Councils or to one or more specified Council or Councils.

(4) No regulation made under this Act shall have effect until it has been approved by the National Assembly and notification of such approval is published in the Gazette.

## **PART VIII**

### **Repeal, Application of Existing Laws, Transitional Arrangements and Miscellaneous Provisions**

#### **Repeals**

85. (1) The Acts set out in Third Schedule are repealed.

(2) Notwithstanding the repeal of any of the Acts set out in Third Schedule, all rules, regulations, orders or proclamations which are in force at the time of the commencement of this Act, and made under the repealed Acts shall continue in force as if they have been made under the provisions of this Act, and all such rules, regulations, orders, proclamations may be varied, amended or replaced by provisions of this Act.

#### **Council to be successors of Councils**

86. (1) In any case where a new Council is constituted under this Act comprises the whole or any part of the administrative jurisdiction that are under



the control of any Council established under any repealed enactment, the new Council shall be the successor of such Council, area or part thereof, from the date of the constitution of the new Council under this Act.

(2) With effect from the date on which a new Council is constituted under subsection (1) there shall be deemed to be transferred to that Council:-

- (a) all such property, other than the funds, of the Council established under any repealed enactment referred to in that subsection, as may be situated within its jurisdiction;
- (b) the whole of the funds of the Council, established under any repealed enactment or in any case where the new Council comprises a part only of the administrative area of the Council established under any repealed enactment, such part of the funds aforesaid as the Minister may determine; and
- (c) all the rights, powers, duties, debts, liabilities and obligations of that Council established under any repealed enactment, in so far as they relate to any area within its jurisdiction.

(3) Except in so far as provision is otherwise made by this Act, all references in any enactment, or in any order, rule, regulation, or by-law made thereunder, or in any document or instrument executed or issued in pursuance thereof, to any class of Council, or to any particular Council, shall be construed as though they were references to the new Council constituted under this Act, or in the case of a reference to any particular Council, to the Council which is the successor to such Council for the purposes of the matter in question as from the date of the constitution of any such Council or Councils.

(4) For the purposes of this section and the succeeding sections, the expression 'council' means any Municipal Council, Urban Council, Rural Council, Community Council, Village Development Council, Ward Development Council or District Development Council.

### **Town Clerk to continue**

87. Every Town Clerk appointed under the Urban Government Act to administer the affairs of a Council and holding office on the date of commencement of this Act shall be deemed to be a Town Clerk appointed under this Act and shall continue to hold for such period as may be determined by the Minister.

### **Saving for existing securities and discharge of debts**

88. (1) Nothing in this Act shall prejudicially affect any loans raised by a Council on the security of any rate or tax or of any property by this Act transferred to any Council; and all debts so secured, as well as all unsecured debts, liabilities, and obligations incurred by any Council in the exercise of any of the powers in relation to any property transferred from such Council to a Council by or under this Act, shall be discharged, paid, and satisfied by such Council.

(2) It shall be the duty of every Council whose powers, duties, and liabilities are to be transferred to any Council by this Act to liquidate so far as practicable, before the date of such transfer, all current debts and liabilities incurred by such Council.

### **Saving for pending actions, contracts etc**

89. (1) All suits, prosecutions, appeals or other legal proceedings civil and criminal, instituted, or which might have been instituted, by or against a Council at the date of commencement of this Act may, subject to the provisions of this Act, and any other written law, be continued or instituted by or against a Council established under this Act.

(2) All contracts, deeds, bonds, agreements, notices, or other instruments entered into, issued, or made by any Council and subsisting at the time of the constitution of a new Council under this Act for the administrative area of such Council, and affecting any such powers, duties, liabilities, obligations, or property as are by this Act transferred to such Council, shall be of as full force and effect against or in favour of the Council, and may be enforced or acted upon as fully and effectually as if the said Council had been a party to or had made or issued such contracts, deeds, bonds, agreements, notices or other instruments.

### **Officers and servants**

90. (1) Subject to the provisions of section 74, the officers and servants of every Council to which a new Council constituted under this Act is the successor shall, subject to the provisions of this section, upon the constitution of the new Council become officers and servants of the new Council, and shall hold their offices under terms and conditions as set out by the Local Government Service Commission or by any local authority, as the case may be.

(2) The new Council may distribute the business to be performed by any officers or servants referred to in subsection (1) in such manner as the new Council may deem just and every such officer or servant shall perform such duties in relation to that business as may be directed by the new Council.

### **Rates and assessments**

91. (1) All rates and taxes imposed by a Council to which any new Council is the successor as may be due at the date of the constitution of the new Council may be enforced and recovered in the same manner as the rates and taxes imposed by the Council.

(2) All assessments made or adopted by the Council for the purpose of any rate referred to in subsection (1) shall continue in force until revised by the new Council in a manner provided by this Act.

### **Existing by-laws etc to continue**

92. All proclamations, orders notifications and by-laws of, or affecting, any Council and published under any enactment repealed by this Act, and subject to section 74 all posts, offices, appointments, contracts, assessments, valuations, documents, licences, created or made or granted, rates and taxes imposed by any



a Council under any enactment shall so far as they are not inconsistent with the provisions of this Act, continue in force and to be deemed for all purposes to have been published, created, made, granted, imposed, as the case may be, under this Act.

### **Adjustment of questions not provided for**

93. In connection with the preliminary arrangements necessary for bringing this Act into operation, and for such other period as the Minister may deem necessary, either generally or with reference to any special matter or matters either throughout Lesotho or in any specified place or area, the Minister, by Notice published in the Gazette, may issue all such directions as he may deem necessary with a view to providing for any unforeseen or special circumstances, or to determining or adjusting any question or matter for the determination or adjustment of which no provision or no effective provision is made by this Act.

### **Power to exclude application of specified provisions of Act within specified limits**

94. The Minister may, by notice published in the Gazette, declare that any specified provision of this Act shall not apply, either in whole or in part, within the administrative limits of any area for which a Council is constituted under this Act, or within any specified area comprised in such administrative limits.

### **This Act to prevail over other laws**

95. The provisions of this Act shall have effect notwithstanding anything contained in any other written law and accordingly in the event of any conflict or inconsistency between the provisions of this Act and such other law, the provisions of this Act shall prevail over such other law.

**(Section 5 (1))**

### **FIRST SCHEDULE**

1. Control of Natural Resources (e.g. sand, stones) and environmental protection (e.g. dongas, pollution).
2. Public Health (e.g. food inspection, refuse collection and disposal).
3. Physical planning.
4. Land/Site Allocation.
5. Minor Roads (also bridle-paths).
6. Grazing control.
7. Water supply in villages (maintenance).
8. Markets (provision and regulation).
9. Promotion of economic development (e.g. attraction of investment).
10. Streets and public places.
11. Burial grounds.
12. Parks and gardens.
13. Control of building permits.
14. Fire.



15. Education.
16. Recreation and Culture.
17. Roads and Traffic.
- ~~18. Water Resources.~~
19. Fencing.
20. Local administration of central regulations and licences.
21. Care of mothers, young children, the aged and integration of people with disabilities.
22. Laundries.
23. Omnibus terminals.
24. Mortuaries and burial of bodies of destitute persons and unclaimed bodies.
25. Public decency and offences against public order.
26. Agriculture: Services for the improvement of agriculture.
27. Forestry: preservation, improving and control of designated forests in local authority areas.

[Section 5 (2)]

## SECOND SCHEDULE

1. Control of Natural Resources (e.g. sand, stones) and environmental protection (e.g. dongas, pollution).
2. Land/site Allocation.
3. Minor Roads (also bridle-paths).
4. Grazing control.
5. Water supply in villages (maintenance).
6. Markets (provision and regulation).
7. Burial grounds.

[Section 85 (1)]

## THIRD SCHEDULE

### Repeals

The following Acts are repealed

Local Administration Act 1969<sup>1</sup>

Urban Government Act 1983<sup>2</sup>

Development Councils Order 1991<sup>3</sup>

Development Councils (Amendment) Order 1992<sup>4</sup>

Development Councils (Amendment) Act 1994<sup>5</sup>

## NOTE

<sup>1</sup> Act No. 13 of 1969

<sup>2</sup> Act No. 3 of 1983