

CHAPTER 281  
THE LOCAL GOVERNMENT ACT

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### CHAPTER 281 LOCAL GOVERNMENT ACT

An Act to provide for an integrated three tier local administration system; to define the functions of local authorities; to repeal the Local Administration Act and certain related laws; and to provide for matters connected with or incidental to the foregoing.

[6th September, 1991]

*Act No.  
22 of 1991  
Act No.  
19 of 1992  
30 of 1993  
13 of 1994  
30 of 1995  
22 of 1995  
9 of 2004*

ENACTED by the Parliament of Zambia.

Enactment

## PART I

### PRELIMINARY

1. (1) This Act may be cited as the Local Government Act.

Short title

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

Interpretation

"area", in relation to a council, means the District for which the council has been established under this Act;

"Board" means a Provincial Local Government Appeals Board established under section *ninety-three*.

"building" includes any structure, whether of a permanent or temporary nature, and a part of a building or structure;

"city" means a District for which a city is established under this Act;

"city council" means a city council established under this Act;

"committee" means a committee of a council;

"control" includes, regulate, inspect, supervise and licence;

"council" means a city council, municipal council, or district council;

"councilor" means a person elected under the Local Government Elections Act as a councillor;

"district council" means a district council established under this Act;

"District" means a District declared under the Provincial and District Boundaries Act; Cap. 286

"employee" in relation to a council, means a person employed by a local authority other than an officer;

"erection" in relation to a building, includes the alteration or enlargement of a building;

"establish" when used relating to the functions of a council, includes acquire, erect, build, construct, name, hire, equip and furnish;

"financial regulations" means regulations made under section *forty-six* of this Act;

"land" shall have the meaning assigned thereto by the Land Act; Cap. 184

"levy" means a levy imposed under this Act;

"maintain," when used in relation to the functions of a council, includes

carry on, manage, operate and keep in repair;

"member" means a member of the Board;

"municipal council" means a municipal council established under this Act;

"municipality" means a District for which a municipal council is established under this Act;

"officer", in relation to a council, means a person employed in the permanent establishment of a council, and includes a person appointed on probation in such establishment;

"principal officer" means of the Chief Executive Officer of a council and includes any person for the time being discharging the functions of the Chief Executive Officer;

"private street" means any street other than a public street;

"property" includes all property, movable and immovable, and all estates, interest, easements and rights whether equitable or legal;

"the public", when used in relation to meetings of a council or committee, includes representatives of the Press;

"public street" means-

(a) any street entered in a register of streets and roads compiled and maintained by a council; and

(b) any street which is taken over by a council and designated as a public street;

"Secretary" means the Secretary of a Board holding office in accordance with section *ninety-six*;

"street" includes any bridge, road, avenue, lane, sanitary lane, footway or causeway and any pavement of footwalk forming part thereof;

"transfer and vesting order" means a statutory order made under section *five* or section *one hundred and twenty*;

"treasurer", in relation to any council for which no treasurer has been appointed, means the principal officer of the council;

"water-course" includes a canal and a canoe channel;

"water main" includes conduits, pipelines, valves, valve chambers, meters, meter-houses, break-pressure tanks, scour chambers, scour pipes, culverts, cuts, bridges, tunnels and all other things necessary in connection with any water main;

"waterworks" includes streams, springs, weirs, boreholes, dams, pumping stations, reservoirs, tanks, sluices, machinery, buildings, lands and all other works and things necessary for taking, impounding, discharging, storing, treating and filtering water.

*(As amended by Act No. 19 of 1992 and Act No. 30 of 1995)*

## **PART II**

### **ESTABLISHMENT OF COUNCILS**

**3.** For the purposes of local government, the Minister may, by statutory order, establish for any District, a city council, municipal council, district council, township council or management board as the case may be, and the name of the council or management board shall include the name of the District: Establishment of councils and management boards

Provided that a township council or management board shall be established under this section only on the recommendation of the appropriate city council, municipal council or district council.

*As amended by Act No. 19 of 1992*

**4.** (1) The President, may by statutory proclamation, confer on any municipal council established therefor the status respectively of a city and a city council and shall determine the name by which such city and city council shall be known. Cities

(2) On and after the date on which a proclamation under this section has effect, any reference in any written law, contract or other instrument or document to the name of the municipality or municipal council to which the proclamation relates shall be constructed as a reference to the name of the city or city council, as the case may be, as determined by the proclamation.

5. (1) Whenever as a consequence of any statutory order made by the President under the Provincial and District Boundaries Act-

Changes  
affecting  
Districts  
Cap. 286

(a) a new District is established;

(b) the area of any District is altered;

(c) a District ceases to exist;

the Minister may, by statutory order (in this Act referred to as a transfer and vesting order), make any such provisions as may be in accordance with the First Schedule for such changes as are necessary or appropriate as regards the constitution, property, rights, obligation and staff of, and any other matter relating to, any council affected by a change in its area, any new council or any council established for a District which ceases to exist.

(2) Where a District ceases to exist, a transfer and vesting order made in respect of the council established for that District shall include provision for the disestablishment of the council.

(3) Where the name of any District is changed, the name of the council established for that District shall be changed to conform with that of the District.

### **PART III**

### **CONSTITUTION OF COUNCIL**

## Councils

**6.** Every council shall be a body corporate with perpetual succession and a common seal, capable of suing and of being sued in its corporate name, and with power, subject to the provisions of this Act and of any other written law, to do all such other acts and things as a body corporate may do by law and as are necessary for, or incidental to, the carrying out of its functions and powers as set out in this Act.

Incorporation of councils

**7.** (1) Subject to the provisions of subsections (1) and (2) of section *four*, the corporate name of a council shall be such name as may be assigned thereto in the statutory order establishing the council.

Corporate name of council

(2) The Minister may, subject to the provisions of subsection (1) by statutory order and after consultation with the Council, alter the corporate name of a council.

**8.** (1) The common seal of a council shall be such device as may be prescribed by the Minister by statutory order after consultation with the council.

Seal

(2) A council may use such rubber stamp in lieu of a common seal as the Minister may approve until such time as a common seal can be procured.

**9.** (1) A council shall consist of-

Composition of council

(a) the members of Parliament in the district;

(b) two representatives of the Chiefs, appointed by all the Chiefs in the district; and

(c) all the elected councillors in the district.

(2) After consultation with a council, the Minister may, by statutory order, alter the number of councillors of which the council consists.

(As amended by Act No. 19 of 1992 and Act No. 30 of 1995)

**10.** Repealed by Act No. 30 of 1995.

**11.** No person shall be qualified for election as a councillor who is disqualified from election to a council under the Local Government Elections Act. Disqualification of councillor

**12.** (1) The councillors of a council who are required to be elected shall be elected in accordance with the provisions of the Local Government Elections Act. Election of Councillors Cap. 282

(2) A representative of the Chief shall be appointed to hold office under paragraph (b) of subsection (1) of section *nine* in such manner, and for such term, not exceeding three years, as the chiefs in the district shall determine.

(As amended by Act No. 30 of 1995)

**13.** Subject to sections *fourteen* and *fifteen*, the councillors of a council shall hold office for the duration of the period prescribed under the Local Government Elections Act. Tenure of office of Councillors

**14.** (1) The office of a councillor shall become vacant- Vacation of office by councillor

(a) if the holder of the office dies or resigns from his office by notice in writing addressed to the council; or

(b) if the circumstances arise that, if the holder of the office were not a councillor would disqualify him for election as such; or

(c) if the holder of the office accepts any remuneration for or on account of anything done as a councillor, other than a fee or allowance authorised by or under this Act; or

(d) if, having been elected to office as the endorsed candidate of a political party, the holder of the office ceases to be a member of that

party; or

(e) if the holder of the office-

(i) being a member of a political party joins a political party other than the one of which he was an authorised candidate when he was elected;

(ii) resigns from a political party to become an independent; or

(iii) being an independent, joins a political party;

(f) If the holder of the office is, without leave given at any meeting by resolution of the council of which he is a councillor absents himself from three consecutive ordinary meetings of the council.

(2) The resignation of any councillor from his office shall take effect when the notice signifying the resignation is received by the principal officer of the council.

(3) Every vacancy occurring in accordance with the preceding provisions of this section shall be a casual vacancy in the membership of a council and the principal officer of the council shall give public notice thereof.

(4) When a member of Parliament in the district ceases to be a member of Parliament, his office as a councillor shall be vacant until the corresponding vacancy in the National Assembly is filled.

*(As amended by Act No. 30 of 1993 and Act No. 30 of 1995)*

**15.** (1) A casual vacancy occurring in the membership of a council shall be filled in accordance with the provisions of the Local Government Elections Act. Filling of casual vacancies

(2) A councillor elected to fill a casual vacancy in the membership of a council shall subject to the provisions of the subsection (1) of section fourteen hold office until the expiration of the period during which the councillor whose place he fills would, but for his office becoming vacant, have continued in office.

Mayor, Deputy Mayor, Chairman and Vice-Chairman

**16. (1)** There shall be-

Election of  
mayor, deputy  
mayor,  
Chairman and  
Vice Chairman

(a) for every city or municipal council, a mayor and a deputy mayor;

(b) for every township or district council, a chairman and vice chairman; who shall be elected by the council from among persons who are Councillors.

Provided that a councillor who is a member of Parliament or a chief shall not be eligible for the office of Mayor, Deputy Mayor, Chairman or Vice-Chairman of the council.

(2) The mayor, deputy mayor, chairman or vice-chairman of a council shall be elected annually at the first ordinary meeting of council held after the 1st September in that year.

(3) No person shall hold office as mayor, deputy mayor, chairman or vice-chairman of a council for more than two consecutive terms and where a person has held any such office for two consecutive terms he may not be elected to that office again until after the expiration of two years from the date on which he last held such office.

*(As ammended by Act No. 19 of 1992 and Act No. 30 of 1995)*

**17.** The mayor, deputy mayor, chairman and vice chairman of a council shall, subject to the provisions of this Act, hold office until his successor is elected.

Tenure of office  
of Mayor,  
deputy mayor,  
chairman and  
vice-chairman

**18. (1)** The office of the mayor, deputy mayor, chairman or vice-chairman of a council shall become vacant-

Vacation of  
office

(a) if the holder of the office dies, resigns from his office by notice in writing addressed to the principal officer of the council; or

- (b) if the holder of the office ceases to be a councillor; or
- (c) if the holder of the office is removed from office by a resolution of the council supported by the votes of not less than two-thirds of the whole number of councillors of which the council consists; or
- (d) if the holder of the office is, without the leave of the council, continuously absent from the area of the council for a period of more than two months; or
- (e) in the case of the office of deputy mayor or vice-chairman, if the holder of the office is elected to the office of mayor or chairman, as the case may be.

(2) The resignation of any person from the office of mayor, deputy, mayor chairman or vice-chairman of a council shall take effect when the notice signifying the resignation is received by the principal officer of the council.

(3) Every vacancy occurring in accordance with the provisions of this section shall be a casual vacancy in the office of mayor, deputy mayor, chairman or vice-chairman, as the case may be of a council and the principal officer of the council shall give notice thereof to the council.

**19.** (1) On a casual vacancy occurring in the office of a mayor, deputy mayor, chairman or vice-chairman of a council, a successor shall be elected to fill the vacancy not later than the next ordinary meeting of the council held after the date on which the vacancy, or, if that meeting is held within seven days after that date, then not later than the next following ordinary meeting of the council.

Filling of casual vacancies of mayor or chairman during vacancy or absence

(2) A person elected to fill a casual vacancy in the office of mayor, deputy mayor, chairman or vice-chairman of a council shall, subject to the provisions of this Act, hold office until the expiration of the period during which the person whose place he fills would, but for his office becoming vacant, have continued in office.

**20.** Whenever the office of mayor or chairman of a council is vacant or the mayor or chairman is absent or is for any other cause prevented from

Discharge of functions of

or incapable of discharging the functions of his office-

(a) the deputy or vice-chairman of the council; or

(b) if the office of deputy mayor or vice-chairman is vacant or the deputy mayor or vice-chairman is absent or is for any other cause prevented from or incapable of discharging the functions of his office, a councillor elected by the council;

shall discharge the functions of the office of the mayor or chairman of the council.

mayor or  
chairman  
during vacancy  
or absence

**21.** Any functions discharged by a person purporting to hold or discharge the functions of the office of mayor, deputy mayor, chairman or vice-chairman of a council shall not be invalidated only by reason of a defect afterwards discovered in the election or qualifications of such person.

Validity of  
discharge of  
functions

## **PART IV**

### **PROCEEDINGS OF COUNCIL**

**22.** (1) A council shall hold an ordinary meeting for the transaction of business not less often than once in every three months at such place, on such day and at such time as the council may appoint:

Ordinary and  
special  
meetings

Provided that the first ordinary meeting of a council newly established under this Act shall be held at such place, on such day and at such time as the Minister may appoint.

(2) The mayor or chairman of a council may convene a special meeting of the council at any time, and shall convene a special meeting within twenty-one days, or such lesser period as may be prescribed by the standing orders of the council, after he receives a written request therefor signed by not less than one-third of the whole number of councillors of which the council consists and stating clearly the purposes for which the special meeting is to be convened.

**23.** (1) The principal officer of a council shall, not less than twenty-four hours before the time appointed for the holding of a meeting of a

Notice of  
meetings

council, notify every councillor in writing of the place, day and time of the meeting and of the business proposed to be transacted at the meeting.

(2) No business shall be transacted at a special meeting of a council other than that specified in the notice relating thereto.

**24.** (1) Subject to the provisions of this section-

Quorum

(a) at an ordinary meeting of a council, one-half of the whole number of councillors of which the council consists shall form a quorum etc.

(b) at a special meeting of a council, two-thirds of the whole number of councillors of which the council consists shall form a quorum.

(2) Where, owing to-

(a) vacancies in the membership of a council; or

(b) the disablement of councillors under section *twenty-seven*; or

(c) a combination of the circumstances referred to in paragraphs (a) and (b);

less than two-thirds of the whole number of councillors of which a council consists are at the same time able to take part in the consideration or discussion of, or to vote on, any question, the quorum of the council in any proceedings relating to that question shall be determined by reference to the number of councillors who actually hold office on the council and who are not under a disablement imposed by section *twenty-seven* instead of by reference to the whole number of councillors of which the council consists.

**25.** There shall preside at any meeting of a council-

Presiding in  
council

(a) the mayor or chairman.

(b) in the absence of the mayor or chairman, the deputy mayor or vice-chairman; or

(c) in the absence of the mayor and the deputy mayor or the chairman and the vice-chairman, such councillor as the council may elect for that meeting.

**26.** (1) Save as otherwise provided by this Act or any other written law, any question proposed for decision by a council shall be determined by a majority of the votes of the councillors present and voting at a meeting of the council at which a quorum is present. Voting in council

(2) At all meetings of a council, each councillor present shall have one vote on a question proposed for decision by the council and, in the event of any equality of votes, the person presiding at the meeting shall have, in addition to a deliberative vote, a casting vote.

**27.** (1) If a councillor has any pecuniary interest, direct or indirect, in any contract, proposed contract or of other matter, and is present at a meeting of the council at which the contract or other matter is the subject of consideration, he shall, at the meeting, as soon as is practicable after the commencement thereof, disclose the fact, and shall not take part in the consideration or discussion of, or vote on any question with respect to, the contract or other matter. Disability voting on account of interest in contracts

Provided that this section shall not apply to an interest in a contract or other matter which a councillor may have as an occupier of a house owned by the council or as a rate payer or inhabitant of the area of the council or as an ordinary consumer of electricity or water, or to an interest in any matter relating to the terms on which the right to participate in any service, including the supply of goods, is offered to the public.

(2) For the purposes of this section, a person shall be treated as having indirectly a pecuniary interest in a contract or other matter, if-

(a) he or any nominee of his is a member or director of a company or other body with which the contract is made or is proposed to be made or which has a direct pecuniary interest in the matter under consideration; or

(b) he is a partner, or is in the employment, of a person with whom the contract is made or is proposed to be made or who has a direct pecuniary interest in the other matter under consideration:

Provided that-

(i) this subsection shall not apply to membership of, or employment under, any statutory corporation;

(ii) a member or director of a company or body shall not, by reason only of his membership or directorship, be treated as being so interested if he is not beneficially interested in any shares of that company or other body.

(3) Where a councillor has indirectly a pecuniary interest in a contract or other matter and would not fall to be treated as having such an interest but for the fact that he has a beneficial interest in shares of a company or other body then, if the total nominal value of these shares does not exceed one-hundredth of the total nominal value of the issued share capital of the company or body, so much of subsection (1) as prohibits him from taking part in the consideration or discussion of, and from voting on any question with respect to, the contract or other matter shall not apply to him, without prejudice, however, to the duty of disclosure imposed by subsection (1):

Provided that where the share of the company or other body is of more than one class, this subsection shall not apply if the total nominal value of all the shares of any one class in which he has a beneficial interest exceeds one-hundredth part of the total issued share capital of that class of the company or other body.

(4) In the case of married persons living together, the interest of one spouse shall, if known to the other be deemed for the purpose of this section to be also an interest of that other spouse.

(5) A general notice given in writing to the principal officer of a council by a councillor to the effect that he or his spouse is a member or director or in the employment of a specified company or other body, or that he or his spouse is a partner or in the employment of a specified person, shall, unless and until the notice is withdrawn, be deemed to be a sufficient disclosure of his interest in any contract, proposed contract or other matter relating to that company or other body or to that person which may be the subject of consideration after the date of the notice.

(6) The principal officer of a council shall record in a book to be kept for that purpose, particulars of any disclosure made under subsection

(1), and of any notice given under sub-section (5), and the book shall be open at all reasonable times to the inspection of any councillor.

(7) If any person fails to comply with the provisions of subsection (1), he shall for each offence be liable on conviction to a fine not exceeding four hundred penalty units, unless he proves that he did not know that a contract, proposed contract or other matter in which he had a pecuniary interest was the subject of consideration at the meeting.

(8) No prosecution shall be instituted against any person for an offence under this section except by or on behalf of the Director of Public Prosecutions.

(9) The Minister may, subject to such conditions as he may think fit to impose, remove any disability imposed by this section in any case in which the number of councillors so disabled at any one time would be so great a proportion of the whole as to impede the transaction of business, or in any other case in which it appears to the Minister that it is in the interests of the inhabitants of the area of council that the disability should be removed.

(10) In this section, the expression "shares" includes stock and debentures and the expression "share capital" shall be construed accordingly.

*(As amended by Act No. 13 of 1994)*

**28.** (1) A council may adjourn any meeting of the council from time to time and from place to place.

Adjournment of meetings

(2) If at any meeting of a council a quorum is not present, the councillors present or, if there are no councillors present, the principal officer of the council shall adjourn the meeting and may appoint for the adjourned meeting such place, day and time as may be considered suitable.

**29.** (1) Subject to the provisions of subsection (2), all meetings of a council shall be open to the public.

Admission of public to meetings

(2) A council may, by resolution, exclude the public from a meeting (whether during the whole or any part of the proceedings) whenever publicity would be prejudicial to the public interest by reason of the confidential nature of the business to be transacted or for other special reasons stated in the resolution and arising from the nature of that business or of the proceedings.

(3) The provision of this section shall be without prejudice to any power of exclusion conferred by the standing orders of a council for preserving order at meetings of the council; and nothing in this section contained shall be construed as requiring a council to permit the taking of photographs of any proceedings, or the use of any means to enable persons not present to see or hear any proceedings (whether at the time or later) or the making of any oral report on any proceedings as they take place.

**30.** (1) A council shall cause minutes to be kept in the English language of the proceedings at every meeting of the council and shall cause to be recorded therein the names of the councillors present at that meeting. Minutes

(2) The minutes of the proceedings of a council shall, after amendment if necessary, be confirmed by the council as a true record of the proceedings and signed by the person presiding at the same or the next meeting of the council.

(3) Within one month after the minutes of any proceedings of a council have been confirmed and signed, there shall be furnished to the Minister such number of copies thereof as the Minister may determine.

(4) The minutes of the proceedings of a council, other than proceedings from which the public have been excluded in pursuance of a resolution adopted under subsection (2) of section *twenty-nine*, shall, at all reasonable times, be open to the inspection of any interested person.

## **PART V**

### **COMMITTEES**

**31.** (1) A council may establish standing and occasional committees consisting of such number of members as the council may determine, for the purpose of examining and reporting on any matter and of discharging any functions of the council delegated to them under this Act.

Standing and occasional committee

(2) A council consisting of more than six councillors shall in the exercise of the powers conferred by subsection (1), establish a standing committee (hereinafter referred to as the Finance Committee) for the purpose of-

(a) advising the council on financial matters; and

(b) discharging such functions of the council relating to finance as may be delegated to it under this Act or as may be conferred or imposed upon it by or under any other written law.

(3) A council may abolish any committee, other than the Finance Committee, established by it under this section.

**32.** (1) The members of a committee shall be appointed by the council from amongst persons who are councillors or are qualified for election as councillors.

Membership of committees

Provided that-

(i) no person other than a councillor shall be a member of the Finance Committee;

(ii) not less than two-thirds of the members of a committee, other than the Finance Committee, shall be councillors.

(2) A person shall cease to be a member of a committee if-

(a) being a councillor at the time of his appointment, he ceases to be a councillor; or

(b) not being a councillor at the time of his appointment, he ceases

to be qualified for election as a councillor; or

(c) his appointment is revoked by the council.

(3) There shall be a chairman of every committee, who shall be elected by the committee from amongst the members of the committee who are councillors and who shall hold office until such time as-

(a) he ceases to be a member of the committee; or

(b) he is removed from office by the committee:

Provided that, in the exercise of its powers under this subsection, a committee shall act in accordance with any directions of the council.

**33.** (1) Meetings of a committee shall be held as required and may be adjourned from time to time and from place to place.

Proceedings of  
committees

(2) Meetings of a committee shall not be open to the public.

The quorum at a meeting of a committee shall be such number of members as may be prescribed by the Standing orders of the council or, if no quorum is so prescribed, two members.

(4) There shall preside at any meeting of a committee-

(a) the chairman; or

(b) in the absence of the chairman, such member of the committee as the committee may elect for that meeting.

(5) Any question proposed for decision by a committee shall be determined by a majority of the votes of the members present and voting at a meeting of the committee at which a quorum is present.

(6) At all meetings of a committee, each member present shall have one

vote on a question proposed for decision by the committee and, in the event of an equality of votes, the person presiding at the meeting shall have, in addition to a deliberative vote, a casting vote.

(7) Section *twenty-seven* shall apply in respect of members of a committee as it applies in respect of councillors, subject to the following modifications:

(a) references to meetings of the committee shall be substituted for references to meetings of the council;

(b) the right of persons who are members of the committee but not councillors to inspect the book to be kept under subsection (6) of the said section shall be limited to an inspection of the entries in the book relating to members of the committee.

**34.** (1) A committee shall cause minutes to be kept in the English language of the proceedings at every meeting of the committee and shall cause to be recorded therein the names of the members of the committee present at that meeting.

Minutes

(2) The minutes of the proceedings of a committee shall, after amendment if necessary, be confirmed by the committee as a true record of the proceedings and signed by the person presiding at the same or the next ensuing meeting of the committee.

(3) Within one month after the minutes of any proceedings of a committee have been confirmed and signed, there shall be furnished to the Minister such number of copies thereof as the Minister may determine.

(4) The minutes of such proceedings at a meeting of a committee as relate to the discharge of functions delegated to it by the council shall, at all reasonable times, be open to the inspection of any interested person:

Provided that the provisions of this subsection shall not apply to the minutes of any proceedings the disclosure of which is deemed by the committee to be prejudicial to the public interest.

**35.** (1) Subject to the other provisions of this section, a council may delegate, either absolutely or conditionally, to a committee or to any officer of the council the power to discharge any function of the council on behalf of the council.

Delegation of meetings of councils to committee.

(2) A council shall not-

(a) delegate the power to discharge any functions of the council to a committee which includes persons who are not councillors; or

(b) delegate to any committee the power-

(i) to make and levy a rate; or

(ii) to adopt estimates of the revenues and expenditure of the council; or

(iii) to borrow money; or

(iv) to impose fees and charges; or

(iv) to make by-laws; or

(vi) in the case of a city council or municipal council, to make appointments to the dignity of alderman or to admit or annul the admission of a person to the status of honorary freeman of the city or municipality.

(3) A council may withdraw or alter any delegation to a committee, but no such withdrawal or alteration shall affect anything done in pursuance of any decision lawfully taken by the committee.

(4) Any function discharged by a committee in the exercise of powers delegated to it under this section shall be deemed to have been discharged by the council.

*(As amended by Act No. 19 of 1992)*

**36.** At one of the next two ordinary meetings of a council held after a meeting of a committee, the proceedings at the meeting of the committee shall be reported to the council for its consideration or, in the case of proceedings which relate to the discharge of functions delegated to the committee, for its information.

Reports by committees

**37.** (1) A committee may, from amongst its members, appoint sub-committees for the purpose of examining and reporting on any matter.

Sub-committees

(2) Subject to the provisions of the standing orders of a council, a sub-committee shall determine its own procedure.

(3) A sub-committee shall not discharge any functions of the council which have been delegated to the committee by which it was appointed.

## **PART VI**

### **FINANCE**

#### General

**38.** The financial year of a council shall be the period of twelve months ending on the 31st December in each year.

Financial year

**39.** (1) A council shall cause to be prepared and shall adopt estimates (to be called annual estimates) of revenues and expenditure of the council and shall, at least sixty days before the commencement of a financial year, submit such annual estimates for the approval of the Minister.

Estimates of revenues and expenditure

(2) Where in any financial year it appears to a council that expenditure for a special purpose is desirable and that no provision or insufficient provision has been made for it in annual estimates for that year, the council may cause to be prepared and adopt supplementary estimates in respect thereof for the approval of the Minister.

(3) All annual and supplementary estimates of a council shall be prepared in such form and contain such information as may be prescribed by financial regulations.

(4) A council shall not incur any expenditure which is not included in

the annual estimates of the council:

Provided that if the annual estimates of the council have not been approved by the Minister, the council may continue to incur expenditure on charges which become due in respect of inescapable commitments.

(5) The annual estimates of a council shall, at all reasonable times, be open to the inspection of any interested person.

**40.** (1) All receipts of a council shall be carried to a general fund and all liabilities falling to be discharged by the council shall be discharged out of that fund. General and special funds

(2) A council may, in accordance with financial regulations, establish special funds as part of the general fund, and shall establish any such fund if required by or under financial regulations to do so.

**41.** Subject to the provisions of financial regulations, a council shall make safe and efficient arrangements for the receipt of moneys paid to it and the issue of moneys payable by it and those arrangements shall be carried out under the supervision of the treasurer of the council. Arrangements for handling receipts and payments

**42.** (1) A council shall open and keep in its name a banking account and may, by resolution open and keep such additional banking accounts as may be necessary. Banking accounts

(2) Save as otherwise provided by financial regulations, all receipts of a council shall be paid into the banking account or accounts kept by the council and all amounts payable by a council shall be paid therefrom.

(3) A cheque drawn upon any banking account kept by a council shall be signed by such officers of the council, not being less than two in number, as may be authorised in that behalf by resolution of the council.

*(As amended by Act no. 19 of 1992)*

**43.** (1) A council shall cause true accounts of its revenues and expenditure to be kept. Accounts

(2) The accounts of a council, together with all books, deeds, contracts, vouchers, receipts and other documents relating thereto, shall at all reasonable times be open to the inspection of any councillor and of any interested person.

(3) The accounts of a council shall be made up and balanced for each financial year of the council and a summarised statement thereof certified under the hand of the treasurer of the council shall be presented to the council at a meeting to be held within six months after the end of the financial year of the council, or within such longer period as the Minister may determine.

**44.** A council may invest any moneys not required for immediate use in such securities as it may by resolution determine and may, as occasion requires, realise any investment so made: Investment

Provided that no council resolution shall be required for any investment where maturity period shall not be more than ninety days from the date of investment.

**45.** (1) The Minister may, on such terms and conditions as he may determine, make constituency development grants or loans of money to a council for the purposes of the discharge by the council of any of its functions. Government grants and loans

(2) Any constituency development grant or loan made by the Minister under this section shall be paid out of moneys appropriated by Parliament for the purpose.

(3) The Government shall make specific grants to the council concerned for-

(a) water and sanitation;

(b) health services;

(c) fire services;

- (d) road services;
- (e) police services;
- (f) primary education;
- (g) agricultural services;

*(As amended by Act No. 19 of 1992 and Act No. 30 of 1995)*

**46.** The Minister shall, by statutory instrument, make regulations for the control and management of the finances of councils and in particular, for- Financial regulations

(a) the keeping of the accounts of councils, including separate accounts of any undertaking or service established and maintained by the council, and the form of, and information to be included in, the account of councils and the summarised statements thereof;

(b) the payment of moneys into and from banking accounts;

(c) the form of, and information to be included in, the annual and supplementary estimates of councils;

(d) the establishment of special funds and the payment of moneys into and the withdrawal of moneys from such funds;

(e) the composition or remission of debts due to councils.

*(As amended by Act No. 19 of 1992 and Act No. 30 of 1995)*

### Borrowing

**47.** A council may, borrow such sums of money as may be required for the purpose of discharging its functions in all or any of the following ways: Authority to borrow and modes of borrowing

(a) by loan under section *forty-five*;

(b) by the issue of stock or bonds;

- (c) by mortgage;
- (d) by temporary loan or overdraft from a bank or other source;
- (e) by loan from any other source.

**48.** Notwithstanding the provisions of section *forty-seven*, no council shall borrow money or receive any grant of money from a foreign government or foreign organisation. Foreign borrowing prohibited

**49.** (1) All moneys borrowed by a council shall be charged on the general fund of the council and all securities therefor shall rank equally without any priority. Security for borrowing and priorities of securities

(2) Nothing in this section shall affect any priority existing at, or any right to priority conferred by a security created before, the commencement of this Act.

(3) The interests for the time being payable in respect of any moneys borrowed by a council shall be a first charge on the general fund of the council.

**50.** Where any sum of money is borrowed by a council, it shall be lawful for any annual provision required to be made by the council for the repayment of the sum so borrowed to be suspended, with the consent of the lender, for such period (not exceeding five years) as the Minister may determine. Suspension of repayment of sums borrowed

**51.** A person lending money to a council shall not be bound to inquire whether the borrowing of the money is or was legal or regular, or whether the money raised was properly applied, and shall not be prejudiced by an illegality or irregularity in the matters aforesaid or by the misapplication of any such money. Lenders relieved from certain inquiries

#### Audit

**52.** (1) The Minister shall, in respect of each financial year of a council, appoint a public officer or other person to be the auditor to the council. Appointment and remuneration

of auditor

(2) There shall be payable by a council in respect of the services of the auditor to the council such fee as the Minister may determine and that fee shall be paid into the general revenues of the Republic or, if the auditor is not a public officer, to the auditor.

**53.** It shall be the duty of the auditor to a council-

Functions of auditor

(a) to audit the accounts of the council for the financial year in respect of which he is appointed;

(b) to investigate such specific matters, if any, relating to the accounts of the council for that financial year as the Minister or the council may direct;

(c) to report to the council on his audit and investigations;

(d) to report to the council any case in which it appears to him that-

(i) any expenditure has been incurred contrary to law;

(ii) any sum has not been duly brought into account;

(iii) any loss or deficiency has been incurred.

**54.** (1) The auditor to a council may, for the purpose of discharging his functions-

Production of documents and taking of evidence

(a) by summons under his hand, require all such persons as he may think necessary to appear personally before him for examination at a time and place to be specified in the summons and to produce all such books, deeds, contracts, vouchers, receipts and other documents relating to the accounts of the council as may be specified in the summons; and

(b) hear and receive evidence and examine witnesses upon oath or affirmation, which he is hereby empowered to administer.

(2) Any person summoned to appear before the auditor to a council who, without sufficient cause-

(a) refuses or fails to comply with the summons; or

(b) having appeared before the auditor, refuses to be examined on oath or affirmation or to take such oath or affirmation; or

(c) having taken such oath or affirmation, refuses to answer such questions pertaining to the accounts of the council as are put to him; shall be guilty of an offence and liable on conviction for every such refusal or failure, to a fine not exceeding one hundred and sixty penalty units or to imprisonment for a period not exceeding six months or to both.

*(As amended by Act No. 13 of 1994)*

**55.** (1) Before completing his audit of the accounts of a council, the auditor to the council shall, by notice in writing to the principal officer of the council, fix a period commencing at least thirty days thereafter and extending for not less than seven days during which representations regarding the accounts of the council may be made to him.

Deposit of accounts and representations thereon.

(2) During the period fixed under subsection (1) for the making of representations and for seven clear days preceding the commencement of such period, the accounts of the council, together with all books, deeds, contracts, vouchers, receipts and other documents relating to the accounts of the council, shall be deposited at all the offices of the council and shall at all reasonable times be open to the inspection of any interested person.

(3) The principal officer of a council shall, not less than fourteen days before the deposit of the accounts of the council, give public notice of-

(a) the deposit of the accounts of the council required by this section and the right to inspect such accounts;

(b) the period during which representations regarding the accounts of the council may be made to the auditor to the council; and

(c) the name and address of the auditor to the council.

(4) During the period fixed under subsection (1), any interested person

may make representations regarding the accounts of the council to the auditor to the council-

(a) in writing; or

(b) by arrangement with the auditor, in person or by his representative.

**56.** (1) After completing his audit of the accounts of a council and his investigations, if any, the auditor to the council shall make his report to the council in pursuance of paragraphs (c) and (d) of section *fifty-three*. Report of auditor

(2) Within sixty days after the receipt by a council of the report of the auditor, the council shall take the report into consideration and shall transmit to the Minister-

(a) a copy of such report, together with the comments of the council thereon; and

(b) a copy of the audited summarised statement of accounts of the council.

(3) The report of the auditor and the audited summarised statement of accounts of a council shall, at all reasonable times after copies thereof have been transmitted to the Minister, be open to the inspection of any interested person.

(4) The Minister may give to a council such directions as he thinks necessary to ensure that the council acts in conformity with any recommendations contained in the report of the auditor.

(5) Without limiting the operation of section *eighty-eight*, where a council fails to transmit to the Minister, within the time allowed under subsection (2), the report and statement of accounts referred to in that subsection, the Minister may, for as long thereafter as the council continues to fail to transmit them, suspend or withhold grants due to the council

*(As amended by Act No. 30 of 1995)*

**57.** (1) The Minister shall cause any part of the report of the auditor to a council made in pursuance of paragraph (d) of section *fifty-three* to be brought to the notice of any councillor or officer or employee of the council who may be affected thereby and shall afford to every such person an opportunity of furnishing an explanation to the Minister. Powers of disallowances and surcharges

(2) After considering any explanation furnished to him under subsection (1), the Minister shall-

(a) disallow any expenditure which has been incurred contrary to law;

(b) surcharge the amount of any expenditure disallowed upon the person or persons responsible for incurring or authorising the expenditure;

(c) surcharge any sum which has not been duly brought into account upon the person or persons by whom that sum ought to have been brought into account;

(d) surcharge the amount of any loss or deficiency upon any person or persons whose negligence or misconduct the loss or deficiency has been incurred;

(e) certify the amount due from any person upon whom he has made a surcharge and cause a copy of the certificate to be furnished to such a person:

Provided that, if the Minister is satisfied that-

(i) any person upon whom a surcharge might be made under this subsection acted reasonably by or in the belief that his action was authorised by law; or

(ii) the act or omission which might have involved the making of a surcharge under this subsection took place in such circumstances as to make it fair and equitable that a disallowance or surcharge should not be made;

the Minister may abstain from making a disallowance or surcharge or make any such reduction in such disallowance or surcharge as he deems equitable.

(3) The Minister may direct a council to make such adjustments to its accounts arising from any disallowances made in pursuance of paragraph (a) of subsection (2) as he thinks necessary.

**58.** Any person who is aggrieved by a disallowance or surcharge made by the Minister, where the disallowance or surcharge relates to an amount exceeding twenty thousand kwacha, may appeal to the High Court, and may in any other case appeal to the High Court or to a subordinate court of competent jurisdiction.

Appeals against disallowances and surcharges

(2) The High Court or subordinate court, as the case may be, may, on such an appeal-

- (a) confirm, vary or quash the decision of the Minister;
- (b) remit the case to the Minister with such directions as it thinks fit for giving effect to the decision on appeal;
- (c) make such other order as to costs or otherwise as may to it seem just.

(3) The Chief Justice may, by statutory instrument, make rules providing for the period within which appeals under this section may be brought and otherwise regulating such appeals.

**59.** (1) Subject to the provisions of subsection (2), the amount of every surcharge certified by the Minister to be due from any person shall be paid by that person to the council within thirty days after a copy of the certificate has been furnished to him, or, if an appeal with respect to the surcharge has been made, within thirty days after the appeal is finally disposed of or abandoned or fails by non-prosecution thereof.

Payment and recovery of surcharges

(2) The Minister may authorise the payment of a surcharge in instalment:

Provided that if default is made in the payment of any instalment the balance of the surcharge outstanding shall thereupon become payable.

(3) The amount of any surcharge which is not paid shall be recoverable by the council as a civil debt.

(4) In any proceedings for the recovery of the amount of a surcharge, a certificate signed by the Minister shall be conclusive evidence of the facts certified and a certificate signed by the treasurer of the council that the sum certified to be due has not been paid to him shall be conclusive evidence of nonpayment unless it is proved that the sum certified to be due has been paid since the date of the certificate.

**60.** (1) In addition to the ordinary audit of the accounts of a council required by the foregoing provisions of this part, the Minister may at any time direct that an extraordinary audit of all or any of the accounts of a council be conducted and for that purpose may appoint a public officer to be the auditor to the council.

Inspections and  
extraordinary  
audits

(2) The provisions of-

(a) sections *fifty-three* and *fifty-four*; and

(b) sections *fifty-seven*, *fifty-eight* and *fifty-nine*;

shall, with the necessary modifications, and subject to the provisions of this section apply in relation to an extraordinary audit of the accounts of a council conducted under this section as they apply in relation to an ordinary audit of such accounts

(3) An auditor shall, after completing an extraordinary audit of the accounts of a council and his investigations, if any, make his report to the Minister and shall submit a copy of the report to the council.

(4) The Minister shall, within sixty days of the receipt of the report under subsection (3), consider the report and shall thereafter take such action as he may consider appropriate in the circumstances.

(5) The Minister may, at any time, appoint a person to inspect all or any of the accounts of a council and the provisions of subsection (4) shall apply accordingly.

(As amended by Act No. 30 of 1995)

## **PART VII**

### **FUNCTIONS**

- 61.** Subject to the provisions of this Act, a council may discharge all or any of the functions set out in the Second Schedule. Power to discharge schedule functions
- 62.** (1) A council may discharge any functions conferred on it by or under this Act within the area of the council and unless the context otherwise requires, a council may, with the, approval of the Minister discharge any such function outside the area of the council. General provision with respect to discharge of functions
- (2) A council may do anything necessary for or incidental to the discharge of any function conferred on it by or under this Act.
- (3) Whenever by or under this Act power is conferred on a council to establish and maintain an undertaking, service or facility, the council may-
- (a) control the undertaking, service or facility and prohibit use of it by the public or any class of the public;
- (b) join with the Government, another council or any other person or authority in establishing and maintaining the undertaking, service or facility;
- (c) abolish or discontinue the undertaking, service or facility.
- (4) Save as otherwise expressly provided by this Act, a council shall discharge any function conferred on it by or under this Act subject to and in accordance with the provisions of any other written law relating to the discharge of that function by the council.

**63.** (1) A council may enter into contracts necessary for the discharge of any of its functions. Contracts

(2) All contracts made by a council shall be made in accordance with the standing orders of the council and, in the case of contracts for the execution of works or the supply of goods or materials, the standing orders shall-

(a) require that, except as otherwise provided by or under the standing orders, notice of the intention of the council to enter into the contract shall be published and tenders invited; and

(b) regulate the manner in which such notice shall be published and tenders invited.

(3) A person entering into a contract with a council shall not be bound to inquire whether the standing orders of the council which apply to the contract have been complied with, and all contracts entered into by a council, if otherwise valid, shall have full force and effect notwithstanding that the standing orders applicable thereto have not been complied with.

**64.** (1) Subject to the provisions of this Act, a council may make standing orders- Standing orders

(a) for regulating the proceedings and business, and for preserving order, at meetings of the council, a committee or a sub-committee;

(b) for regulating the entering into of contracts by the council.

(2) Standing orders under this section may make provision for the exclusion of a councillor or member of a committee or sub-committee from a meeting of the council, committee or sub-committee-

(a) if it is necessary for preserving order at the meeting; or

(b) whilst any contract, proposed contract or other matter in which the councillor or member has any pecuniary interest, direct or

indirect, is under consideration.

**65.** (1) A council may acquire any land by agreement whether by way of purchase, lease, exchange or gift. Acquisition of land

(2) Where the acquisition by a council of any land under the powers conferred by subsection (1) is being hindered by reason of the inability of the parties to agree on the terms thereof or any other cause, the President may, on application by the council and on being satisfied that the land is land to which the Lands Acquisition Act applies and that its acquisition by the council is necessary or expedient- Cap. 189

(a) in the interests of public safety, public order, public morality, public health or town and country planning; or

(b) in order to secure the development or utilisation of that or other land for a purpose beneficial to the inhabitants of the area of the council acquire the land under the powers conferred by that Act. All expenses and compensation thereby incurred shall be paid by the council into the general revenues of the Republic and, upon such payment being made, the estate of any land so acquired by the President shall be transferred to the council at the cost of the council.

**66.** (1) A council may accept, hold and administer any gift of property for any local public purpose, or for the benefit of the inhabitants of the area or any part of the area of the council, and may execute any works (including works of maintenance or improvement) incidental to or consequential on the exercise of the powers conferred by this section. Acceptance of gifts of property

(2) Where the purposes of the gift are purposes for which the council is empowered to expend money raised from a rate, the council may, subject to any condition or restriction attaching to the exercise of that power defray expenditure incurred in the exercise of the powers conferred by subsection (1) out of money so raised.

**67.** (1) Subject to the provisions of this section, a council may sell, let or otherwise dispose of any property of the council. Disposal of property

Provided that, where the council intends to sell a council asset, the

council shall, before conducting the sale, cause a valuation of the asset to be carried out by the department of the Government responsible for property valuations or by a valuer approved by the Minister.

(2) A council shall not sell, let for a period of fourteen years or more, or otherwise dispose of, any land or building except with the approval of the Minister.

*(As amended by Act No. 30 of 1995)*

**67A.** Notwithstanding anything to the contrary contained in any written law, where any judgment or order has been obtained against a council, no execution or attachment or process of any nature, shall be issued against the council or against any property of the Council, but the Town Clerk or Council Secretary, as the case may be, shall cause to be paid out of the revenue of the council such amounts of money as may, by the judgment or order, be awarded against the council to the person entitled to the money.

Restriction  
on  
execution  
against  
property  
of council

*(As amended by Act No. 9 of 2004)*

**68.** (1) A council may, with the approval of the Minister, make grants or loans of money-

Grants and  
loans by  
councils

(a) towards the establishment or maintenance of the institutions hereinafter mentioned, not being of a private character, that is to say:

(i) hospitals, libraries, art galleries, museums and musical or scientific institutions;

(ii) universities, colleges and schools;

(iii) institutions providing accommodation for the aged, destitute or infirm, or for orphans;

(iv) such other institutions as the council may determine;

(b) to persons for educational purposes;

(c) to officers or employees of the council for such purposes as the Minister may determine.

(2) A council may make grants of money to any association of local authorities formed for the purposes of consultations as to the common interest of those authorities.

(3) A council may, with the approval of the Minister, make loans of money-

- (a) to another council;
- (b) to any person or authority for the erection purchase and maintenance of buildings for use as dwellings or clubs and, where it is in the public interest, for use for business or professional purposes.

**69.** (1) A council may, make by-laws imposing all or any of the following levies:

Imposition of levies

- (a) a levy on leviable persons owning or occupying property or premises situated within the area of the council;
- (b) a levy on leviable persons carrying on a business, trade or occupation within the area of the council;
- (c) a levy on the purchase or sale of a commodity within the area of the council.

(2) By-laws imposing a levy may-

(a) make different provision with respect to different classes of property or premises, different classes of businesses, trade or occupations and different classes of commodities;

(b) make provision for-

- (i) specifying the manner and times at which and the persons by whom a levy shall be paid and collected;
- (ii) exemptions from a levy;
- (iii) suspending a levy, in whole or in part.

(3) The proceeds of a levy shall accrue to the council.

(4) The amount of any levy which is not paid shall be recoverable by the

council as a civil debt.

(5) For the purpose of this section, "leviable person" means-

- (a) any person apparently of or above the age of eighteen years; and
- (b) any body of persons, corporate or unincorporate.

**70.** (1) A council may impose fees or charges payable to the council- Imposition of other fees and charges

(a) for any licence or permit issued under any by-law or regulation made under this Act;

(b) for any service or facility provided or goods or documents supplied by the council in pursuance of or in connection with the discharge of any function of the council.

(2) All fees and charges imposed by a council under the section shall be regulated by by-law or, if not so regulated, may be imposed by resolution of the Council:

Provided that a council shall not impose any fees or charges in respect of owners rates and personal levy without the prior approval of the Minister.

*(As amended by Act no 19 of 1992)*

**71.** (1) A council may, with the approval of the Minister- Power to pay certain fees, allowances and expenses

(a) pay fees to councillors;

(b) pay allowances to councillors, officers and employees of the council in respect of travelling, subsistence and out-of pocket expenses incurred by them on the business of the Council.

(c) pay allowances to the spouse of the mayor or chairman and of the principal officer of the council in respect of travelling, subsistence and out-of pocket expenses incurred by the spouse in attending, by invitation, a conference or function of national or local importance;

(d) pay expenses incurred in undertaking public hospitality.

(2) A council may, with the approval of the Minister, pay to the mayor or chairman of the council during his year of office such allowance as it thinks reasonable.

Provided that whenever the functions of the mayor or chairman of the council are discharged in any continuous period not being less than thirty days, by the deputy mayor or the vice-chairman of the council a proportionate part of the allowance under this section shall be paid for such period to the deputy mayor or vice-chairman of the council.

**72.** (1) A council may, with the approval of the Minister establish, maintain, control and contribute to any pension, provident or benevolent fund intended for the benefit of its officers and their dependants and may, from any such fund, grant, pensions and gratuities to its officers on their retirement from the service of the council and to the dependants of deceased officers.

Pensions and gratuities for officers, employees and dependants

(2) Where no fund referred to in subsection (1) has been established or in cases where no benefit accrues from any such fund which has been established, a council may, with the approval of the Minister, grant from its general fund pensions and gratuities to officers on their retirement from the service of the council and to the dependants of deceased officers.

(3) Where any officer or dependant of a deceased officer is in receipt of a pension from a fund referred to in subsection (1), a council may, with the approval of the Minister, from its general fund grant to such officer or dependant an additional or increased pension or gratuity in respect of any service of the officer or deceased officer in relation to which no pension or gratuity is payable from the fund:

Provided that the aggregate of the pension payable from the fund and the

additional or increased pension or gratuity payable under this subsection shall not exceed the amount which would have been payable had the whole service of the officer or deceased officer been service in relation to which a pension or gratuity was payable from the fund.

(4) For the purpose of this section "officer" means an officer or employee of council.

**73.** (1) Subject to the provisions of this section, a city council or municipal council may-

Aldermen

(a) appoint to the dignity of alderman any person who has held office as a councillor of that council for a period or periods amounting in the aggregate to not less than ten years;

(b) if it considers that a person appointed to the dignity of alderman has subsequently ceased to be worthy of the dignity, revoke the appointment.

(2) During any time when the number of councillors who are aldermen equals or exceeds one third of the whole number of councillors of which a council consists, no further appointment of aldermen may be made from persons who are councillors.

(3) An alderman shall be entitled whether or not he is a councillor, to retain the title of alderman.

(4) Every person who immediately before the first of January, 1981, was an alderman of a city council or municipal council shall be deemed to have been appointed to that dignity under this Act.

**74.** (1) Subject to the provisions of this section a city council or a municipal council may-

Freeman

(a) admit to the status of honorary freeman of the city or municipality persons of distinction and persons who have rendered eminent services to the city or municipality;

(b) if it considers that a person admitted to the status of honorary

freeman of the city or municipality has subsequently ceased to be worthy thereof, annul the admission of the person to such status.

(2) The power of admitting or annulling the admission of a person to the status of honorary freeman of a city or municipality shall not be exercised except by resolution of the city or municipal council supported by the votes of not less than two-thirds of the whole number of councillors.

(3) The principal officer of a municipal council shall keep a list, to be styled the honorary freemen's roll, in which shall be inscribed the names of all persons admitted to the status of honorary freeman of the municipality and from which shall be removed the name of any person whose admission to that status has been annulled.

**75.** The Minister may, by statutory order confer upon any council power not otherwise conferred upon such council by this Act or any other written law, which the Minister considers necessary or desirable, in the interests or for the well-being of the inhabitants in, or for the good rule and government of, the area of such council, for such council to have.

Power of minister to confer additional functions on council

## **PART VIII**

### **BY-LAWS AND REGULATIONS**

Power to make by-laws

**76.** (1) Subject to the provisions of this Act, a council may make by-laws for the good rule and government of its area and, more particularly-

Power to make by-laws

(a) for controlling any of the things which, and any of the persons whom, it is empowered by or under this Act to control;

(b) for prohibiting any of the things which it is empowered by or under this Act to prohibit;

(c) for requiring or compelling the doing of any of the things which

it is empowered by or under this Act to require or compel;

(d) for providing for the issue or supply of licences permits, certificates and other instruments and documents.

(2) A by-law made by a council under this Act may make different provisions with respect to different parts of the area of of the council, different classes of persons, different classes of things and different circumstances.

**77.** Every by-law made by a council under this Act shall be in the English language:

Language of  
by-laws

Provided that nothing in this section shall be construed as precluding the use of another language as well as English to bring the content of any such by-law to the notice of any person concerned.

**78.** A by-law made by a council under this Act may-

Conferring of  
powers on officers  
and agents of  
council

(a) require acts or things to be performed or done to the satisfaction of an officer or agent of the council and may empower an officer or agent of the council to issue directions to any person requiring acts or things to be performed or done, imposing conditions and prescribing periods and dates upon, within or before which such acts or things shall be performed or done or such conditions shall be fulfilled; and

(b) confer on the officers and agents of the council such powers of entry, inspection, inquiry and execution of works as may be reasonably necessary for the proper carrying out or enforcement thereof.

**79.** (1) A by-law made by a council under this Act may prescribe penalties for any contravention of such by-law, not exceeding-

Penalties

(a) a fine of eighty penalty units or imprisonment for a period of six months, or both; and

(b) in the case of a continuing contravention of such by-law, a fine of sixteen penalty units for every day during which the contravention continues.

(2) A by-law made by a council under this Act may provide that in addition to or in substitution for any penalty prescribed for a contravention of such by-law, any expenses incurred by the council in consequence of such contravention or in the execution of any work directed by or under such by-law to be executed by any person and not executed by him, shall be paid by the person committing the contravention or failing to execute the work.

(3) Where any person is convicted of contravening any condition subject to which a licence or permit has been issued to him under any by-law or regulation made under this Act, the court which convicts him may in addition to or in substitution for any penalty prescribed for a contravention of such by-law or regulation, revoke the licence or permit in respect of which the offence was committed.

*(As amended by Act No. 13 of 1994)*

**80.** Nothing in this Act contained shall be construed as empowering a council to make any by-law which is in conflict with or derogates from the provisions of any other written law; and to the extent that any by-law conflicts with or derogates from the provisions of any other written law, it shall be void.

By-laws not to conflict with other written laws

#### Procedure for Making By-laws and Powers of Minister

**81.** (1) For at least thirty days before application is made to the Minister for confirmation of a by-law, a copy of the by-law shall be deposited at the offices of the council and shall, at all reasonable times, be open to the inspection of any interested person.

Notice of by-laws and objection thereto

(2) The principal officer of a council shall, at least thirty days before application is made for confirmation of a by-law, give public notice of-

- (a) the intention to apply for confirmation of the by-law;
- (b) the deposit of the by-law required by this section and the right to inspect such by-law;
- (c) the procedure for lodging objections to the by-law.

(3) Any interested person may, at any time before application is made for confirmation of the by-law, lodge an objection in writing to the by-law with the principal officer of the council and shall furnish a copy of his objection to the Minister.

**82.** (1) No by-law made by a council under this Act shall have the force of law until it has been confirmed by the Minister.

Confirmation of  
by-laws

(2) An application by a council for the confirmation of any by-law by the Minister shall be accompanied by-

(a) three authenticated copies of the by-law;

(b) an authenticated copy of the minutes of the meeting of the council at which the by-law was made;

(c) a certificate, signed by the principal officer of the council, that the provisions of section *eighty-one* have been complied with; and

(d) the comments of the council on any objections lodged.

(3) Before confirming any by-law made by a council, the Minister shall take into consideration any objections lodged and the comments of the council thereon.

(4) The Minister may refuse to confirm any by-law submitted to him or may confirm the by-law in whole or in part, or with such modifications as appear to him to be advisable and not opposed to the true spirit and intent of the by-law.

**83.** (1) Subject to the provisions of this section, the Minister may, by statutory order, amend or revoke any by-law by a council under this Act.

Power of Minister  
to amend or revoke  
by-laws

(2) Before exercising the powers conferred by subsection (1), the Minister shall give the council reasonable notice of his intentions and shall afford the council an opportunity of making representations to him

thereon.

## Regulations

**84.** (1) The Minister may, by statutory instrument, make regulations for any purpose for which, and to the same extent to which a council is empowered by or under this Act to make by-laws or standing orders.

Power to make regulations

(2) Regulations made under subsection (1) shall have the force of law only in the areas to which they are applied in pursuance of section *eighty-five* and, if any regulations so applied to any area are amended or revoked by subsequent regulations made under subsection (1), the subsequent regulations shall have the force of law in that area only to the extent that they are applied thereto in pursuance of section *eighty-five*.

**85.** After consultation with a council, the Minister may, by statutory order-

Application of regulations

- (a) apply all or any regulations made under section *eighty-four* to the whole or any part of the area of the council;
- (b) withdraw the application of any regulations so applied.

**86.** In so far as regulations made under section *eighty-four* which apply in the area of a council conflict with or derogate from the provisions of any by-laws or standing orders made by the council under this Act, the regulations shall prevail.

Regulations to prevail over by-laws or standing orders

**87.** Any reference in any other written law to by-laws or standing orders made by a council under this Act shall, unless the context otherwise requires, be construed as including a reference to regulations made under section *eighty-four* which apply in the area of the council.

Reference in other written law

## PART IX

### LOCAL GOVERNMENT ADMINISTRATOR

**88.** (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

Appointment of Local Government Administrator and

to do so, he may, by statutory order-

discharge by him  
of functions of  
council

- (a) appoint a public officer 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 *one-hundred and twenty*, dissolve the council after receiving prior approval of the President, and direct the holding of elections within ninety days from the date of the dissolution.

(2) Any functions 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.

*(As amended by Act No. 30 of 1995)*

**89.** (1) An order made under section *eighty-eight* shall, unless sooner revoked, expire after ninety days from the date of making thereof:

Revocation of  
appointment order

Provided that the Minister may, if he considers it desirable in the interest of local administration, extend the order for further periods of ninety days at a time.

(2) On the revocation of the order appointing the Local Government Administrator made under section *eighty-eight* the Local Government Administrator shall cease to discharge the functions of the council, and such functions shall be invested in and discharged by the council as constituted in accordance with section *nine*.

## **PART X**

### **SERVICE WITH COUNCILS AND PROVINCIAL LOCAL GOVERNMENT APPEALS BOARDS**

**90.** Subject to regulations made under this Part, a council shall have power to-

Councils may appoint staff

- (a) appoint officers and other employees for the purpose of assisting the council in carrying out its functions;
- (b) discipline any officer or employee.

*(As amended by Act No. 30 of 1995)*

**91.** (1) A council may, upon receiving a request from another council, second an officer to that council for such period and on such terms and conditions as may be agreed between the council and the council requesting the secondment.

Secondment to another council

(2) A council may, in accordance with regulations issued by the Minister, make arrangements with any Ministry or statutory corporation for the secondment to the council of an officer of the civil service or of any such corporation.

*(As amended by Act No. 30 of 1995)*

**92.** (1) The Minister may, by statutory instrument, make regulations governing service with a council and the powers and duties of councils with regard to their officers and employees.

Regulations

(2) Without prejudice to the generality of subsection (1), regulations made under this section may provide for-

- (a) the creation or abolition of any post in a council;
- (b) the terms and conditions of appointment, promotion, transfer, dismissal, discharge and discipline of officers and employees;

- (c) the qualifications for appointment to any post in a council;
- (d) a right of appeal to a provincial local government appeals board by an officer or employee and the procedures to be followed for such appeals;
- (e) the establishment of a council secretariat under the supervision of the principal officer of the council, the other members of the secretariat, and their functions; or
- (f) the training of employees and officials of a council and the standards for promotion.

(3) Regulations under this section may make different provisions for different categories of councils and different categories of officers or employees.

*(As amended by Act No. 30 of 1995)*

**93.** (1) The Minister may, by statutory order, establish a provincial local government appeals board in each Province which shall consist of a Chairman and not less than three nor more than seven other members.

Establishment of provincial local government appeals boards

(2) The members of a board shall be appointed by the Minister and shall serve on a part-time basis.

(3) A person shall not be qualified for appointment as a member of a board if-

- (a) he holds the office of President of the Republic;
- (b) he is a member of the National Assembly;
- (c) he is a councillor;
- (d) he is employed in any council;
- (e) he is a member of any staff association of a council, a trade

- union or any other similar organisation;
- (f) he is, under any law in force in Zambia, adjudged or otherwise declared to be of unsound mind;
  - (g) he has been sentenced to a term of imprisonment exceeding six months; or
  - (h) he is an undischarged bankrupt, having been adjudged or otherwise declared bankrupt, under any law in force in Zambia.

(4) One of the members of the board shall be appointed by the Minister as Chairman of the board.

*(As amended by Act No. 30 of 1995)*

**94.** (1) Subject to the other provisions of this section-

Provisions relating  
to the office of  
member

- (a) a member of a board shall hold office for a term of two years and shall be eligible for re-appointment for such term, and shall serve on such terms and conditions, as the Minister may determine;
- (b) the office of a member shall become vacant-
  - (i) at the expiry of the term for which he was appointed or re-appointed;
  - (ii) if any circumstances arise that, if he were not a member, would cause him to be disqualified for appointment as such;
  - (iii) if he dies; or
  - (iv) if he resigns his office as such.

(2) A member may be removed from office by the Minister only for inability to discharge the functions of his office, arising from infirmity of body or mind or any other cause, or for misbehaviour.

(3) If the office of the Chairman is vacant or if the person holding that office is for any reason unable to perform the functions of that office, then, until a person has been appointed to, and has assumed the functions of, that office or until the person holding that office has

resumed those functions, as the case may be, those functions shall be performed by such one of the other members as may be designated in that behalf by the Minister.

(4) A member shall not be eligible for appointment to any post in the service of a council for a period of twelve months after he has ceased to be a member.

(5) A member may resign from office by notice in writing addressed to the Minister, and the resignation shall take effect when it is accepted by the Minister.

*(As amended by Act No. 30 of 1995)*

**95.** A member shall be paid such allowances as the Minister may determine. Allowances

*(As amended by Act No. 30 of 1995)*

**96.** The Provincial Local Government Officer shall be the secretary of the provincial local government appeals board. Secretary

*(As amended by Act No. 30 of 1995)*

**97.** No action or other proceedings shall be brought against any member of a board for or in respect of any act done or omitted to be done in good faith in the exercise or purported exercise of his powers under this Act or any regulation or rule made thereunder. Immunity of members

*(As amended by Act No. 30 of 1995)*

**98.** (1) Every member of a board shall, on appointment but before assuming office, take an oath in the form set out in the Third Schedule. Oath of office

(2) Where any person is required to take an oath under this section and-

(a) he has no religious belief; or

(b) the taking of an oath is contrary to his religious belief;

he may take and subscribe a solemn affirmation in the form prescribed by subsection (1) substituting the words "solemnly and sincerely declare

and affirm" for the word "swear" and omitting the words "SO HELP ME GOD".

*(As amended by Act No. 30 of 1995)*

**99.** (1) The functions of a board shall be to-

Powers of boards

- (a) hear grievances from officers relating to promotions or demotions;
- (b) review disciplinary cases from the council relating to officers and employees of that council; and
- (c) hear appeals on disciplinary matters from officers and employees of such councils.

(2) The decision of a board shall be binding upon the council and the officer or employee, subject to an appeal to a court of competent jurisdiction.

*(As amended by Act No. 30 of 1995)*

**100.** (1) Any decision of a board shall require the support of a majority vote of all the members present at that meeting of the board:

Performance of functions of boards

Provided that-

- (a) if upon any question the votes of the members are equally divided, the Chairman shall have a casting vote;
- (b) whenever it considers it expedient for the proper discharge of its functions, a board may invite any person to advise the board upon any matter being considered by the board, but the board shall not be bound to accept such advice.

(2) The quorum of a board shall be not less than one-half of all the members.

**101.** Any person who, in connection with the exercise of any function of

Offence of supplying false

a board, wilfully gives to a board or any member thereof, any information which he knows to be false or misleading in any material particular shall be guilty of an offence and shall be liable upon conviction to a fine not exceeding six thousand penalty units or to imprisonment for a term not exceeding two years, or to both.

information

*(As amended by Act No. 30 of 1995)*

**102.** Notwithstanding anything to the contrary in any other written law, no person shall in any legal proceedings be permitted or compelled to produce or disclose any communication, written or oral, which has taken place between a board or any member of a board or officer of the board, or any council or any person employed by a council, or between the members or officers or employees of the council in exercise of, or in connection with the exercise of, any of the functions of a board, unless the Minister has consented in writing to such production or disclosure.

Certain communications to be privileged

*(As amended by Act No. 30 of 1995)*

**103.** (1) No person shall, without the consent in writing given by or on behalf of a council or a board, publish or disclose to any person, otherwise than in the course of his duties, the contents of any document, communication or information which relates to and which has come to his knowledge in the course of his duties under this Act.

Unauthorised disclosure of information

(2) Any person who knowingly contravenes subsection (1) shall be guilty of an offence and shall be liable upon conviction to a fine not exceeding six thousand penalty units or to imprisonment for a term not exceeding one year, or to both.

(3) If any person having information which to his knowledge has been published or disclosed in contravention of subsection (1) unlawfully publishes or communicates any such information to any other person, he shall be guilty of an offence and shall be liable upon conviction to a fine not exceeding six thousand penalty units or to imprisonment for a term not exceeding one year, or to both.

*(As amended by Act No. 30 of 1995)*

**104.** Any person who otherwise than in the course of his duties directly or indirectly by himself or by any other person in any manner whatsoever influences or attempts to influence any decision of a board shall be guilty of an offence and shall be liable upon conviction to a fine

Offence to influence or attempt to influence board

not exceeding ten thousand penalty units or to imprisonment for a term not exceeding two years, or to both:

Provided that nothing in this section shall prohibit any person from giving a certificate or testimonial to any applicant or candidate for any office or prohibit any person from supplying any information or assistance upon formal request made by a board.

*(As amended by Act No. 30 of 1995)*

**105.** *Repealed by Act No. 30 of 1995.*

**106.** No prosecution shall be instituted in respect of any offence under section *one hundred and four* or section *one-hundred and five* except by, or with the consent of, the Director of Public Prosecutions.

Fiat of Director of  
Public  
Prosecutions

## **PART XI**

### **FIRE SERVICES**

**107.** The Minister may, by statutory instrument-

Fire services

- (a) establish a fire authority for any area;
- (b) alter the area of any fire authority;
- (c) require a council to carry out the functions of a fire authority;
- (d) require a fire authority to enter into arrangements with other fire authorities or other organisations for mutual co-operation and assistance;
- (e) prescribe the powers and functions of a fire authority;
- (f) regulate the operations of any fire brigade;
- (g) regulate the standards for providing, maintaining and operating by any person of-
  - (i) adequate fire-fighting equipment;
  - (ii) fire-prevention equipment or service;
  - (iii) fire-escape facilities in any premises;
- (h) provide for the inspection of any premises by fire inspectors or

- fire officers;
- (j) provide for the qualifications for appointment, powers and functions of fire inspectors or fire officers, and for their names to be notified in the *Gazette*; and
  - (i) provide for such matters as to him appear necessary for the purposes of ensuring adequate fire services in any area.

## PART XII

### MISCELLANEOUS PROVISIONS

**108.** (1) A document requiring authentication by a council shall be sufficiently authenticated if signed by the principal officer of the council or any other officer of the council authorised in that behalf by resolution of the council.

Authentication of documents and execution of deeds

(2) A deed shall be deemed to have been duly executed by the council if the common seal of the council be affixed thereto in the presence of, and attested by, one councillor and either the principal officer of the council or any other officer of the council authorised in that behalf by resolution of the council.

(3) Any document purporting to be a document duly authenticated or executed by or on behalf of a council shall, unless the contrary is proved, be deemed to be a document so executed or authenticated.

**109.** (1) Whenever, by or under this Act, it is provided that a document shall be open to the inspection by any person or class of persons.

Inspection of documents

- (a) any such person may, without payment, take copies thereof or make extracts therefrom;
- (b) the council may supply a copy thereof or any extract therefrom to any such person on payment of such charge, if any, as may be imposed under this Act.

(2) A document shall be deemed to be open to the inspection of any person or class of persons at all reasonable times if it is open to such

inspection at the offices of a council during the normal office hours of the council.

**110.** A public notice required to be given by a council or by an officer of a council shall be given by publication of the notice in a newspaper circulating in the area of the council or in such other manner as the Minister may approve.

Public notice

**111.** (1) Where this Act or any other written law authorises or requires any document to be served upon a council, such document shall be deemed to have been effectively served if served-

Service of documents

- (a) personally upon the principal officer of the council or any other person empowered by the principal officer of the council to accept service on behalf of the council; or
- (b) by post addressed to the principal officer of the council.

(2) Where this Act or any other written law authorises or requires a council to serve any document on any person such document shall be deemed to have been effectively served if served-

- (a) personally upon such person, any agent of such person empowered to accept service on his behalf or any adult of the family of such person;
- (b) by post addressed to the person at the last address known to the council; or
- (c) by affixing a copy of the document on some conspicuous part of any premises or land to which it relates or in connection with which it is authorised or required to be served; or
- (d) where for any reason it is not possible to effect service of the document in any of the manners described in paragraphs (a), (b) and (c) by publication of a copy of the document in the *Gazette* and in at least one newspaper circulating in the area of the council.

**112.** (1) A council may institute criminal proceedings against any

Legal proceedings

person before a subordinate court in respect of a contravention of this Act within its area, or any by-law of the council, alleged to have been committed by that person.

(2) Where a council deems it expedient for the promotion or protection of the interests of the inhabitants of its area, it may institute or defend any civil proceedings.

(3) A council may by resolution authorise any officer of the council, either generally or in respect of any particular matter, to institute or defend on its behalf proceedings before any subordinate court or to appear on its behalf before a subordinate court in any proceedings instituted by it or on its behalf or against it; and any officer so authorised shall be entitled to institute or defend any such proceedings and to conduct any such proceedings although he is not a legal practitioner.

(4) For the purposes of this section "subordinate court" means any court established or recognised under the Subordinate Courts Act or the Local Courts Act. Cap. 28  
Cap. 29

**113.** (1) The minutes of a meeting of a council or committee purporting to be signed as provided by this Act, and any copy of or extract therefrom duly authenticated shall be *prima facie* evidence in any proceedings of the facts set out therein without proof of- Evidence

- (a) the signature of the person presiding at the meeting; or
- (b) the meeting to which the minutes refer having been duly convened or held; or
- (c) the person attending such meetings having been councillors or members of the committee as the case may be.

(2) The books and registers of a council and any copy of or extract therefrom duly authenticated shall, in any proceedings for the recovery of any amount alleged to be due to the council, be *prima facie* evidence of the amounts so due.

**114.** Any person who-

Penalties for

- (a) wilfully obstructs any officer, employee or agent of a council in the discharge of his functions; or
- (b) being the occupier of any premises, prevents the owner of such premises from executing any work which he is required by or under this Act to execute, or otherwise prevents the owner of such premises from complying with any of the lawful requirements of a council or of an officer, employee or agent of a council; or
- (c) being the occupier of any premises, on demand made by an officer, employee or agent of a council, refuses or wilfully mistakes the name of the owner of such premises;

obstruction

shall be guilty of an offence and liable, on conviction, to a fine not exceeding eighty penalty units or to imprisonment for a period not exceeding six months, or to both.

*(As amended by Act No. 13 of 1994)*

**115.** (1) Any police officer may arrest without warrant any person upon reasonable suspicion of his having committed a contravention of this Act.

Power of arrest

(2) Any officer of a council who is authorised thereto by the council with the approval of the Inspector General of Police, may, when wearing such uniform or bearing such visible badge of office as the council may determine, arrest without warrant any person upon reasonable suspicion of his having committed a contravention of this Act within the area of the Council and may detain such person until he can be delivered into the custody of a police officer to be dealt with according to law.

(3) No person shall be arrested or detained without warrant under this section unless reasonable grounds exist for believing that, except by the arrest of the person, he could not be found or made answerable to justice without undue delay.

**116.** An officer or employee of a council shall not be personally liable in respect of any act done by him in the execution or purported execution of this Act or any other written law and within the scope of his employment, if he did that act in the honest belief that his duty under this Act or that written law required or entitled him to do it:

Protection for officers and employees of council acting in good faith

Provided that nothing in this section shall be construed as relieving a council from any liability in respect of acts of its officers or employees.

**117.** Any function discharged by a person purporting to be an officer or employee of a council shall not be invalidated only by reason of a defect afterwards discovered in the appointment or qualifications of such officer or employee.

Validity of discharge of functions by officers and employees of council

**118.** (1) There shall be appointed for each Province a public officer styled the Provincial Local Government Officer and there may be appointed for any District a public officer styled the District Local Government Officer.

Provincial and District Local Government Officers

(2) A Provincial Local Government Officer and a District Local Government Officer shall within the Province or District for which he is appointed-

- (a) discharge such functions of the Minister under Statutory Functions Act and this Act as may be delegated to him; and
- (b) discharge such other functions as may be conferred or imposed upon him by or under any written law.

**119.** (1) Whenever the Minister is authorised to approve, confirm or determine any matter for the purposes of this Act, then unless the context otherwise requires, the Minister may-

Powers of Minister to approve, confirm or determine matters

- (a) approve, confirm or determine the matter generally or specially and subject to such conditions and limitations as may be specified in the approval, confirmation or determination;
- (b) withdraw or alter any approval, confirmation or determination so given or made;

Provided that no such withdrawal or alteration shall affect anything lawfully done in pursuance of the approval, confirmation or determination.

(2) Any approval, confirmation or determination of the Minister for the purposes of this Act shall be signified-

(a) by statutory order; or

(b) by notice in writing addressed to the principal officer of the council concerned;

and the withdrawal or alteration of any such approval, confirmation or determination shall be signified in like manner.

**120.** (1) The Minister may, for the better discharge of any of his functions under this Act, appoint a person or persons to inquire into any matter relating to the discharge of those functions and, on the completion of the inquiry, to report and make recommendations thereon to the Minister.

Inquiries

(2) The provisions of the Inquiries Act shall apply in relation to any person appointed under this section as if those persons were commissioners appointed by a commission issued under that Act and references in that Act to commissioners and a commission shall be construed accordingly.

(3) Nothing in this section shall be construed as requiring the Minister, in the discharge of his functions under this Act, to give effect to any recommendations made to him under subsection (1).

## **PART XIII**

### **REPEAL, SAVINGS AND TRANSITIONAL**

**121.** (1) Parts IX, X, XI, XII and XIII of the Local Administration Act are hereby repealed.

Repeal and  
transitional  
provisions Act No.  
15 of 1980

(2) On the establishment of a council for a District under this Act the remaining provisions of the Local Administration Act shall cease to have effect in or in relation to that District as if they had been repealed in

relation thereto; and when a council has been established under this Act for every District in Zambia the Minister shall, by statutory order declare the remaining provisions of the Local Administration Act to have expired.

(3) Where a council is established for a District under this Act, the Minister shall, by a transfer and vesting order, make such provisions as may be, made in accordance with the First Schedule as is necessary and appropriate for the vesting in the new council the property, rights and obligations of the council established for that District by the Local Administration Act, for the transfer of staff and for any other matter as may be necessary or expedient for winding up the affairs of the council established under the Local Administration Act and its succession as the local government authority of the council established by this Act.

(4) A transfer and vesting order under this section may be made in respect of any one council established by this Act or in respect of any class or classes of such councils.

(5) Where as a consequence of any statutory order made by the President under Provincial and District Boundaries Act-

(a) a new District is established;

(b) the area of any District is altered;

(c) a District ceased to exist, the Minister may, by statutory order (in this Act referred to as a transfer and vesting order), make any such provision as may be made in accordance with the First Schedule for such changes as are necessary or appropriate as regards the constitution, property, rights, obligations and staff of and any other matter relating to, any council affected by a change in its area, any new council or any council established for a District which ceases to exist.

(6) Where a District ceases to exist, a transfer and vesting order made in respect of the council established for that District shall include provision for the disestablishment of the council.

(7) Where the name of any District is changed, the name of the council

established for that District shall be changed to conform with name of the of the District.

**122.** Notwithstanding that the Local Administration Act shall have ceased to have effect in, or in relation to a District, or its repeal- Savings

- (a) any regulations, by-laws, rules or orders made or deemed to have been made under the said Act and having force and effect immediately before the commencement of this Act or, as the case may be, before the establishment of a council under this Act for the relevant District, shall, in so far as they are not inconsistent with this Act and subject to their amendment or revocation by a comparable authority under this Act, continue in force and effect within the same territorial limits, and shall be deemed to have been made by the successor, or a comparable, authority under this Act;
- (b) any standing orders regulating the duties and procedure of a council established under the Local Administration Act or the staff of such a council and having force and effect as provided in paragraph (a), shall subject to their amendment or revocation by a council established under this Act for the same District council established under this Act for the same District, be deemed to the standing orders of the council established under this Act;
- (c) any licence or permit issued by, or any registration affected by, a council established under the Local Administration Act under any written law and having force and affect as provided in paragraph (a), shall be deemed to have been issued, or affected by the council for the same District established under this Act.

**123.** (1) The amendment of section *nine* by the Local Government (Amendment) Act, 1995, shall not discontinue or otherwise affect the existence of any council, or affect the tenure of any councillor holding office immediately before that Act came into operation; and any such councillor shall, on the commencement of that Act, be deemed to hold office under paragraph (c) of subsection (1) of that section, as amended by that Act.

Savings and transitional provisions consequent on the enactment of Act No. 30 of 1995

(2) The abolition of the Local Government Service Commission by the Local Government (Amendment) Act, 1995 shall not affect, in any manner, the employment of any person with a council.

*(As amended by Act No. 30 of 1995)*

# FIRST SCHEDULE

(Section 5 and 121)

## TRANSFER AND VESTING ORDERS

1. In this Schedule- "predecessor: means, as the case may require, a council established under the Local Administration Act, or a council established under this Act for a District which has ceased to exist or whose area has been decreased by changes in the area of the District, and

"Successor" means, as the case may require, a council established under this Act for the same District as a council established under the Local Administration Act or for a District which has ceased to exist or whose areas has been increased by changes in the area of the District.

2. A transfer and vesting order may make provisions for-

(a) the transfer to the successor of the funds, accounts investments and other property of the predecessor;

(b) the transfer to the successor of any rights, liabilities and obligations of the predecessor;

Provided that in any case where an order is made as a result of a change in the areas of the predecessor and the successor, any transfer of the kind mentioned in paragraph (a) or (b) shall be commensurate with the changes involved;

(c) the substitution of the successor for the predecessor in any legal proceedings;

(d) in any case in which both predecessor and successor are continuing councils, the payment of compensation, or of any contribution, by the successor to the predecessor, or the giving of guarantees by the one to the other;

(e) the transfer of staff and provisions for the transfer of superannuation benefits:-

(f) the preservation and transfer into proper custody of the record of a council.

3. In the case of a transfer and vesting order made under section five the order may also-

(a) provide for the alteration of the constitutions of councils concerned; and

(b) where any council ceases to exist, make the like provision as is made in section *one hundred and twenty-two*.

# SECOND SCHEDULE

(Section 61)

## FUNCTIONS OF A COUNCIL

1. To establish and maintain offices and buildings for the purpose of transacting the business of the council and for public meetings and assembles. General administration
2. To insure against losses, damages, risks and liabilities which the council may incur.
3. To maintain law and order and ensure national security and the good administration of the council.
4. To prohibit and control the erection and display of advertisements and advertising devices in, or in view of, streets and other public places. Advertisements
5. To establish and maintain farms and allotment gardens. Agriculture
6. To take and require the taking of measures for the-
  - (a) storage, market and preservation of agricultural produce;
  - (b) conservation of natural resources, and
  - (c) prevention of soil erosion, including the prohibition and control of cultivation.
7. To take and require the taking of measures for control of grass weeds and wild vegetation and for the suppression and control of plant and insect pests and diseases.
8. To maintain, protect and control local forests and woodlands.
9. To control the keeping and movement of livestock.
10. To establish and maintain ponds.
11. To establish and maintain grazing grounds.
12. To take measures for the destruction and control of bees and of dangerous animals and reptiles.
13. To control the slaughtering of animals the meat of which is intended for human consumption; to control the sale of such meat; and to require the disposal of diseased animals and carcasses and of meat which is unfit for human consumption.
14. To establish and maintain abattoirs, cold storage facilities and plans for the processing of by-products from abattoirs.
15. To control the movement of the carcasses of animals.
16. (a) to establish and maintain roads;  
(b) to exercise general control, care and maintenance of all public roads, streets, avenues,

lanes, sanitary lanes and footwalks forming part thereof, bridges, squares, ferries and water courses and to remove all obstacles therefrom;

(c) to close or divert any public road street or throughfare;

(d) to close or divert ferries and water courses;

(e) to declare a street or road to be a public street or road;

(f) to compile and maintain a register of all public streets and roads;

(g) to make up to tarmacadamised standard any private street and to charge the statutory leaseholders or occupiers of the land abutting on such streets in proportion to frontage and to recover the costs as a civil debt; and

17. To prohibit and control the erection and laying in, under or over, and the removal from, streets and other public places of-

(a) posts, wires, pipes, conduits, cable and other apparatus;

(b) temporary platforms, seats and other structures;

(b) street decorations.

18. To control traffic and the parking of vehicles and, for that purpose to establish and maintain parking meters and premises for the parking of vehicles.

19. To take measures for the promotion of road safety.

20. To prepare and administer schemes for the encouragement of and participation in, community development.

Community  
development

21. To establish and maintain a system of lighting in streets and other public places.

22. To establish and maintain firefighting and prevention services, and to take and require the taking of measures for the protection of life, property and natural resources from damage by fire.

23. To control persons and premises engaged in or used for the manufacture, preparation, storage, handling, sale or distribution of items of food or drink.

24. To brew beer.

25. To establish and maintain premises for the sale, of and to sell therefrom, items of food and drink (including beer and other intoxicating liquor) for consumption on or off the premises.

26. To establish and maintain catering services.

27. To erect, purchase and maintain buildings used as dwellings or clubs and, where it is in the public interest, for use for business or professional purposes.

28. To erect, purchase and maintain buildings and facilities and encourage the erection of dwellings needed for the accommodation of persons residing within the area of the council

29. To prohibit and control the development and use of land and buildings and the erection of buildings, in the interests of public health, public safety, and the proper and orderly development of the area of the council.

30. To control the demolition and removal of building and to require the altering demolition and removal of buildings which-

(a) do not conform to plans and specifications in respect thereof approved by the council; and or

(b) are a danger to public health or public safety.

31. (1) To require the statutory leaseholder or occupier of land to do any of the following acts-

(a) to remove, lower or trim to the satisfaction of the council any tree shrub or hedge over-hanging or interfering with traffic in any street or with any wires, or with works of the council.

(b) to remove any dilapidated fence or structure abutting on any public street or place.

(c) to paint, distemper, whitewash or colourwash the outside walls or roof of any building forming part of the premises;

(d) to tidy the premises; and

(e) to remove from the premises any unsightly debris, including derelict vehicles.

(2) To provide space no which debris and derelict vehicles may be deposited.

(3) To prohibit, control and require the fencing of land to control the use of barbed wire and other dangerous materials for fencing.

(4) In the event of the statutory leaseholder or occupier failing to comply with a notice from the council requiring him to perform any of the acts specified in sub-paragraph (1), to undertake the work and charge the statutory leaseholder or occupier with the cost thereof.

32. To assign names to localities and numbers to premises and to require the number assigned to any premises to be displayed thereon.

33. To establish and maintain parks, zoos, gardens, pleasure grounds, camping grounds, caravan sites and open spaces.

Public  
amenities

34. To plant, trim and remove trees, shrubs and plants in streets and other public places; and to prohibit and control the planting, camping, destruction and removal of trees, shrubs, and plants in streets and other public places.

35. To establish and maintain swimming baths and bathing places.

36. To establish and maintain art galleries, libraries, museum and film services.

37. To establish and maintain social and recreational facilities and public entertainments.

38. To establish and maintain a public transport service.

Education

39. To establish and maintain colleges, schools and day nurseries.

40. To establish and maintain environmental health services.

(As amended by Act No. 22 of 1995)

Public  
Health

41. To establish and maintain cremeteries, cremetoria and mortuaries and otherwise to provide for and control the burial of the dead, and destitute persons who die in the area of the council.

42. To control the manufacture, storage, sale and use of petroleum, fireworks, gas and other combustible or dangerous substances; and to establish and maintain magazines and other facilities for the storage thereof.

43. To take and require the taking of measures for the preservation and improvement of public health and the prevention and abatement of nuisances including measures for the extermination of mosquitoes and other insects rats, mice and other vermin.

44. To control persons, premises and land engaged in or used for the holding of any fair, circus, fete or other entertainment, recreation or assembly to which the public are entitled or permitted to have access, whether on payment or otherwise. Public Order

45. To prohibit or control the collection of money from door to door and in streets and other public places.

46. To preserve public decency.

47. To prevent damage and trespass to property, whether public or private.

48. To establish and maintain public information services; and to advertise and give publicity to the advantages and amenities of the area of the council.

49. To provide for and maintain-

Registration

(a) the enumeration and registration of persons or property for any purpose connected with the administration of the area of the council;

(b) the registration of births, marriages and deaths;

(c) the registration of clubs; and

(d) the registration of such transactions in connections with land charges as may be prescribed in any written law relating to land charges.

50. To establish and maintain sanitary convenience and ablution facilities, and to require, whenever necessary, the establishment and maintenance of such facilities. Sanitation and drainage

51. To establish and maintain sanitary services for the removal and destruction of, or otherwise dealing with, all kinds of refuse and effluent, and compel the use of such services.

52. To establish and maintain drains, sewers and works for the disposal of sewerage and refuse.

53. To take and require the taking of measures for the drainage of water.

54. To require and control the provision of drains and sewers and to compel the connection of any drains and sewers established by the council.

55. To prohibit and control the carrying on of offensive, unhealthy or dangerous trade.
56. To establish and maintain weighing machines.
57. To sell products and by-products resulting from the carrying on of any of the undertakings or services of the council.
58. To establish and maintain the business of-
  - (a) manufacture;
  - (b) wholesale; and
  - (c) retailer.
59. To undertake mining operations.
60. To provide and maintain supplies of water and, for that purpose, to establish and maintain waterworks and water mains.
61. To take and require the taking of measures for the conservation and the prevention of the pollution of supplies of water.
62. With the consent of the Directors of Postal and Telecommunication Services, and subject to such conditions as they may impose, to establish and maintain postal services.
63. To establish and maintain twin-town contacts.

# **THIRD SCHEDULE**

*(Section 98(1))*

## **OATH OF MEMBERS OF BOARD**

I,  
having been appointed as Chairman\member of the Provincial Local Government Appeals Board do swear that I will, without fear or favour, affection or ill will, discharge the functions of the office of Chairman\member of the Provincial Local Government Appeals Board, and that I will not, directly or indirectly reveal any matters relating to such functions to any unauthorised person or otherwise than in the course of my duties.

**SO HELP ME GOD**

Sworn\Declared before me this            day of .....  
.....19.....

*Judge*