

LOCAL AUTHORITIES ACT, 1992 (ACT NO. 23 OF 1992)

[Government *Gazette* 470 of 31 August 1992][Date of commencement: 31/08/1992]

as amended by

Registration of Deeds in Rehoboth Amendment Act, 1994 (Act No. 35 of 1994)
Local Authorities Amendment Act, 1997 (Act No. 3 of 1997)
Local Authorities Second Amendment Act, 1997 (Act No. 14 of 1997)
Local Authorities Amendment Act, 2000 (Act No. 24 of 2000)
Local Authorities Amendment Act, 2002 (Act No. 17 of 2002)
Local Authorities Amendment Act, 2000 (Act No. 27 of 2003)

ACT

To provide for the determination, for purposes of local government, of local authority councils; the establishment of such local authority councils; and to define the powers, duties and functions of local authority councils; and to provide for incidental matters.

ARRANGEMENT OF SECTIONS

INTRODUCTORY PROVISIONS

1. Definitions

PART I

DETERMINATION AND ESTABLISHMENT OF LOCAL AUTHORITY COUNCILS

2. Determination of local authority councils
3. Declaration of areas of local authorities as municipalities, towns or villages, and existing municipalities
4. Alteration of declaration of local authorities
5. Appointment of delimitation commission and division of local authority areas into wards
6. Governing bodies of local authorities

PART II

QUALIFICATIONS OF AND DATES FOR ELECTIONS FOR MEMBERS OF LOCAL AUTHORITY COUNCILS AND MEETINGS OF LOCAL AUTHORITY COUNCILS

7. Qualifications of members of local authority councils
8. Dates for elections for members of local authority councils
9. Periods of office of members of local authority councils
10. Oath by, and code of conduct for, members of local authority councils
11. Mayors and deputy mayors of municipalities or towns and chairpersons of local authority councils

12. Manner of elections for mayors and deputy mayors of municipalities or towns and chairpersons of local authority councils
13. Vacation of office by members of local authority councils, and filling of casual vacancies
14. Meetings of local authority councils
15. Minutes of meetings
16. Inspection of, copies of and extracts from, minutes
17. Validity of certain decisions taken by local authority councils and acts performed on authority of local authority councils
18. Remuneration, allowances and benefits of members of local authority councils
19. Contracts with, and work for, local authority councils in which members are interested
20. Prohibited practices in respect of members of local authority councils

PART II

MANAGEMENT COMMITTEES OF LOCAL AUTHORITY COUNCILS

21. Management committees of local authority councils.
22. Manner of elections for members of management committees.
23. Vacation of office by members of management committees.
24. Meetings of management committees.
25. Chairpersons and vice-chairpersons of management committees.
26. Powers, duties and functions of management committees.

PART IV

CHIEF EXECUTIVE OFFICERS AND OTHER STAFF MEMBERS OF LOCAL AUTHORITY COUNCILS

27. Appointment of town clerks of municipal councils and town councils, village secretaries of village councils and other staff members of local authority councils.
28. Departments.
29. Discharge of chief executive officers and other staff members of local authority councils.

PART V

POWERS DUTIES FUNCTIONS RIGHTS AND OBLIGATIONS OF LOCAL AUTHORITY COUNCILS

30. Powers, duties and functions of local authority councils.
31. Delegation of powers by local authority councils to management committees or chief executive officers or other staff members.
32. Agreements between local authority councils or local authority councils and Government of Namibia or regional councils in relation to exercise or performance of powers, duties and functions of local authority councils, Government or regional councils.
33. Limitation of liability.

PART VI

SUPPLY OF WATER

- 34. Construction of waterworks.
- 35. Supply of water to persons other than residents.
- 36. Limitation on supply of water or on use of water during drought or other emergency conditions.
- 37. Offences and penalties in relation to supply of water.

PART VII SEWERAGE AND DRAINAGE

- 38. Sewerage and drainage.
- 39. Construction of private sewers or combined private sewers.
- 40. Construction of combined private sewers by local authority councils.
- 41. Granting of assistance by local authority councils to residents to provide sewerage to their immovable property.
- 42. Maintenance of private sewers and combined private sewers.
- 43. Stoppages or defects of private sewers or combined private sewers, sanitary conveniences, baths and wash-basins.
- 44. Offences and penalties in relation to sewerage and drainage.

PART VIII CEMETERIES

- 45. Closing of cemeteries.
- 46. Use of closed cemeteries.
- 47. Offences in relation to cemeteries.

PART IX STREETS AND PUBLIC PLACES

- 48. Construction of streets and public places.
- 49. Construction of culvert crossings.
- 50. Closing of streets or public places.
- 51. Offences and penalties in relation to streets and public places.

PART X SUPPLY OF ELECTRICITY AND GAS

- 52. Construction of works and machinery in relation to supply of electricity and gas.
- 53. Supply of electricity or gas to persons other than residents.
- 54. Granting of assistance by local authority councils to residents for purposes of acquisition of appliances in relation to supply of electricity or gas to their immovable property.
- 55. Offences and penalties in relation to supply of electricity and gas.

PART XI PUBLIC TRANSPORT SERVICES

- 56. Establishment of public transport services on behalf of local authority councils.

PART XII

HOUSING SCHEMES

- 57. Establishment of housing schemes by local authority councils.
- 58. Establishment of housing fund.
- 59. Pre-emptive right of local authority councils in respect of dwellings constructed or acquired under housing schemes.
- 60. Further loans for purposes of improvements in respect of dwellings acquired under housing schemes.
- 61. Remedies against persons in default of repayment of loans.
- 62. Definition of "dwelling" for purposes of this Part.

PART XIII IMMOVABLE PROPERTY OF LOCAL AUTHORITY COUNCILS

- 63. Circumstances in which Minister's approval for selling, letting, disposal, hypothecation, encumbrance or acquisition of immovable property is not required.
- 64. Powers of Minister in relation to approval for acquisition of immovable property by local authority councils.
- 65. Acquisition of ownership of immovable property of local authority councils by prescription.

PART XIV VALUATION OF RATEABLE PROPERTY WITHIN LOCAL AUTHORITY AREAS

- 66. Valuation of rateable properties within local authority areas.
- 67. Appointment and powers, duties and functions of valuer.
- 68. Establishment of valuation court.
- 69. Objections against provisional valuation roll.
- 70. Consideration of valuations contained in valuation roll and objections lodged in relation to such valuations.
- 71. Appeal against decisions of valuation courts.
- 72. Main valuation roll.

PART XV RATES ON RATEABLE PROPERTY

- 73. Rates levied on rateable property.
- 74. Levying of special rates in case of certain deficits.
- 75. Exemption from rates levied on rateable property.
- 76. Payment of rates levied under this Part.
- 77. Rates levied on rateable properties for benefit of regional councils.
- 78. Transfer of rateable properties.

PART XVI ALTERNATIVE SYSTEM OF RATING FOR TOWN COUNCILS AND VILLAGE COUNCILS

- 79. Alternative system of rating for town councils and village councils.

PART XVII FINANCIAL MATTERS

80. Funds of local authority councils.
81. Accounting officers of local authority councils.
82. Financial year of local authority councils.
83. Estimates of revenue and expenditure of local authority councils.
84. Application of funds of local authority councils.
85. Auditing of accounting records of local authority councils.
86. Accounting records of local authority councils.
87. Financial statements and audit reports.

PART XVIII GENERAL PROVISIONS

88. Public meetings for purposes of discussion of matters of public interest.
89. Meetings of local authority councils for purposes of discussion of matters of mutual interest.
90. Responsibility of local authority councils in relation to public water-courses.
91. Right of entry upon private land by local authority councils.
92. Failure by local authority councils to exercise or perform its powers, duties and functions.
93. Service of documents.
94. Regulations.
95. Repeal of laws, and savings.
96. Short title and commencement.

SCHEDULE I MUNICIPALITIES

SCHEDULE 2 TOWNS

SCHEDULE 3 VILLAGES

SCHEDULE 4 LAWS REPEALED

BE IT ENACTED by the National Assembly of the Republic of Namibia, as follows:-

INTRODUCTORY PROVISIONS

Definitions

1. In this Act, unless the context indicates otherwise -

"approved township" means an approved township as defined in section 1 of the Townships and Division of Land Ordinance, 1963 (Ordinance 11 of 1963);

"buildings" include -

- (a) any structure, whether of a permanent or temporary nature, constructed or used for the housing or accommodation of human beings or animals, birds or bees, or for the storage, manufacture or sale of any goods or for the destruction or treatment of refuse of any kind;
- (b) a wall of at least 1,2 metres in height, swimming bath, reservoir, tower, bridge, chimney, mast, summerhouse or hothouse or any structure appurtenant thereto;
- (c) any boundary fence or wall;

"charitable institution" means a charitable institution as defined in section 1, and registered under section 37, of the Sales Tax Act, 1992 (acts of 1992);

"chief executive officer" means a town clerk or a village secretary;

"combined private sewer" means a conduit constructed for purposes of conveying to a public sewer, cesspit or other receptacle the sewage from two or more private sewers, and includes anything connected therewith;

"delimitation commission" ;

(Definition inserted by s. 1 of Act No. 24 of 2000 and deleted by s. 1(a) of Act No. 17 of 2002)

"deputy mayor" means a deputy mayor of a municipality or town elected in terms of section 11;

"establishment" means the posts created for the normal and regular permanent requirements of any local authority council;

(Definition inserted by s. 1 of Act No. 24 of 2000)

"financial year" means the financial year referred to in section 82;

"immovable property" means any land or any building on such land;

"improvements", in relation to immovable property, shall, for purposes of Parts XIV and XV, not include any machinery or equipment, whether or not permanently fixed or attached to such immovable property, excluding any storage tanks of any nature whatsoever;

"local authority council" means any municipal council, town council or village council;

"local authority area" means the area declared under section 3 to be a municipality, town or village, as the case may be, or deemed to be so declared;

"magistrate of the district" includes any additional magistrate or assistant magistrate designated by the magistrate of the district;

(Definition amended by s. 1 of Act No. 24 of 2000)

"main valuation roll" means the main valuation roll referred to in section 72;

"management committee" means the management committee of a municipal council or a town council established by section 21;

(Definition amended by s. 1 of Act No. 24 of 2000)

11; "mayor" means the mayor of a municipality or town elected in terms of section

"Minister" means the Minister responsible for Regional and Local Government and Housing;

(Definition amended by s. 1 of Act No. 4 of 2000)

"municipal council" means a municipal council referred to in paragraph (a) of section 6(1);

"municipality" means a municipality declared as such under section 3(1) or deemed to have been so declared under section 3(5)(a)(iii);

(Definition amended by s. 1 of Act No. 24 of 2000 and s.1(b) of Act No. 17 of 2002)

"owner" in relation to immovable property, means the person in whose name such land is registered, or -

(a) if such person -

(i) is deceased, means the executor in the estate of such person;

(ii) is a person whose estate has been sequestrated, means the trustee in the insolvent estate of such person;

(iii) is under any legal disability, means the legal representative of such person;

(iv) is a person who is absent from Namibia or whose whereabouts are unknown, includes the authorised representative of such person in Namibia;

such (v) is a company which has been wound up, means the liquidator of person;

(b) if such immovable property -

(i) has been leased under a lease, whether registered or not, for a period of 50 years or longer, means its lessee;

(ii) is occupied by virtue of a servitude or under any other real right in such immovable property, means its occupier;

- (iii) has been attached in terms of an order of a court, includes the sheriff,
deputy-sheriff or messenger of the court by whom such immovable property has been so attached;
- (iv) vests in the Government of Namibia, a regional council or a local authority council -
 - (aa) which has been leased under a lease which contains an option in favour of a lessee to purchase immovable property so leased, means the lessee who has exercised such option;
 - (bb) which has been purchased by any person, but which has not yet been registered in his or her name, means such person;

"party list" means a list of candidates referred to in section 68(1)(a) of the Electoral Act, 1992 (Act No. 24 of 1992:

(Definition inserted by s. 1(c) of Act No. 17 of 2002)

"prescribed" means prescribed by regulation made under section 94;

"private sewer" means a conduit for purposes of conveying to a combined private sewer, public sewer, cesspit or other receptacle the sewage from one immovable property and includes anything connected therewith;

"provisional valuation roll" means the provisional valuation roll prepared in terms of section 67(1);

"public nuisances" includes any action which is likely to injure the safety, health, peace or convenience of residents in a local authority area, including excessive noise caused by any means whatsoever, the firing of grass, the burning of rubbish and the carrying on of any activity which causes a stench or which is otherwise objectionable;

"public place" means any square, garden, park, recreation ground, show ground, rest camp or other open or enclosed space intended for the use, enjoyment or benefit of residents in a local authority area;

"public sewer" means a conduit acquired or constructed by a local authority council for purposes of conveying sewage discharged or intended to be discharged from private sewers and combined private sewers and of sewage effluent, and includes any pipe, manhole, chamber, ventilation shaft, ejector, sluice or anything connected therewith;

"rateable property" means any immovable property situated within a local authority area, except -

- (a) any land of which the ownership and control vests in the Government of

Namibia or a regional council and on which no buildings have been constructed or other improvements have been effected;

- (b) any building, other than a dwelling, of which the ownership vests in the Government of Namibia or a regional council and which is not used or occupied for public purposes, including the land on which any such building is actually constructed and any other land actually occupied for purposes of such building;
- (c) any immovable property used exclusively as -
 - (i) a place of worship;
 - (ii) a school or hostel other than a school or hostel which has been established and is maintained and managed by any person for profit or gain whether directly or indirectly;
 - (iii) a library or museum which has been established and is maintained and managed by the State;
 - (iv) a hospital, an institution as defined in section 1 of the Mental Health Act, 1973 (Act 18 of 1973), an institution for the care of juveniles or similar institution aided by the State or any charitable institution;
- (d) any immovable property of which the ownership vests in a local authority council;
- (e) any immovable property, which has been, exempted from the payment of rates in terms of section 75 or any other law;

"regional council" means a regional council established by section 2 of the Regional Councils Act, 1992;

"regulation" means a regulation made under this Act;
(Definition amended by s.1 of Act No. 24 of 2000)

"sanitary convenience" means a urinal, water closet or other convenience of such nature;

"sewage works " includes any reservoir, tank, strainer, filter bed, engine, pump, machinery, land, building or such other works (except sewers) as may be necessary to treat and dispose of sewage;

"sewer" means a public sewer, private sewer or combined private sewer;

"staff member" means any person employed permanently or temporarily on a full-time or part-time basis or under a contract of employment, in a post on or additional to the establishment of a local authority council, and includes a chief executive officer;

(Definition amended by s.1 of Act No. 24 of 2000)

"stormwater drain" means a conduit acquired or constructed by a local authority council for purposes of conveying stormwater, and includes anything connected therewith;

"street" means any road, thoroughfare, pavement, sidewalk, lane or other right of way set apart for the use and benefit of residents in a local authority area;

"this Act" includes any regulation made under this Act;

"town" means a town declared as such under section 3(1) or deemed to be so declared as such under section 3(5)(a)(ii);

(Definition amended by s.1 of Act No. 24 of 2000)

"town clerk" means the town clerk of a municipal council or town council appointed in terms of section 27(1)(a);

"town council" means a town council referred to in paragraph (b) of section 6(1);

"townlands" means the land within a local authority area situated outside the boundaries of any approved township which has been set aside for the mutual benefit of the residents in its area, and for purposes of pasturage, water supply, aerodromes, explosive magazines, sanitary and refuse deposits or other public purposes or the extension of such township or the establishment of other approved townships;

"valuer" means the person appointed under section 67;

"village" means a village declared as such under section 3(1) or deemed to have been so declared under section 3(5)(a)(iii);

(Definition amended by s. 1 of Act No. 24 of 2000 and s. 1(d) of Act No. 17 of 2002)

"village council" means a village council referred to in paragraph (c) of section 6(1);

"village secretary" means the village secretary of a village council appointed in terms of section 27(1)(a);

"water-main" includes any conduit, pipeline, valve, valve chamber, meter, meter-house, break-pressure tank, scour chamber, scour pipe, culvert, cut, bridge, tunnel or such other thing as may be necessary in connection with such water-main;

"waterworks" includes any weir, well, borehole, watercourse, dam, pumping station, reservoir, tank, sluice, pipeline, machinery, building, land or such other works as may be necessary to take, impound, discharge, store, treat or filter water or to maintain or carry on any such waterworks.

PART I

DETERMINATION AND ESTABLISHMENT OF LOCAL AUTHORITY COUNCILS

Determination of local authority councils

2. For purposes of local government, as contemplated in Chapter 12 of the Namibian Constitution, there shall be local authority councils in respect of -

- (a) municipalities;
- (b) towns;
- (c) villages,

the areas of which are declared as such under section 3 or deemed to have been so declared.

Recommendations by delimitation commission in relation to the changing of boundaries of local authority areas

2A.

(Section 2A inserted by s. 2 of Act No. 24 of 2000 and repealed by s.2 of Act No. 17 of 2002)

Declaration of areas of local authorities as municipalities, towns or villages, and existing municipalities.

3. (1) Subject to the provisions of this section, the Minister may from time to time by notice in the *Gazette* establish any area specified in such notice as the area of a local authority, and declare such area to be a municipality, town or village under the name specified in such notice.

(Subsection (1) amended by s. 3(a) of Act No. 24 of 2000)

- (2) The Minister shall not declare any area referred to in subsection (1) to be -
 - (a) a municipality, unless -
 - (i) an approved township exists in such area;
 - (ii) its municipal council will in the opinion of the Minister be able -
 - (aa) to exercise and perform the powers, duties and functions conferred and imposed upon a municipal council in terms of the provisions of this Act;
 - (bb) to pay out of its own funds its debts incurred in the exercise and performance of such powers, duties and functions;
 - (cc) to comply with all its other liabilities and obligations so incurred;
 - (b) a town, unless -

- (i) an approved township exists in such area or a town exists in such area which in his or her opinion complies with the requirements of an approved township;
- (ii) its town council will in the opinion of the Minister be able -
 - (aa) to exercise and perform the powers, duties and functions conferred and imposed upon a town council in terms of the provisions of this Act;
 - (bb) to pay, whether with or without any financial or other assistance by the Government of Namibia or any regional council, out of its funds its debts incurred in the exercise and performance of such powers, duties and functions;
 - (cc) to comply, whether with or without any such assistance, with all its other liabilities and obligations so incurred;
- (c) a village, unless -
 - (i) it consists of a community, which in the opinion of the Minister is in need of the services which are required to be rendered or may be rendered in terms of the provisions of this Act by a village council;
 - (ii) its village council will in the opinion of the Minister be able to exercise and perform, whether with or without any assistance by the Government of Namibia or any regional council or other local authority council, the powers, duties and functions conferred and imposed upon a village council in terms of the provisions of this Act.

(Subsection (2) amended by s. 3(b), (c), (d) and (e) of Act No. 24 of 2000)

- (3) (a) If the area of any township or village management area established or purporting to have been established by or under any law on the establishment of townships or village management boards on communal land is, in terms of subsection (1), declared to be, or, in terms of subsection (5), deemed to have been declared to be, a municipality, town or village, the assets used in relation to such township or village management area and all rights, liabilities and obligations connected with such assets shall vest in the municipal council, town council or village council of such municipality, town or village, as the case may be, to such extent and as from such date as may be determined by the Minister.
- (b) The registrar of deeds shall, in the case of any asset referred to in paragraph (a) consisting of immovable property which vests by virtue of the provisions of that subsection in a municipal council, town council or village council, upon production to him or her of the deed of any such immovable property, endorse such deed to the effect that the immovable property described therein vests in that municipal council, town council or

village council and shall make the necessary entries in his or her registers, and thereupon that deed shall serve and avail for all purposes as proof of the title of that municipal council, town council or village council.

- (c) No transfer duty, stamp duty or any other fee or charge shall be payable in respect of any endorsement or entry referred to in paragraph (b).
 - (d) Notwithstanding the declaration of any township or village management area under paragraph (a) to be a municipality, town or village, any provision of any law referred to in that paragraph which relates to any matter which may be determined or prescribed under any provision of this Act shall be deemed to have been so determined or prescribed.
 - (e) Anything done under any law referred to in paragraph (a) by or in relation to a township or village management area so referred to which may be done under any corresponding provision of this Act, shall be deemed to have been done in relation to such municipality, town or village, as the case may be, under such corresponding provision.
- (4) A notice referred to in subsection (1) shall -
- (a) in the case of a notice declaring an area to be a municipality or town, determine, subject to the provisions of section 6, the number of members out of which the municipal council or town council of such municipality or town shall consist;
 - (b) in the case of a notice declaring an area to be a municipality or a town, amend or substitute Schedule 1 or Schedule 2, as the case may be, so as to include such municipality or town and the number of members of the municipal council or town council referred to in paragraph (a);
 - (c) in the case of a notice declaring an area to be a village, amend or substitute Schedule 3 so as to include such village;
 - (d) come into operation on the date on which an election referred to in subsection (4A) takes place.
(Subsection (4) amended by s. 3(f) of Act No. 24 of 2000)
- (4A) The President shall determine, after a notice referred to in subsection (4)(a), (b) or (c), as the case may be, has been published, by proclamation in the *Gazette* a date on which an election of members of the municipal council, town council or village council concerned, as the case may be, shall take place.
(Subsection (4A) inserted by s. 3(g) of Act No. 24 of 2000)
- (5) (a) As from the date fixed in terms of subarticle (5) of Article 137 of the Namibian Constitution -

- (i) every municipality which existed immediately before the commencement of this Act and which is specified in column 2 of Part I or II of Schedule 1 shall be deemed to have been declared to be a municipality;
- (ii) every town specified in column 2 of Schedule 2 shall be deemed to have been declared to be a town;
- (iii) every village specified in column 2 of Schedule 3 shall be deemed to have been declared to be a village,

under subsection (1) in respect of the area of which the boundaries have been determined by the first Delimitation Commission, and established in terms of subarticle (4) of the said Article 137 by the President by Proclamation 6 of 1992, and the number of members of the municipal council of such municipality specified in column 3 of Schedule 1, and of the town council of such town specified in column 3 of Schedule 2 shall be deemed to have been determined by the Minister under section 6.

(Subsection (5) amended by s. 3(h) of Act No. 24 of 2000)

- and (b) As from the date referred to in paragraph (a), the assets, liabilities, rights and obligations which vested in an existing municipality referred to in subparagraph (i) of that paragraph, shall continue to vest in the municipal council of a municipality deemed to have been so declared, and any reference in any law or document, including any deed, to such existing municipality or the council of any such municipality, shall be construed as a reference to the municipal council of such municipality.

Alterations of declaration of local authorities.

4. (1) Subject to the provisions of this Act, the Minister may from time to time by notice in the *Gazette* by way of the repeal, amendment or substitution of a notice issued under section 3, or of a proclamation issued under that section before its amendment by the Local Authorities Act, 2000, -

(Subsection (1) amended by s. 4 (a) of Act No. 24 of 2000)

- (a) alter a declaration made under subsection (1) of that section;
- (b) alter the boundaries of any local authority area by excluding any portion from its area or by adding any area thereto;
- (c) combine the areas of any two or more local authorities so as to form one local authority area;
- (d) increase or decrease the number of members of a municipal council or town council;

- (e) include any part of the area of any local authority which is contiguous to the area of any other local authority so as to form part of the area of such last-mentioned local authority;
- (f) alter the name of such local authority;
- (g) delete the name of a municipality referred to in Part II of Schedule 1 and include such name in Part I of that Schedule, or delete the name of a municipality referred to in Part I of that Schedule and include such name in Part II of that Schedule.

(2) A notice referred to in subsection (1) -

(a) shall, if such notice affects the constitution of a local authority council, come into operation in relation to the next general election for members of local authority councils held after the date on which the notice is published and not earlier;

(b) may in addition, if the areas of two or more local authorities are combined under paragraph (c) of subsection (1) or where any part of the area of any local authority has been included in the area of any other local authority under paragraph (e) of that subsection, provide -

(i) that anything done under this Act by or in respect of the local authority council specified in such notice, shall, after its area has been combined with the area of any other local authority or any portion of its area has been included in the area of any other local authority, subject to the limitations, qualifications and conditions, if any, as may be so specified, be deemed to have been done by or in respect of such other local authority council;

(ii) that the assets, liabilities, rights and obligations of the local authority council in respect of which its area has been combined with the area of any other local authority or which has been included in the area of any other local authority shall, subject to the limitations, qualifications and conditions, if any, as may be so specified, as from a date specified in such notice, vest in any other local authority council as may be so specified;

(iii) that any person who immediately before the commencement of such notice held an appointment as staff member of a particular local authority council shall, as from such commencement and subject to such conditions and in accordance with such directives as may be contained in such notice, be appointed by any other local authority council specified in such notice.

(Subsection (2) amended by s. 4(b) of Act No. 24 of 2000)

(3) (a) The registrar of deeds shall, in the case of any asset referred to in

subparagraph (ii) of paragraph (b) of subsection (2) consisting of immovable property which vests by virtue of the provisions of that subparagraph in a local authority council, upon production to him or her of the deed of any such immovable property, endorse such deed to the effect that the immovable property described therein vests in that local authority council and shall make the necessary entries in his or her registers, and thereupon that deed shall serve and avail for all purposes as proof of the title of that local authority council.

- (b) No transfer duty, stamp duty or any other fee or charge shall be payable in respect of any endorsement or entry referred to in paragraph (a).

(4) If the Minister intends to alter the area of a local authority under subsection (1), he or she may direct the local authority council in question to cause a survey by a land surveyor of any area determined by the Minister to be carried out at its own expense, and if that local authority council fails to comply with that direction within a reasonable period the Minister may cause that survey to be carried out and may recover the costs thereof from the local authority council.

(Subsection (4) amended by s. 4(c) of Act No. 24 of 2000)

- (5) (a) The Minister may, at any time abolish any village council by notice in the *Gazette* if, in the opinion of the Minister, the requirements contemplated in paragraph (c) of section 3(2) have ceased to exist in respect of the village governed by such village council.

- (b) Notwithstanding the provisions of any other law, a notice referred to in paragraph (a) may provide for the declaration of the area of the village council so abolished to be a settlement area as defined in section 1 of the Regional Councils Act, 1992, whereupon the provisions of section 31(2) of that Act shall apply *mutatis mutandis* and to the extent determined in such notice, in respect of the settlement area so declared and the regional council of the region within which it is situated, as if such village council were a township or village management board as contemplated in paragraph (a) of the said section 31(2), and as if the reference to the laws contemplated in that paragraph were a reference to this Act.

(Subsection (5) amended by s. 4(d) of Act No. 24 of 2000)

(6) A notice referred to in subsection (1) or (5) shall amend or substitute Schedules 1, 2 and 3, as the case may be, so as to bring those Schedules in line with the alterations or abolishment effected in terms of those subsections.

(Subsection (6) amended by s. 4(e) of Act No. 24 of 2000)

Delimitation of local authority areas into wards

5.

(Section 5 substituted by s. 1 of Act No. 3 of 1997, amended by s. 5 of Act No. 24 of 2000 and repealed by s.3 of Act No. 17 of 2002)

Governing bodies of local authorities

6. (1) The affairs of -

- (a) a municipality shall be governed by a municipal council consisting of such number of members, but not less than seven and not more than 15, as may be determined and specified by the Minister in the notice establishing the municipality; and

(Para (a) amended by s 6(a) of Act No. 24 of 2000)

- (b) a town shall be governed by a town council consisting of such number of members, but not less than seven and not more than 12 members, as may be determined by the Minister and specified in the notice establishing the town;

(Para (b) amended by s 6(b) of Act No. 24 of 2000)

- (c) a village shall be governed by a village council, which shall consist -

- (i) until such time as the third general elections for members of local authority councils are held in accordance with section 8, of seven members; and
 - (ii) with effect from the date of such third general elections, of five members,

to be elected at elections either in accordance with the provisions of subsection (2).

(2) The members of a local authority council shall be elected on party lists at a general election to be held in accordance with the provisions of section 8 or at any election in respect of a new local authority established at any time after any general election.

(Subsection (2) amended by s.4(a) of Act No. 17 of 2002)

(3) A municipal council, town council and village council, shall, under its name, be a juristic person.

(4) For the purposes of any election contemplated in subsection (2), each party list shall contain as candidates for such election -

(Preceding words of subsection (4) amended by s. 4(b) of Act No. 17 of 2002)

- (a) in the case of a municipal council or town council consisting of 10 or fewer members or a village council, the names of at least three female persons;
- (b) in the case of a municipal council or town council consisting of 11 or more members, the names of at least five female persons.

(S. 6 substituted by s. 2 of Act. No. 3 of 1997)

PART II

QUALIFICATIONS OF, AND DATES FOR ELECTIONS FOR MEMBERS OF LOCAL AUTHORITY COUNCILS AND MEETINGS OF LOCAL AUTHORITY COUNCIL

Qualifications of members of local authorities

7. (1) Subject to the provisions of Article 17(2) of the Namibian Constitution, no person shall be qualified to be a member of a local authority council -

- (a) unless he or she is qualified to vote, and is registered, in terms of the laws governing elections for members of local authority councils, as a voter, at an election for members of such a local authority council;
- (b) if he or she is a person contemplated in paragraphs (a) to (d) of Article 47(1) of the Namibian Constitution.

(2) Notwithstanding anything to the contrary contained in any law, but subject to the provisions of subsection (3), any staff member of a local authority council may accept nomination as candidate for election as a member of such local authority council, but shall, if he or she is elected as such a member, be deemed to have resigned from the service of such local authority council with effect from the date on which he or she is so elected.

(3) A remunerated member of the public service, contemplated in paragraph (e) of Article 47(1) of the Namibian Constitution, who has been nominated as candidate for election as a member of a local authority council shall be deemed to be on leave until the date on which such election takes place as if such leave were granted to him or her in terms of the laws governing the conditions of employment of members of such public service or any agreement governing the conditions of employment of such member, as the case may be.

(4) Any person who is in terms of the provisions of the Namibian Constitution disqualified to be a member of a local authority council and who, while he or she is so disqualified and knowing or having reasonable grounds for knowing that he or she is so disqualified, sits as a member of such local authority council, shall be liable to a penalty of N\$500 for each day on which he or she so sits, which may be recovered by such local authority council by action in any competent court for the benefit of the funds of such local authority council.

Dates for elections for members of local authority councils

8. A general election for local authority councils shall be held not later than 31 July 2004, on a date determined by the President by proclamation in the *Gazette*, and thereafter at intervals not exceeding five years on a date so determined.

(S. 8 substituted by s. 1 of Act No. 14 of 1997, s. 5 of Act No. 17 of 2002 and s. 1 of Act No. 27 of 2003)

Periods of office of members of local authority councils

9. A member of a local authority council shall, subject to the provisions of section 13(1), hold office as such a member from the date on which he or she is elected as such a member until the date immediately before the date on which the next election

under section 8 is held in respect of that local authority council subsequent to his or her election as a member of the local authority council.

Oath by and code of conduct for members of local authority councils

10. (1) Every member of a local authority council shall, before assuming his or her duties, make and subscribe before the magistrate referred to in section 12 or, if such member assumes his or her duties after a chairperson has been elected, the chairperson of the local authority council, an oath in the following form:

I, A.B., do hereby swear and solemnly and sincerely promise to be faithful to the Republic of Namibia, to uphold and defend the Namibian Constitution and the laws of the Republic of Namibia and to perform my duties as member of the local authority council of diligently, honestly, fairly and to the best of my ability.

So help me God.

(2) A member of a local authority council may, in lieu of an oath, make and subscribe a solemn affirmation in corresponding form.

(3) The Minister may from time to time by notice in the *Gazette* prescribe a code of conduct for members of local authority councils.

(4) A code of conduct referred to in subsection (3) may provide for -

- (a) the application of a sanction, by way of a suspension of the right to attend meetings of a local authority council or a management committee for a period not exceeding one month, against a member of a local authority council who contravenes or fails to comply with any provision of such code of conduct; and
- (b) the procedure to be followed before such a sanction may be applied by a local authority council against a member thereof.

(S 10 inserted by s. 7 Act No. 24 of 2000)

Mayors and deputy mayors of municipalities or towns and chairpersons of local authority councils.

11. (1) A local authority council shall elect in the manner provided in section 12 from amongst its members -

- (a) in the case of a municipal council or a town council, one person as mayor and another person as deputy mayor of the municipality or town council in question, who shall in each case be the chairperson and vice-chairperson of the municipal council or town council concerned; and
- (b) in the case of a village council, one person as chairperson and another person as vice-chairperson of such village council.

(2) The election of a mayor, deputy mayor, chairperson and vice-chairperson of a local authority council shall be held -

- (a) in the case of the first such election after a general election of members of local authority councils or a first election for members of a new local authority council, at the first meeting of such local authority council held after such general elections or such first election before it proceeds to the dispatch of any other business;
- (b) in the case where the office of the mayor or the deputy mayor or the chairperson or vice-chairperson becomes vacant before the expiration of his or her period of office by reason of the death of such mayor or deputy mayor or chairperson or vice-chairperson or the vacation by him or her of his or her office for any other reason, on a date not later than the first meeting of such local authority council after the office so became vacant;
- (c) in the case of the expiration of the period of office of the mayor or deputy mayor or chairperson or vice-chairperson of a local authority council elected in an election held in terms of paragraph (a) or (b), on a date within a period of 30 days before the date on which the period of office of the mayor or deputy mayor or chairperson or vice-chairperson of a local authority council so elected expires.

(3) When the mayor or chairperson of a local authority council is absent or is unable to exercise and perform his or her powers, duties and functions as such mayor or such chairperson, the deputy mayor or vice-chairperson, shall act as mayor or chairperson, as the case may be, during the absence or incapacity of such mayor or chairperson, and if both such mayor or deputy mayor or chairperson shall act as mayor or chairperson, as the case exercise and perform the powers, duties and functions of mayor or chairperson, the local authority council may elect any other member to act as mayor or chairperson, as the case may be, during such absence or incapacity.

- (4) (a) Subject to the provisions of paragraph (b) of this subsection, the mayor and deputy mayor and the chairperson and vice-chairperson of a local authority council shall hold office for a period of one year or, in the case of a mayor or deputy mayor or chairperson or vice-chairperson elected in an election held in terms of paragraph (b) of subsection (2), for the unexpired portion of the period of office for which his or her predecessor has been elected, but shall be eligible for re-election.

(b) The mayor or deputy mayor or chairperson or vice-chairperson shall vacate his or her office -

- (i) if he or she ceases to be a member of the local authority council;
- (ii) if the local authority council resolves by a majority of all its members that it has no confidence in such mayor or deputy mayor or chairperson or vice-chairperson, and may resign his or her

office by writing under his or her hand addressed and delivered to the chief executive officer.

(5) The mayor of a municipal council or town council shall in respect of the municipal council or town council concerned -

(a) be the principal head and, in consultation with the municipal council or town council concerned -

(i) initiate and formulate planning and development policies;

(ii) initiate promotion for the creation of employment in its local authority area; and

(iii) closely monitor the implementation of the policies contemplated in subparagraph (i);

(b) have supervisory powers regarding the planning and execution of all development programmes and projects;

(c) be accountable to the inhabitants of the local authority area regarding any matter referred to in paragraph (a) or (b);

(d) in consultation with the municipal council or town council concerned, investigate and endeavour to solve, any issue pertaining to the local authority area concerned; and

(e) be responsible for the promotion and creation of the social well-being of the inhabitants of the local authority area concerned.

(S. 11 amended by s. 8 of No. 24 of 2000)

Manner of elections for mayors and deputy mayors of municipalities or town and chairpersons of local authority councils.

12. (1) The magistrate of the district in which a local authority area is situated shall for purposes of the provisions of this section preside at a meeting of a local authority council during which the election of the mayor, deputy mayor, chairperson and vice-chairperson is held, and during such meeting no debate shall be allowed; and

(S. 12 amended by s. 9 (a) of Act. No 24 of 2000)

(2) A member of a local authority council, having first obtained the willingness by any instrument in writing of a member whom he or she wishes to propose as the mayor or deputy mayor or the chairperson or vice-chairperson to serve if elected, may upon the submission of such instrument so propose such member, but the proposal shall lapse if it is not seconded.

(3) A member who has already proposed or seconded a candidate for election as the mayor or deputy mayor or the chairperson or vice-chairperson may not propose or

second any other such candidate and a member may not propose or second his or her own candidature.

(S. 12 amended by s. 9 (b) of Act. No. 24 of 2000)

(4) If only one candidate is proposed and seconded, he or she shall be declared duly elected by the magistrate presiding at the meeting.

(5) (a) If more than one candidate is proposed and seconded, a vote shall be taken by secret ballot.

(b) At any voting by secret ballot in terms of paragraph (a) -

(i) the magistrate presiding at the meeting shall issue to each member present a ballot paper bearing the names of the candidates and, on the reverse side thereof, an official mark;

(ii) a member shall record his or her vote by placing a cross on the ballot paper opposite the name of the candidate for whom he or she wishes to vote, and shall fold the ballot paper in such a manner that the cross placed on it by him or her is not visible;

(iii) the magistrate presiding at the meeting shall call the name of each member, whereupon the member concerned shall proceed to the place where the ballot box is situated and there place his or her ballot paper, folded as aforesaid, into the ballot box;

(iv) as soon as every member who wishes to vote has done so, the magistrate presiding at the meeting shall examine the ballot papers and determine the number of votes cast for each candidate, and shall announce the result of the voting.

(6) The magistrate presiding at the meeting shall declare the candidate in whose favour the greater or greatest number of votes are recorded duly elected: Provided that the number of votes so recorded shall not be less than the majority of all the members of the local authority council.

(7) If due to an equality of votes or to the proviso to subsection (6), no candidate is declared duly elected as contemplated in that subsection, the meeting shall be adjourned on one occasion to a time during that day or the next day determined by the magistrate presiding at such meeting after consultation with the members of the local authority council present at such meeting, whereupon at such an adjourned meeting a further vote shall be taken in accordance with the provisions of subsection (8).

(8) (a) At an adjourned meeting contemplated in subsection (7) -

(i) the magistrate presiding at such meeting shall call for nominations in respect of any vacancy to be filled;

(ii) a member of the local authority council shall have the right to propose a member of the local authority council in respect of each

such vacancy *mutatis mutandis* in accordance with the provisions of subsections (2) and (3).

- (b) If only one candidate is proposed and seconded, he or she shall be declared duly elected by the magistrate presiding at the meeting.
- (c) If more than one candidate is proposed and seconded, a vote shall be taken *mutatis mutandis* in accordance with the provisions of subsection (5).
- (d) The magistrate presiding at the meeting shall declare the candidate in whose
favour the greater or greatest number of votes are recorded duly elected.
- (e) If two or more candidates have received the same number of votes the candidate to be elected shall be determined by lot.

Vacation of office by members of local authority councils, and filling of casual vacancies.

13. (1) A member of a local authority council shall vacate his or her office if he or she -

- (a) becomes disqualified to be a member of a local authority council;
- (b) is convicted of -
 - (i) any offence in terms of section 19(3) or 20(2);
 - (ii) any offence of bribery or any offence of which corruption or dishonesty is an element; or
 - (iii) any offence in respect of which he or she is sentenced to imprisonment without the option of a fine, whether or not such imprisonment is suspended;
- (c) ceases to be a member of the political party, association or organisation which nominated him or her for election;
- (d) is absent, without the leave of the local authority council or, if authorised thereto by the local authority council, the chairperson of the local authority council, from three consecutive meetings of the local authority council, and his or her absence is not condoned by the local authority council.
- (e) is removed from office under subsection (2);
- (f) by notice in writing addressed to the chief executive officer, resigns as member of the local authority council.

- local
- (2) (a) The Minister may remove by notice in writing any member of a
 authority council from office, if, on the recommendation of the local
 authority council concerned and after having given such member an
 opportunity to be heard, the Minister is satisfied that such member is
 guilty of a contravention of any provision of a code of conduct prescribed
 under section 10(3), and a member may be so removed from office
 notwithstanding any sanction prescribed by the code of conduct under
 section 10(4) or the fact that such a sanction may in the particular case
 have been applied by the local authority council against the member for
 such contravention.
- (b) A member of a local authority council who has been removed from office
 under paragraph (a), shall not be eligible for re-nomination until a period
 equal to at least one term of office has expired.
- (3) When a member of a local authority council has vacated his or her office
 as such a member in terms of this section or has died, the chief executive officer shall
 forthwith by notice in the *Gazette* give notice that a vacancy in the membership of the
 local authority council has occurred, the date on which it occurred and the cause thereof.
- local
- (4) (a) Subject to the provisions of paragraph (b), a casual vacancy in a
 authority council shall be filled within three months after it has occurred
 by the nomination by the party, association or organisation which
 nominated the member who has vacated his or her office, of any person on
 the election list compiled by that party, association or organisation in
 respect of the previous election of the local authority council, or by
 nominating any member of that party, association or organisation;
- the
- (b) A casual vacancy which occurs within three months of the date on which
 the
 period of office of the member who has vacated his or her office expires,
 shall not be filled until the next general election for members of local
 authority councils.

(S.13 amended by s. 10 of Act No. 24 of 2000 and substituted by s. 6 of Act No. 17 of 2002)

Meetings of local authority councils

- 14.** (1) (a) The first meeting of a local authority council after a general
 election for members of local authority councils or a first election for
 members of a new local authority council shall be held at such places
 situated within its area, and time, being a date not later than seven days
 after such general election or such first election, as may be determined
 by the Minister, and meetings thereafter shall be held at such places, so
 situated, and such times, as may from time to time be determined by the
 chief executive officer, but not less than 10 times in every year reckoned
 from the first day of January and at intervals of not more than 10 weeks.
- (b) The chairperson of the local authority council or, if, and for so long as, the

office of chairperson is vacant, the chief executive officer may at any time or, at a request in writing signed by not less than half of the members of the local authority council, shall within 14 days after receipt of such request, convene a special meeting of the local authority council.

date (c) A notice signed by the chief executive officer and containing the time, and place of, and the matters to be dealt with at, every meeting of the local authority council shall be delivered to every member of the local authority council so as to reach such member at least 72 hours before such meeting.

(2) (a) Every meeting of a local authority council shall be open to the public, except on any matter relating to -

(i) the appointment, promotion, conditions of employment and discipline of any particular staff member of a local authority council;

tender (ii) any offer to be made by the local authority council by way of or otherwise for the purchase of any property;

legal (iii) the institution of any legal proceedings by, or opposition of any proceedings instituted against, a local authority council,

unless the local authority council by a majority of at least two-thirds of its members present at the meeting in question determines such meeting to be so open.

(b) The local authority council may allow the chief executive officer or any other staff member of the local authority council or other interested person to attend any proceedings of the local authority council, and to take part in any such proceedings, but the chief executive officer or such other staff member or person shall not have the right to vote in respect of any decision of the local authority council.

(3) The majority of the members of a local authority council shall form a quorum for a meeting of the local authority council.

absence, (4) (a) The chairperson of a local authority council or, in his or her absence, the vice-chairperson, shall preside at meetings of the local authority council.

a (b) If both the chairperson and vice-chairperson are absent from a meeting of local authority council, the members present shall elect a person other than a person who is a member of the management committee from amongst its members to preside at such meeting, and such person shall,

while he or she so presides, have all the powers and shall perform all the duties and functions of the chairperson of the local authority council.

(5) The decision of the majority of the members of a local authority council present at a meeting thereof shall constitute a decision of the local authority council, and, in the event of an equality of votes relating to any matter, the member presiding at the meeting shall have a casting vote in addition to his or her deliberative vote.

(6) (a) A local authority council may make standing rules in connection with the convening and holding of, and procedure at, meetings of the local authority council or any committee established by the local authority council, including the conditions on which a language other than the official language may be used by a member during discussions at meetings of the local authority council.

(b) The Minister shall as soon as possible after the commencement of this Act make standing rules contemplated in paragraph (a), which shall apply in respect of every local authority council until such time as a local authority council by any standing rules made under that paragraph provides otherwise.

(c) Standing rules made in terms of this subsection may provide for -

(i) the application of a sanction by way of a suspension of the right to attend meetings of a local authority council or a management committee for a period not exceeding one month, against a member of a local authority council who contravenes or fails to comply with any provision of such standing rules; and

(ii) the procedure to be followed before such a sanction may be applied by a local authority council against a member thereof.

(Para (c) inserted by s. 11 of Act No. 24 of 2000)

(7) (a) Subject to the provisions of any rules made under subsection (6), there shall be freedom of speech and debate in any meeting of a local authority council.

(b) No member of a local authority council shall be subject to any legal proceedings by reason of his or her speech or vote in any meeting of the local authority council.

Minutes of meetings

15. (1) The chief executive officer or, if he or she is absent from a meeting of the local authority council, the chairperson shall cause minutes to be kept in the official language of all proceedings at meetings of the local authority council, and the chief executive officer shall cause such minutes to be entered in one or more books kept by the chief executive officer for that purpose.

(2) The chief executive officer shall within seven days of any confirmation in accordance with the provisions of subsection (3) of any minutes of a meeting of the local authority council or such longer period as the Minister may allow, submit a copy of the confirmed minutes of such meeting to the Minister, together with a copy of the agenda of such meeting and any other connected documents or reports as may be required by the Minister.

(Subsection (2) substituted by s. 7 of Act No. 17 of 2002)

(3) The minutes of the proceedings at any meeting of a local authority council shall be submitted at the next ordinary meeting of the local authority council for confirmation under the signature of the chairperson and the chief executive officer.

(4) Any document purporting to be certified by or on behalf of the chief executive officer as a true copy of or extract from any minutes of a meeting of the local authority council shall on its mere production by any person at any judicial proceedings be evidence of the taking place of anything which according to that document took place at that meeting.

Inspection of copies of and extracts from minutes

16. (1) The minutes of a meeting of a local authority council as confirmed in accordance with the provisions of section 15(3), excluding the minutes or part of such minutes relating to any matter referred to in section 14(2)(a) considered during a period during Which a meeting of the local authority council was not open to the public, shall during ordinary office hours be available for inspection by any person.

(2) A local authority council shall at the request of any person and on payment of an amount determined by the local authority council, furnish such person with a copy of or extract from the minutes which may be inspected by such person under subsection (1).

Validity of certain decisions taken by local authority councils and acts performed on authority of local authority council

17. (1) No decision taken by a local authority council or act performed under the authority of a local council shall be invalid by reason only of a vacancy or of the fact that a person who is not entitled to sit as a member of a local authority council sat as such a member at the time when the decision was taken or the act was authorised, if the decision was taken or the act was authorised by the requisite majority of the members who were present at the time and entitled to sit as members.

(2) No irregularity in the election of any person as a member of a local authority council or of a member as chairperson of a local authority council shall affect the validity of an act performed by such person or member under a provision of this Act or on the authority of the local authority council.

(3) For the purpose of this section "local authority council" shall include its management committee.

Remuneration allowances and benefits of members of local authority councils

18. (1) The municipal council of a municipality referred to in Part I of Schedule 1 and, subject to such conditions as the Minister may impose, the municipal council of a municipality referred to in Part II of Schedule 1 or a town council or village council, may pay or provide to its members such remuneration, allowances and other benefits as it may from time to time determine.

(2) Any remuneration, allowances or other benefits paid or provided by the municipal council of a municipality referred to in Part II of Schedule 1 or a town council or village council in terms of subsection (1), shall not exceed such remuneration, allowances or other benefits as the Minister may from time to time determine in respect of the municipal council, town council or village council in question.

(3) Any remuneration, allowances or other benefits determined under subsection (1) or (2) may differ in respect of different members of local authority councils according to -

- (a) the different offices held by them in the local authority council;
- (b) the different powers, duties and functions exercised or performed by them from time to time.

(4) A local authority council may indemnify its members in respect of any harm, damage or loss suffered by them in the course of the exercise or performance of their powers, duties and functions.

Contracts with, and work for, local authority councils in which members are interested

19. (1) If -

- (a) a member of a local authority council; or
- (b) any other person -
 - (i) who is related to such member, whether by affinity or consanguinity;
 - (ii) who is a member of the household of such member;
 - (iii) with whom such member is in terms of the traditional laws and customs a partner in a customary union; or
 - (iv) who is a partner, agent or business associate of such member,

is materially interested or intends to become so interested in any contract which the

local authority in question has entered into or considers entering into or in any other matter administered by or under the control of such local authority council, such member shall forthwith and in writing -

(Subs (1) amended by s. 12 of Act. No. 24 of 2000)

- (i) table full particulars of the nature and extent of his or her interest or intended interest; or
- (ii) disclose his or her relation to any such person who is so interested or intends to become so interested, to the extent known to him or her,

at a meeting of the local authority council.

(2) No member of a local authority council shall in his or her capacity of such a member be present if and when any vote takes place at any meeting of the local authority council in connection with any contract or matter referred to in subsection (1).

(3) Any member of a local authority council who contravenes or fails to comply with the provisions of subsection (1) or (2), shall be guilty of an offence and be liable on conviction to a fine not exceeding R4 000 or to imprisonment for a period not exceeding 12 months or to both such fine and such imprisonment.

(4) No contract entered into or other act done by or on the authority of a local authority council or any member thereof, shall be invalid merely by reason of a contravention of or failure to comply with any provision of subsection (1) or (2), but any such contract or act may, on application by the local authority council concerned, be declared invalid by any competent court on account of any such contravention of failure.

Prohibited practices in respect of members of local authority councils.

20. (1) A member of a local authority council shall not accept any commission, remuneration or reward from any person other than the local authority council for or in connection with the performance or non-performance of his or her powers, duties and functions as such a member or in connection with any transaction to which the local authority council is a party.

(2) Any member of a local authority council who contravenes or fails to comply with the provisions of subsection (1) shall be guilty of an offence and liable on conviction to a fine not exceeding R8 000 or to imprisonment for a period of two years or to both such fine and such imprisonment.

(3) Any member of a local authority council who has accepted any commission, remuneration or reward in contravention of the provisions of subsection (1) shall pay to the local authority council an amount equal to the amount of such commission, remuneration or reward together with an amount equal to an amount calculated at the percentage of a rate of interest prescribed in terms of section 1(2) of the Prescribed Rate of Interest Act, 1975 (Act 55 of 1975), on such amount, or where it did not consist of money, the value thereof as determined by the local authority council.

PART III

MANAGEMENT COMMITTEES OF LOCAL AUTHORITY COUNCILS

Management committees of municipal and town councils

21. (1) Every municipal council and every town council shall elect, in the manner provided for in section 22, from amongst its members, other than the mayor and deputy mayor, who shall be *ex officio* members of the management committee, a management committee which shall consist of -

- (a) three members, in the case of a municipal council or town council constituted of nine or fewer members;
- (b) four members, in the case of a municipal council or town council constituted of ten members;
- (c) five members, in the case of a municipal council or town council constituted of 11 or more members.

(2) An election of members of a management committee shall be held -

- (a) in the case of a newly constituted municipal council or town council, at its first meeting referred to in section 11(2)(a), and immediately following the election of its chairperson and vice-chairperson at that meeting;
- (b) in the case of the election of a member to fill a casual vacancy occurring on a management committee, at the first meeting of the municipal council or town council held after that vacancy occurred;
- (c) in the case of the expiration of the period of office of a member of a management committee elected in an election held in terms of paragraph (a) or (b), on a date within a period of 30 days before the date on which the period of office of the member concerned so elected expires.

(3) A member of a management committee shall, subject to the provisions of section 23, hold office in that capacity for a period of one year, excluding a member elected in terms of subsection (2)(b) who shall hold office for the unexpired period of the term of the member whom he or she succeeds.

(4) A municipal council or town council may, at the annual election of the members of its management committee, elect from its number an additional member to serve temporarily as a member of the management committee if a quorum of the management committee would otherwise not be obtainable by reason of the absence or incapacity of any of its members, and such additional member shall, while so serving, be deemed to be a member of the management committee.

(S 21 substituted by s. 13 of Act No.24 of 2000)

Manner of elections for members of management committees

22. (1) The magistrate of the district in which the area of a municipal council or town council is situated shall for purposes of the provisions of this section preside at a meeting of that municipal council or town council during which the election of members of its management committee is held, and during such meeting no debate shall be allowed.

(Subs (1) substituted by s. 14 (a) of Act. No. 24 of 2000)

(2) At a meeting referred to in subsection (1), any member of the municipal council or town council concerned may propose, in respect of each vacancy to be filled on the management committee, not more than one member of that municipal council or town council for election as a member of its management committee, provided the member making the proposal submits to the magistrate presiding at the meeting a written instrument signed by the member who is proposed in which he or she signified his or her acceptance of the proposal, but the proposal shall lapse if it is not seconded at the meeting.

(Subs (2) substituted by s. 14(b) of Act. No. 24 of 2000)

(3) A member may not propose or second his or her own candidature.

(4) If not more candidates than the number of vacancies to be filled are proposed and seconded, such candidates shall be declared duly elected by the magistrate presiding at the meeting.

(5) (a) If more candidates than the number of vacancies to be filled are proposed and seconded, a vote shall be taken by secret ballot, each member having one vote in respect of each vacancy.

(b) At any voting by secret ballot in terms of paragraph (a) -

- (i) the magistrate presiding at the meeting shall issue to each member present a ballot paper bearing the names of the candidates and, on the reverse side thereof, an official mark;
- (ii) a member shall record his or her vote by placing a cross on the ballot paper opposite the name or names of the candidate or candidates for whom he or she wishes to vote, and shall fold the ballot paper in such a manner that the cross placed on it by him or her is not visible;
- (iii) the magistrate presiding at the meeting shall call the name of each member, whereupon the member concerned shall proceed to the place where the ballot box is situated and there place his or her ballot paper, folded as aforesaid, into the ballot box;
- (iv) as soon as every member who wishes to vote has done so, the magistrate presiding at the meeting shall examine the ballot papers and determine the number of votes cast for each candidate, and shall announce the result of the voting.

(6) The magistrate presiding at the meeting referred to in subsection (1) shall declare the candidates equal to the number of vacancies to be filled and in whose favour the greater or greatest number of votes are recorded duly elected: Provided that the number of votes so recorded in respect of each such candidate shall not be less than the majority of all the members of the municipal council or town council concerned.

(Subs (6) substituted by s. 14(c) of Act. No. 24 of 2000)

(7) If due to an equality of votes or to the proviso to subsection (6), the number of candidates declared duly elected as contemplated in that subsection are less than the number of vacancies to be filled, the meeting shall be adjourned on one occasion to a time during that day or the next day determined by the magistrate presiding at such meeting after consultation with the members of the municipal council or town council present at such meeting, whereupon at such an adjourned meeting a further vote shall be taken in accordance with the provisions of subsection (8).

(Subs (7) substituted by s. 14 (d) of Act. No. 24 of 2000)

(8) (a) At an adjourned meeting contemplated in subsection (7) -

(i) the magistrate presiding at such meeting shall call for nominations in respect of any vacancy to be filled;

(ii) a member of the municipal council or town council, as the case may be, shall have the right to propose a member of the council concerned in respect of each such vacancy *mutatis mutandis* in accordance with the provisions of subsections (2) and (3).

(Subpara (ii) substituted by s. 14 (e) of Act. No. 24 of 2000)

(b) If not more candidates than the number of vacancies to be filled are proposed and seconded such candidates shall be declared duly elected by the magistrate presiding at the meeting.

(c) If more candidates than the number of vacancies to be filled are proposed and seconded, a vote shall be taken *mutatis mutandis* in accordance with the provisions of subsection (5).

(d) The magistrate presiding at the meeting shall declare the candidates equal to the number of vacancies to be filled and in whose favour the greater or greatest number of votes are recorded duly elected.

(e) If two or more candidates have received the same number of votes, the candidate to be elected shall be determined by lot.

Vacation of office by members of management committees

23. A member of a management committee shall vacate his or her office as such a member -

- (a) if he or she ceases to be a member of the municipal council or town council;
- (b) if he or she is absent, without the leave of the management committee or, if the management committee has authorised the chairperson of the management committee to grant leave to members thereof, without the leave of the chairperson of the management committee, from three consecutive meetings of the management committee and his or her absence is not condoned by the management committee;
- (c) if the municipal council or town council resolves by a majority of all its members that it has no confidence in such member;
- (d) if in the case of an *ex officio* member of a management committee, he or she ceases to be the mayor or deputy mayor of the municipal council or town council concerned; or
(Para (d) substituted by s. 8(a) of Act No. 17 of 2002)
- (e) if he or she by notice in writing addressed and delivered to the chief executive officer, resigns as a member of the management committee.
(S. 23 substituted by s. 15 of Act. 24 of 2000 and s. 8 of Act No. 17 of 2002)

Meetings of management committees

24. (1) Subject to any rules made under subsection (4), meetings of a management committee, excluding the meeting referred to in section 25(1), shall be held at such places and times as may from time to time be determined by the chief executive officer.

(Subs (1) substituted by s. 16 of Act No. 24 of 2000)

(1A) The *ex officio* members of a management committee shall have no voting rights at any meeting of such management committee.

(Subsection (1A) inserted by s. 9(a) of Act No. 17 of 2002)

(2) The majority of the members of a management committee having voting rights shall form a quorum for a meeting of the management committee.

(Subsection (2) amended by s. 9(b) of Act No. 17 of 2002)

(3) The decision of the majority of the members of the management committee present at a meeting thereof and entitled to vote shall be a decision of the management committee, and, in the event of an equality of votes relating to any matter, the person presiding at such meeting shall have a casting vote in addition to his or her deliberative vote.

(Subsection (3) amended by s. 9(c) of Act No. 17 of 2002)

(4) A management committee may make rules in connection with the convening and holding of, and procedure at, meetings of the management committee.

Chairpersons and vice-chairpersons of management committees

25. (1) A management committee of a municipal council or a town council shall immediately after having been constituted as contemplated in section 21, and thereafter as the occasion arises, meet to elect from amongst its members other than its *ex officio* members, one person as chairperson of the management committee.

(2) The mayor of the municipal council or a town council shall preside at any meeting during which the election of the chairperson of a management committee is held and shall, notwithstanding the provisions of section 24, in the event of a deadlock in such election due to an equality of votes, have casting vote which he or she shall exercise to break the deadlock.

(3) Any person elected as chairperson in terms of subsection (1) shall, subject to the provisions of section 23, hold office as such for the unexpired period of his or her term of office as member of the management committee.

(4) The chairperson of a management committee or, in his or her absence or incapacity, such other person as the members present at any meeting may, with due regard to subsection (1), elect, shall preside at meetings of the management committee.

(S. 25 substituted by s. 17 of Act No. 24 of 2000 and s. 10(1) of Act No. 17 of 2002. See also section 10(2) of Act No. 17 of 2002)

Powers, duties and functions of management committees

26. (1) A management committee shall be required -

- (a) to ensure that the decisions of the local authority council are carried out;
- (b) to consider any matter entrusted to the local authority council by virtue of any provisions of this Act or any other law in order to advise the local authority council on such matter;
- (c) to prepare and compile for the approval of the local authority council the estimates and supplementary estimates of revenue and expenditure of the local authority council;
- (d) to control the expenditure of moneys voted by the local authority council in its approved estimates and additional estimates and all other moneys or funds made available to the local authority council;
- (e) to report at meetings of the local authority council on the exercise of the powers and the performance of the duties and functions of the management committee;
- (f) to exercise any power conferred upon the management committee under any provision of this Act or any other law;
- (g) to exercise any power of the local authority council delegated to the management committee by the local authority council under section 31,

and may establish from time to time such committees as it may deem necessary to advise it on the exercise of any of its powers or the performance of any of its duties and functions and may appoint such members of the management committee or such other persons as it may deem fit to be members of such committees.

(2) A management committee may at any time in writing request a local authority council to reconsider any decision referred to in paragraph (a) of subsection (1) with due regard to such facts or other considerations as may be set out in such request.

PART IV CHIEF EXECUTIVE OFFICERS AND OTHER STAFF MEMBERS OF LOCAL AUTHORITY COUNCILS

Appointment of town clerks of municipal councils and town councils, village secretaries of village councils and other staff members of local authority councils

27. (1) Subject to the provisions of this section and of any regulations made under section 94A(1)(d)-

(Preceding words substituted by s. 11 of Act No. 17 of 2002)

- (a) a municipal council and a town council shall appoint, on the recommendation of its management committee and after consultation with the Minister, a person as the town clerk of such municipal council or town council, as the case may be, and a village council shall so appoint a person as the village secretary of such village council, who shall in each case be the chief executive officer of the local authority council in question and who shall, subject to the control and directions of the local authority council, be responsible for the carrying out of the decisions of the local authority council and for the administration of the affairs of the local authority council;
- (b) the power to appoint other staff members of the local authority council in posts on the fixed establishment of the local authority council, as approved by it, and as may be considered necessary for the performance of the work incidental to the functions of the local authority council, shall vest -
 - (i) in the case of municipal council or town council, in the management committee;
 - (ii) in the case of a village council, in the village council.
(Para (b) substituted by s. 18(1)(a) of Act No. 24 of 2000)
- (c) a local authority council may -
 - (i) with the approval of the Minister make such personnel rules as may be necessary in connection with the discipline, discharge or suspension of its chief executive officer or other staff members appointed under paragraph (b);

- (ii) (aa) train its chief executive officer or other staff members or or cause them to be trained, indemnify them in respect of any harm, damage or loss suffered by them in the course of the performance of their duties and functions;
 - (bb) in the case of the municipal council of a municipality referred to in Part I of Schedule 1, after consultation with the Minister, and, in the case of the municipal council of a municipality referred to in Part II of Schedule 1 or a town council or village council, with the approval of the Minister, determine the remuneration of and provide or give pension and other benefits and housing facilities or benefits for or to its chief executive officer or other staff members and make personnel rules in connection therewith after such consultation or with such approval, as the case may be;
 - (iii) from time to time on such conditions and against such security as it may deem fit -
 - (aa) provide collateral security, including guarantees, to a financial institution in respect of a loan granted to its chief executive officer or other staff members by that financial institution, to enable such chief executive officer or other staff members to acquire, improve or enlarge immovable property for residential purposes;
 - (bb) build, cause to be built, purchase or rent houses, flats or flat buildings for occupation by its chief executive officer or other staff members, and sell or let any such house or flat to such chief executive officer or staff members, or otherwise dispose of, let or otherwise deal with such houses, flats or flat buildings;
 - (cc) establish, institute or maintain sports or recreational societies, social and health services, hostels, bursary schemes for purposes of study or other similar undertakings or schemes which in its opinion may be beneficial to its chief executive officer or other staff members.
- (2) (a) No person shall be appointed under subsection (1) as a chief executive officer, unless he or she is a Namibian citizen.
- (b) The Minister may from time to time determine that, in respect of any such post on the fixed establishment of a local authority council as may be specified by him or her, no person shall be appointed in such post unless it

has been advertised in such manner and for such period as may be so determined by the Minister.

- (3) (a) Subject to the provisions of section 29 -
 - (i) (aa) a person who is appointed as a chief executive officer or a staff member of a local authority council who is promoted to the office of chief executive officer, shall occupy that office for a period five years from the date of his or her appointment or promotion.
 - (bb) a town clerk who is deemed to have been appointed as town clerk of a municipal council in terms of subsection (6)(a), shall occupy that office for a period of two years.
 - (ii) a period of office referred to in subparagraph (i) may, subject to the provisions of paragraph (b), be extended at the expiry thereof for a further period or successive periods as contemplated in that subparagraph.
- (b) (i) The local authority council shall in writing inform the chief executive officer concerned at least three calendar months before the expiry of the period contemplated in paragraph (a)(i) or any previously extended period contemplated in paragraph (a)(ii) of its intention to retain him or her in service for an extended term, or not.
- (ii) If the local authority council so informs the chief executive officer of its intention to retain him or her in service for an extended term, he or she shall in writing inform the local authority council within one month from the date of that communication of his or her acceptance or not of that extended employment.
(Subs (3)(a) and (b) substituted by s. 18(1)(b) of Act No. 24 of 2000)
- (iii) If the local authority council does not inform the chief executive officer of its intention within the period contemplated in subparagraph (i), the chief executive officer shall in a submission in writing on the agenda of the next following meeting of the local authority council inform that council of the requirements of subparagraph (i).
- (iv) A local authority council shall upon receipt of a submission in terms of subparagraph (iii) consider and decide thereon within a period of one month after receipt thereof, and the chairperson of the local authority council concerned shall within a further period of not more than seven days after such decision inform the chief executive officer in writing of its intention as contemplated in subparagraph (i), and if the local authority council concerned fails to do so, it shall be deemed that a notice had been given to the

chief executive officer that he or she is retained in service for an extended term.

(Subpara's (iii) and (iv) of Para (b) inserted by s. 18(1)(c) of Act No. 24 of 2000)

(4) When the chief executive officer is absent or is unable to exercise his or her powers or to perform his or her duties or functions, or the office of chief executive officer is vacant, the powers, duties and functions of the chief executive officer shall be exercised or performed by a staff member of the local authority council designated by the management committee, or the village council, as the case may be, for that purpose.

(Subs (4) substituted by s. 18(1)(d) of Act No. 24 of 2000)

(5) The powers conferred and the duties and functions imposed upon a chief executive officer by or under the provisions of this Act or any other law may be exercised or performed by the chief executive officer personally or, except in so far as the chief executive officer otherwise determines, by any staff member referred to in sub-section (1)(b) engaged in carrying out such provisions under the direction and control of the chief executive officer.

(6) (a) Subject to the provisions of subsection (3)(a)(i)(bb), any person holding on the date immediately before the date fixed in terms of Article 137(5) of the Namibian Constitution office as town clerk or other staff member of a municipality referred to in section 3(5) by virtue of an appointment made in terms of the Municipal Ordinance, 1963 (Ordinance 13 of 1963), shall be deemed to have been appointed, in terms of subsection (1)(a) or (b), as town clerk or other staff member, as the case may be, of the municipal council in question on conditions of employment which are not less favourable than any conditions of employment which applied to such person immediately before the date so fixed.

whose (b) A person referred to in paragraph (a) holding the office of town clerk
period of office is not extended as contemplated in subsection (3)(a)(ii)
shall be -

as (i) entitled to be appointed in terms of paragraph (b) of subsection (1)
a staff member of such municipal council in a post on the fixed
establishment of such municipal council or in a post additional to
such fixed establishment;

(ii) appointed on conditions of employment which are not less
favourable than the conditions of employment which applied to
such person on the date of the expiration of his or her appointment
by virtue of the provisions of paragraph (a) of this subsection.

Departments

28. (1) A local authority council may for the effective carrying out of its powers, duties and functions establish in its administration two or more

departments and charge each department with such duties and functions as may be determined by the local authority council.

(2) A local authority council shall for each department established by it under subsection (1) designate a staff member appointed under section 27 as the head of such department.

(3) A head of a department designated under sub-section (2) shall be responsible for the administration of the department in respect of which he or she has so been designated and shall perform his or her duties and functions subject to the control and directions of the chief executive officer.

(4) Any department which existed on the date immediately before the date fixed in terms of Article 137(5) of the Namibian Constitution in respect of a municipality referred to in section 3(5) by virtue of an establishment in terms of the Municipal Ordinance, 1963 (Ordinance 13 of 1963), shall be deemed to have been established in terms of subsection (1).

Discharge of chief executive officers and other staff members of local authority councils

29. (1) The power to discharge the chief executive officer or other staff members of a local authority council shall vest -

(a) in the case of the chief executive officer or a head of a department referred to in section 28, in the local authority council;

(b) in the case of any other staff member of a municipal council or town council, in the management committee.

(c) in the case of any other staff member of a village council, in the village council.

(Subs (1) substituted by s. 19(a) of Act No. 24 of 2000)

(2) (a) A management committee or a village council may delegate the power conferred upon it by subsection (1)(b) or (c), as the case may be, to the chief executive officer.

(Para (a) substituted by s. 19(b) of Act No. 24 of 2000)

(b) The references in subsections (5) and (6) to the management committee shall, if the power contemplated in paragraph (a) has been delegated in terms of that paragraph to the chief executive officer, be construed as references to the chief executive officer.

(3) The chief executive officer or any other staff member referred to in subsection (1) may be discharged from the service of the local authority council -

(a) on account of continued ill-health;

(b) owing to the abolition of his or her post or any reduction in or reorganisation or readjustment of departments;

(c) on account of unfitness for his or her duties or incapacity to carry out such duties efficiently;

(d) on account of misconduct as provided in the rules referred to in section 27(1)(c).

or (4) (a) A chief executive officer who absents himself or herself from his her duties without the permission of the management committee or the village council, or any other staff member who absents himself or herself from his or her duties without permission of the chief executive officer -

(i) may be discharged from the service of the local authority council concerned at any time after such absence has continued for a period of seven days; and

such (ii) shall, if he or she is not discharged under subparagraph (i) and absence has continued for a period of 30 days, be deemed to have been discharged from the service of the local authority council concerned on account of misconduct with effect from the date immediately after his or her last day of attendance at his or her last place of duty.

(b) A staff member referred to in paragraph (a) who has been discharged or is deemed to have been discharged in terms of paragraph (a), may be reinstated in service by the local authority council in his or her former or any other post or position on such conditions as may be determined by the local authority council, and after such reinstatement the period of his or her absence from duty shall be deemed to have been absence on vacation leave without pay or leave on such other conditions as may be determined by the local authority council.

(Subs (4) substituted by s. 19(c) of Act No. 24 of 2000)

(5) (a) If a management committee or village council, as the case may be, has reason to believe that any staff member in the service of the local authority council, other than the chief executive officer or a head of a department referred to in section 28, is unfit for his or her duties or incapable of carrying out such duties efficiently, the management committee or village council, as the case may be, shall designate a staff member or staff members in the service of the local authority council to inquire into such reasons.

(Para (a) substituted by s. 19(d) of Act No. 24 of 2000)

(b) A staff member referred to in paragraph (a) shall be notified in

writing of an inquiry so referred to, whereupon, such staff member shall have the right -

- (i) to a written statement setting out the grounds on which he or she is alleged to be unfit for his or her duties or incapable of carrying out such duties efficiently;
- (ii) to be present at such inquiry, to be assisted or represented by any other person, to give evidence and, either personally or through a representative -

- (aa) to be heard;

- (bb) to call witnesses;

- (cc) to cross-examine any person called as a witness in support of his or her alleged unfitness or incapability;

- (dd) to have access to documents produced in evidence.

- (c) (i) At the conclusion of such inquiry, the staff member concerned shall be notified of the finding of the officer or officers conducting the inquiry.

- (ii) If it has been found that the staff member concerned is unfit for his or her duties or that he or she is incapable of carrying out such duties efficiently, he or she shall have the right to appeal, within seven days as from the date on which he or she is notified, to the management committee or village council concerned, as the case may be, against such finding.

(Subpara (ii) substituted by s. 19(e) of Act No. 24 of 2000)

- (d) (i) If the staff member or staff members conducting the inquiry has found that the staff member concerned is unfit for his or her duties or incapable of carrying out such duties efficiently, and such finding has not been set aside upon an appeal in terms of paragraph (c)(ii), the management committee or the village council concerned, as the case may be, may, having regard to the documents relating to the finding and, after affording the staff member concerned an opportunity to make representations in relation to any intended action to be taken against him or her -

(Words preceding subpara (aa) substituted by s. 19(f) of Act No. 24 of 2000)

- (aa) determine that no further action be taken in the matter;

- (bb) transfer him or her to any other post;

- (cc) reduce his or her remuneration or grade or both his or her remuneration and grade to an extent determined by it; or

- (dd) discharge him or her from the service of the local authority council from a date to be fixed by it.
- (ii) A staff member of a local authority council in respect of whom the management committee or the village council, as the case may be, has decided to take any action contemplated in subparagraph (i)(bb), (cc) or (dd), shall have the right to appeal -
 - (aa) in the case of a staff member of a municipal council or town council, to the municipal council or town council concerned;
 - (bb) in the case of a staff member of a village council, to the chairperson of the regional council concerned,

in accordance with the provisions of subparagraph (iii).
(Subpara (ii) substituted by s. 19(g) of Act No. 24 of 2000)

- (iii) The right of appeal referred to in subparagraph (ii) shall -
 - (aa) if the staff member concerned has appealed in terms of paragraph (c)(ii), lie against the finding or the action contemplated in that subparagraph;
 - (bb) if he or she has not appealed in terms of that paragraph, lie only against such action.
- (e) (i) If a local authority council has reason to believe that the chief executive officer or a head of a department referred to in section 28, is unfit for his or her duties or incapable of carrying them out efficiently, the local authority council may appoint any person or persons to inquire into the reasons so believed.
- (ii) An inquiry in terms of subparagraph (i) shall be conducted in accordance with the procedure prescribed in paragraphs (b) and (c)(i) of subsection (5).
- (iii) If the person or persons conducting the inquiry has found that the chief executive officer or head of a department is unfit for his or her duties or incapable of carrying them out efficiently, the local authority council, having regard to the documents relating to the finding, and after affording that chief executive officer or head of a department an opportunity to make representations to it, may take any action contemplated in subparagraphs (aa), (bb), (cc) and (dd) of paragraph (d)(i).
(Para (e) substituted by s.19(h) of Act No. 24 of 2000)

- (6) (a) When a staff member in the service of a local authority council is accused of misconduct, the chief executive officer or, if such officer is employed in a department established under section 28, the head of the department or other staff member in that department designated for that purpose by such head may charge such staff member in writing with such misconduct, and the charge shall contain or shall be accompanied by a direction calling upon the staff member charged to send or deliver within a reasonable period specified in the direction to a person so specified a written admission or denial of the charge and, if he or she so desires, a written explanation regarding the misconduct with which he or she is charged.
- (b) A staff member may at any time before or after he or she has been charged under this sub-section be suspended from duty on such conditions as may be prescribed in the rules referred to in section 27(1)(c).
- (c) If the staff member charged admits that he or she is guilty of the charge, he or she shall be deemed to be guilty of misconduct as charged.
- (d) If he or she denies the charge or fails to comply with the direction contemplated in paragraph (a), the management committee or the village council concerned, as the case may be, shall appoint a staff member in the service of the local authority council to inquire into the charge.
(Para (d) substituted by s. 19(i) of Act No. 24 of 2000)
- (e) At an inquiry in terms of paragraph (d) the staff member charged shall have the right -
- other (i) if the misconduct with which he or she is charged amounts to an offence of which he or she was convicted by a court of law, to show cause why, in his or her opinion, he or she was wrongly convicted;
- (ii) to be present at the inquiry, to be assisted or represented by any person, to give evidence and, either personally or through a representative-
- (aa) to be heard;
- (bb) to call witnesses;
- (cc) to cross-examine any person called as a witness in support of the charge;
- (dd) to have access to documents produced in evidence.
- (f) (i) At the conclusion of the inquiry the staff member charged

shall be notified of the finding of the officer or officers conducting the inquiry.

- (ii) If the staff member charged has been found guilty he or she shall have the right to appeal, within seven days as from the date on which he or she is notified, to the management committee or, in the case of a staff member of a village council, to the chairperson of the regional council concerned, as the case may be, against such finding.

(Subpara (ii) substituted by s. 19(j) of Act No. 24 of 2000)

- staff (g) (i) If the staff member charged is found guilty of the charge by the member or staff members conducting the inquiry, and such finding has not been set aside upon an appeal in terms of paragraph (f)(ii), or if he or she admits that he or she is guilty of the charge, the staff member or staff members conducting the enquiry shall recommend to the management committee or the village council concerned, as the case may be -

- (aa) that he or she be cautioned or reprimanded;

- (bb) that he or she be transferred to any other post;

- (cc) that his or her remuneration or grade or both his or her remuneration and grade be reduced to an extent recommended; or

- (dd) that he or she be discharged or called upon to resign from the service of the local authority council from a date to be fixed by the local authority council,

whereupon, the management committee or the village council concerned, as the case may be, having regard to the documents relating to the finding, and after affording the staff member concerned an opportunity to make representations in relation to any intended action, may take such action as it may, with due regard to such recommendations, deem to be fair and equitable.

(Subpara (i) substituted by s. 19(k) of Act No. 24 of 2000)

- (ii) Subject to the provisions of subparagraph (iii), the staff member concerned shall have the right to appeal, within seven days from the date on which he or she is notified of the action contemplated in subparagraph (i)(bb), (cc) or (dd), to the local authority council

- (iii) The right of appeal referred to in subparagraph (ii) shall -

- (aa) if the staff member concerned has appealed in terms of

paragraph (f)(ii), lie against the finding or the action contemplated in that subparagraph;

(bb) if he or she has not appealed in terms of that paragraph, lie only against such action.

(h) (i) The provisions of paragraphs (a) to (e), (f)(i) and (g)(i) shall apply *mutatis mutandis* in relation to a chief executive officer or a head of a department referred to in section 28 who is accused of misconduct.

(ii) For purposes of subparagraph (i) -

(aa) the reference in paragraph (a) to the chief executive officer or the head of a department or officer designated by such head, shall be construed as a reference to the local authority council;

(bb) the reference in paragraph (d), to a management committee or a village council, shall be construed as a reference to the Minister;

(Subpara (bb) substituted by s. 19(l) of Act No. 24 of 2000)

(cc) the reference in paragraph (d) to a staff member in the service of the local authority council, shall be construed as a reference to any person or persons;

(dd) the references in paragraphs (f)(i) and (g)(i) to the officer or officers conducting the inquiry, shall be construed as references to the person or persons contemplated in item (cc);

(ee) the reference in paragraph (g)(i) to a management committee shall be construed as a reference to the local authority council, and to a village council shall be construed as a reference to the chairperson of a regional council; and

(Subpara (ee) substituted by s. 19(m) of Act No. 24 of 2000)

(7) For purposes of this section any reference to the designation of any staff member in the service of the local authority council to hold an inquiry in terms of subsection (5)(a) or subsection (6)(d), and any reference to the town clerk, a head of a department or other staff member designated to charge another staff member with misconduct in terms of subsection (6)(a), shall include a legal practitioner enrolled under the Legal practitioners Act, 1995 (Act No. 15 of 1995), appointed by the local authority council for such purpose.

(8) The power conferred in subsections (5)(b)(ii)(bb) and (6)(e)(ii)(bb) to call witnesses shall include, in the case of the local authority council, to subpoena such witnesses, whether in the service of the local authority council or not, and the power to place all witnesses under oath when giving evidence.

(9) For the purposes of subsection (8), sections 51 and 112 of the magistrates Court Act, 1944 (Act No. 32 of 1994), shall apply *mutatis mutandis*.

(Subs (7), (8) and (9) inserted by s. 19(n) of Act No. 24 of 2000)

PART V POWERS DUTIES FUNCTIONS RIGHTS AND OBLIGATIONS OF LOCAL AUTHORITY COUNCILS

Powers, duties and functions of local authority councils

30. (1) Subject to the provisions of subsections (2) and (3), a local authority council shall have the power -

- (a) subject to the provisions of Part VI, to supply water to the residents in its area for household, business or industrial purposes;
- (b) subject to the provisions of Part VII, to provide, maintain and carry on a system of sewerage and drainage for the benefit of the residents in its area;
- (c) to provide, maintain and carry on services to such residents for the removal,
destruction or disposal of nightsoil, rubbish, slop water, garden and stable litter, derelict vehicles, carcasses of dead animals and all other kinds of refuse or otherwise offensive or unhealthy matter;
- (d) subject to the provisions of Part VIII, to establish and maintain cemeteries, or to take over any cemetery situated within its area;
- (e) subject to the provisions of Part IX, to construct and maintain streets and public places;
- (f) subject to the provisions of Part X and the Electricity Act, 2000 (Act No. 2 of 2000), to supply electricity or gas to the residents in its area;
(Para (f) substituted by s. 12(a) of Act No. 17 of 2002)
- (g) to establish, carry on and maintain sand, clay, stone or gravel quarries and works for the manufacture of bricks and tiles, and to dispose of sand, clay, stones, gravel, bricks and tiles exploited or manufactured from such quarries;
- (h) subject to the provisions of Part XI, to establish, carry on and maintain a public transport service;
- (i) subject to the provisions of Part XII, to establish, with the prior approval
of

the Minister and in accordance with such conditions as may be determined by him or her, a housing scheme, whether by itself or in conjunction with any other person;

(See sec. 37(5) of the National Housing Development Act, 2000 (Act No. 28 of 2000))

- (j) to establish, carry on and maintain markets and, for that purpose, to construct and let market houses, auction or sale rooms, stalls, warehouses and other buildings for the sale or storage of goods at such market;
- (k) to establish, carry on and maintain -
 - (i) abattoirs;
 - (ii) aerodromes;
 - (iii) an ambulance service;
 - (iv) bands and orchestras;
 - (v) dipping tanks;
 - (vi) a fire brigade;
 - (vii) museums and libraries;
(Subpara (vii) substituted by s. 12(b) of Act No. 17 of 2002)
 - (viii) pounds;
 - (ix) nurseries;
 - (x) a traffic service
(Subpara (x) inserted by s. 20 (a) of Act. No. 24 of 2000)
- (l) to construct and maintain buildings or depots for the reception or storage of perishable goods;
- (m) to establish and maintain parking garages and to designate areas for the parking of vehicles;
- (n) to beautify and secure the neatness of its area, including the planting, trimming or removal of trees;
- (o) to establish and maintain any building or structure for any community requirement;
- (p) to allocate bursaries, and grant loans, for educational purposes;
- (q) to confer honours upon any person who has in the opinion of the local authority council rendered meritorious service to its residents;

- (r) to construct, acquire and maintain railway sidings, including marshalling yards, in any industrial area or areas, and to recover the costs incurred in connection with such construction, acquisition and maintenance from the owners of immovable property connected or capable of being connected to, or using or capable of using, such railway sidings;
- (s) to acquire, hire, hypothecate or let any movable property, or, sell or otherwise dispose of such movable property in any manner whatsoever to the State, a regional council or any other local authority council or, unless the Minister determines otherwise, by public auction to any other person;
- with (t) subject to the provisions of part XIII, to buy, hire or otherwise acquire, the prior approval of the Minister and subject to such conditions, if any, as may be determined by him or her, any immovable property or any right in respect of immovable property for any purpose connected with the powers, duties or functions of such local authority council, or to so sell, let, hypothecate or otherwise dispose of or encumber any such immovable property;
- (u) to determine by notice in the *Gazette* the charges, fees and other moneys payable in respect of any service, amenity or facility established and provided by it under this Act or any matter regulated and controlled by it thereunder, including -
 - or (i) deposits payable as security for payment of any such charges, fees other moneys;
 - rate (ii) the levy of interest at a specified rate, which shall not exceed the prescribed in terms of section 1(2) of the prescribed Rate of Interest Act, 1974 (Act No. 55 of 1975), on unpaid debts in respect of such charges, fees or other moneys;
 - (iii) charges for the provision of any service rendered by the local authority council in respect of immovable property, with or without improvements, being -
 - (aa) an availability charge leviable in respect of immovable properties connected to or supplied with any such service as well as immovable properties not so connected or supplied but which can reasonably be so connected or supplied; or
 - (bb) a minimum charge leviable in respect of properties connected to or supplied with any such service, based on a minimum supply, whether or not such service is being utilised;

(Para (u) substituted by s. 20(b) of Act. No. 24 of 2000)

- (v) (i) in the case of the municipal council of a municipality referred to in Part I of Schedule 1 and, with the prior approval in writing of the Minister granted after consultation with the Minister of Finance and subject to such conditions as the Minister may determine, the municipal council of a municipality referred to in Part II of Schedule 1 or a town council or a village council, to borrow money from time to time by way of loans from any source within Namibia and against the security which the local authority council may deem fit or the issue of debentures, bills of exchange and other negotiable instruments;
- (ii) with the prior approval in writing of the Minister granted after consultation with the Minister of Finance and subject to such conditions as the Minister may determine, to grant advances or loans to any sporting club or association or charitable institution;
- (w) to establish from time to time such committees as it may deem necessary to advise it generally or in relation to any particular matter in the exercise of any of its powers or the performance of any of its duties and functions and may appoint such members or such other persons as it may deem fit to be members of such committees;
- (x) to guarantee the due fulfilment of the contracts and obligations of any person, and enter into surety bonds or deeds of security;
- (y) to open banking accounts with a banking institution as defined in section 1 of the Banking Institutions Act, 1998 (Act No. 2 of 1998), a building society as defined in section 1 of the Building Societies Act, 1986 (Act 2 of 1986), the Savings Bank as defined in section 1 of the Posts and Telecommunications Companies Establishment Act, 1992 (Act No. 17 of 1992), or such other financial institution as may be approved by the Minister;
(Para (y) substituted by s. 12(c) of Act No. 17 of 2002)
- (z) (i) to accept donations made or receive moneys offered to it by any person within Namibia and, with the prior approval in writing of the Minister in every particular case and subject to such conditions as he or she may determine, to accept such donations made or receive such moneys offered to it by any person outside Namibia;
- (ii) with the prior approval in writing of the Minister in every particular case and subject to such conditions as he or she may determine, to make grants or donations;
- (aa) to enter, subject to the regulations, into joint business ventures;
(Para (aa) substituted by s. 20(c) of Act No. 24 of 2000)

- (ab) to commercialise, subject to any regulations which may be made relating thereto, any service rendered by it or any function or duty exercised or carried out by it ;
 - (ac) to farm, and for that purpose to do, subject to the provision of this Act or any other law, anything that is conducive or necessary to farming, on its townlands;
 - (ad) to promote, subject to the provisions of any other law, tourism;
 - (ae) to exercise any other power conferred upon or assigned to a local authority council in terms of any other provision of this Act, or by or in terms of any other law,
- (Paras (ab) to (ae) inserted by s. 20(c) of Act No. 24 of 2000)

and generally to do anything that is necessary or conducive to the exercise of its powers and the performance of its duties and functions in terms of this Act.

- (2) A power referred to in -
- (a) paragraph (a), (b) or (c) of subsection (1) shall be exercised by a local authority council;
 - (b) paragraph (d) of that subsection shall be exercised by a municipal council or town council,

in respect of an approved township situated within its area.

- (3) A power referred to in -
- (a) paragraph (g), (h), (i), (k)(i), (ii), (vii), (ix), and (x), (1), (m), (p), (q), (r) or (aa) and (ab) of subsection (1) shall only be exercised by a town council or a village council;
 - (b) paragraph (f), (k)(iii), (v) and (vi), (o) or (s) of that subsection shall only be exercised by a village council,
- (Subsection (3) substituted by s. 12(d) of Act No. 17 of 2002)

if the Minister has assigned such power to such town council or village council, as the case may be, by notice in the *Gazette*.

(Subs (3) substituted by s. 20(d) of Act No. 24 of 2000)

(4) Anything purporting to have been done by the chairperson of a local authority council by order of the local authority council by virtue of any power vested in the local authority council under this Act or any other law shall be deemed to have been done by the local authority council.

Delegation of powers by local authority councils to management committees or chief executive officers or other staff members

31. (1) A municipal council or a town council may delegate or assign, in writing and on such conditions as it may determine, to its management committee or its chief executive officer or any other staff member, any power conferred or any duty imposed upon it by or under this Act or any other law, except any power -

- (a) to make regulations or rules;
- (b) to approve its estimates or supplementary estimates of revenue and expenditure;
- (c) to determine rates, charges, fees or other moneys which may be levied under any provision of this Act;
- (d) to borrow money; or
- (e) which the Minister may determine by notice in the *Gazette*.

(2) A village council may delegate or assign, in writing and with the prior written approval of the Minister, and on such conditions as it may determine, to its chief executive officer or any other staff member, any power conferred or any duty imposed upon it by or under this Act or any other law, except any power referred to in paragraphs (a) to (e), inclusive, of subsection (1).

(3) A management committee may delegate, in writing and with the prior written approval of and on the conditions determined by the municipal council or town council concerned -

- (a) any power conferred upon it by this Act; or
- (b) any power which has been delegated to it under subsection (1),

to any member of the municipal council or town council, or to the chief executive officer or any staff member of the municipal council or town council concerned, or to any two or more of such persons conjointly.

(4) a local authority council or a management committee shall not be divested of any power delegated or assigned by it under subsection (1), (2) or (3), as the case may be and may alter or withdraw any decision given by the delegate in the exercise of such delegated power.

(S 31 substituted by s. 21 of Act. No. 24 of 2000)

Signing of contracts

31A. Any contract to be entered into by a local authority council pursuant to a resolution of the local authority council shall be signed by the chief executive officer of the local authority council and be co-signed by -

- (a) in the case of a municipal council or town council, the chairperson of the management committee or any staff member of that council generally or specially authorised thereto by the council concerned;
- (b) in the case of a village council, the chairperson thereof or any staff member of that council generally or specially authorised thereto by that council,

and any contract so signed shall be deemed to have been duly executed on behalf of the local authority council.

(S. 31A inserted by s. 22 of Act no. 24 of 2000)

Agreements between local authority councils or local authority councils and Government of Namibia or regional councils in relation to exercise or performance of powers duties and functions of local authority councils Government or regional councils

32. (1) A local authority council may enter into an agreement with the Government of Namibia, with one or more other local authority councils or with any regional council providing for the exercise or performance, on such terms and conditions as may be agreed upon -

- (a) by such local authority council as the agent of the Government or any such local authority councils or regional council;
- (b) by the Government or any such local authority councils or regional council as the agent of the local authority council; or
- (c) by the local authority council in co-operation with the Government or any such local authority councils or regional council,

of any power, duty or function conferred or imposed in terms of this Act or any other law upon the local authority council or any functionary of the Government or such local authority councils or regional council, as the case may be.

(2) Any power, duty or function which in terms of any agreement referred to in subsection (1) has been exercised or performed by a local authority council or any functionary of the Government or such other local authority councils or regional council or any staff member or body in the employ or under the control of such local authority council or the Government or local authority councils or regional council and, which in terms of this Act or any other law, is conferred or imposed upon a functionary of the Government, local authority council, regional council, staff member, or body other than such local authority council, shall be deemed to have been exercised or performed by such functionary, local authority council, regional council, staff member or body upon which such power, duty or function is so conferred or imposed.

Limitation of liability

33. Subject to the provisions of this Act, no compensation shall be payable by a local authority council, any member of a local authority council or any staff member employed in carrying out the provisions of this Act in respect of any act done in good faith under this Act.

PART VI SUPPLY OF WATER

Construction of water works

34. (1) For purposes of the provisions of section 30(1)(a), a local authority council may -

- (a) establish, acquire or construct, and maintain and carry on, any waterworks or water-main whether within or outside its area;
- (b) subject to the provisions of the Expropriation Ordinance, 1978 (Ordinance 13 of 1978), or on such terms and conditions as may otherwise be determined by mutual agreement between the local authority council and the owner of any immovable property, enter upon such property and lay across, through or under any such property any water-main of which the ownership shall at all times vest in the local authority council;
- (c) provide water meters for purposes of determining the quantity of water supplied out of any water-works to residents in its area or other persons and any accessories in relation to such water meters, and require any such resident or other person by notice in writing to provide an appropriate place on his or her immovable property where such water meters and accessories may be installed and to maintain such water meter and accessories to the satisfaction of the local authority council;
- (d) stop or limit the supply of water, if in its opinion it is reasonably necessary to do so on account of the construction, repair or maintenance of any waterworks;
- (e) subject to the provisions of the Water Act, 1956 (Act 54 of 1956), discharge from any waterworks or water-main water into any public watercourse.
- (f) generally perform or carry out any other function which is necessary for, or conducive to, the power of supplying water to the residents in its area.

(Para (f) added by s. s. 23 of Act. No. 24 of 2000)

- (2) (a) A local authority council shall, before it acquires or constructs any waterworks outside its area, cause a notice to be published in at least one newspaper circulating within its area -

- (i) setting out -
 - (aa) the nature, course and terminals of such waterworks or water-main;
 - (bb) the properties across, through, under or on which such waterworks or water-main is situated or is to be constructed;
 - (ii) stating that a plan of such waterworks or water-main is lying for inspection at the offices of the local authority council during ordinary office hours; and
 - (iii) calling upon interested persons to lodge any objections to such acquisition or construction with the local authority council in writing within a period of not less than 90 days after the date of the publication of such notice.
- its
- (b) A copy of the notice referred to in paragraph (a) shall within 14 days after publication be served on the owner and occupier of any property on which, and on any other local authority council in whose area, such waterworks or water-main is situated or is to be constructed.
 - (c) If any objection is lodged in terms of paragraph (a), the waterworks or water-main shall not be acquired or constructed, unless -
 - (i) the local authority council has submitted to the Minister such particulars as the Minister may require in relation to the proposed acquisition or construction, together with the objections lodged and the comments of the local authority council thereon; and
 - (ii) the local authority council has obtained the permission of the Minister to so acquire or construct such waterworks or water-main.
- any
- (3) (a) A local authority council may, if it has reason to believe that on immovable property occupied by any resident within its area there is no water or insufficient water suitable for household, business or industrial purposes available on a permanent basis, by notice in writing addressed and delivered to the owner of such immovable property require such owner to acquire within such period as may be specified in such notice, water from the nearest water-main and to provide for such purpose piping, a water meter and other accessories necessary for the supply of water from such water-main to such immovable property.
 - (b) If an owner referred to in paragraph (a) refuses or fails, within the period specified in the notice so referred to, to comply with the order contained in such notice to the satisfaction of the local authority council, the local

authority council may cause such steps to be taken as may be necessary in order to comply with such notice, and may recover the costs connected therewith from the owner concerned.

(4) Notwithstanding the provisions of section 33, the provisions of paragraph (e) of subsection (1) shall not be construed as restricting or limiting the liability of a local authority council for any damage or loss to any property situated outside its area caused to, or suffered by, any person in consequence of any water discharged in a public watercourse in terms of that paragraph.

Supply of water to persons other than residents

35. A local authority council may, on such terms and conditions as may be determined by mutual agreement, supply water to any person other than a resident in its area, or cause water to be so supplied.

Limitation on supply of water or on use of water during drought or other emergency conditions

- 36.** A local authority council may, if it is of the opinion
- (a) that the health or lives of the residents in its area or any part of such area are threatened on account of a water shortage due to a condition of drought or a disruption of the water supply; and
(Para (a) substituted by s. 24 of Act. No. 24 of 2000)
 - (b) that it is necessary to prohibit, restrict, regulate or control the supply or use of water in such area or part,

by notice in the *Gazette* prohibit, or restrict or regulate to the extent determined by it and specified in such notice, the use and enjoyment of water supplied by or on behalf of it.

Offences and penalties in relation to supply of water

- 37.** (1) Any person who -
- (a) without the prior approval in writing of the local authority council and otherwise than in accordance with such conditions, if any, as may be determined, by the local authority council or otherwise than in accordance with an agreement contemplated in section 32, renders a service in terms of which water is supplied to the residents of the area or any portion of such residents for consideration;
 - (b) without the prior approval in writing of the local authority council and otherwise than in accordance with such conditions, if any, as may be determined by the local authority council -
 - (i) erects any building or other structure, whether movable or

immovable, over any water-main or erects any such building or structure in a position or manner so as to interfere with the flow of any water in, or the distribution of any water by way of, any water-main;

- (ii) makes any opening into, or connection to, any water-main;
- (c) contravenes or fails to comply with a notice referred to in section 34(3)(a), section 36 or subsection (2)(a) of this section;
(Para (c) substituted by s. 25 of Act. No. 24 of 2000)
- (d) damages, endangers, renders inoperable or destroys any waterworks or water-main or does any act likely to damage, endanger, render inoperable or destroy any waterworks or water-main,

shall be guilty of an offence and on conviction liable to a fine not exceeding R2 000 or to imprisonment for a period not exceeding six months or to both such fine and such imprisonment.

(2) (a) A local authority council may by notice in writing order any person who has contravened or failed to comply with the provisions of subsection (1) -

- (i) to demolish or alter any building or structure referred to in paragraph (b) of subsection (1) or deal with such building or structure in such manner and within such period as may be specified in such notice;
- (ii) to repair or render operable any water-main referred to in paragraph (d) of subsection (1) in such manner and within such period as may be so specified.

- (b) If a person referred to in paragraph (a) refuses or fails, within the period specified in the notice so referred to, to comply with the order contained in such notice to the satisfaction of the local authority council, the local authority council may cause such steps to be taken as may be necessary in order to comply with such notice, and may recover the costs connected therewith from the person concerned.

PART VII SEWERAGE AND DRAINAGE

Sewerage and drainage

38. (1) For purposes of the provisions of section 30(1)(b), a local authority council may -

- (a) acquire or construct, and maintain and carry on, a system of sewerage and

drainage, including sewage works, public sewers and stormwater drains whether within or outside its area;

- (b) subject to the provisions of the Expropriation Ordinance, 1978 (Ordinance 13 of 1978), or on such terms and conditions as may otherwise be determined by mutual agreement between the local authority council and the owner of any immovable property, enter upon such property and -
 - (i) lay across, through or under any such property any public sewer, combined private sewer or stormwater drain;
 - (ii) carry any shaft or pipe for the ventilation of any sewer under or against any building, of which the ownership shall at all times vest in the local authority council;
- (c) lay across, through or under any street or public place any public sewer, combined private sewer or stormwater drain;
- (d) discharge subject to the provisions of the Water Act, 1956 (Act 54 of 1956), stormwater into any public watercourse;
- (e) divert, discontinue the use of, close up or destroy any public sewer or stormwater drain.
- (f) or generally perform or carry out any other function which is necessary for, conducive to, the power of supplying a system of sewerage and drainage for the benefit of the residents in its area.
(Para (f) added by s. 26 of Act. No. 24 of 2000)
- (2) The provisions of -
 - (a) subsection (2) of section 34 shall apply *mutatis mutandis* in relation to -
 - (i) drainage the acquisition or construction of any system of sewerage or outside its area in terms of paragraph (a) of subsection (1) of this section;
 - (ii) public the discontinuance of the use of, closing up or destruction of a sewer in terms of paragraph (e) of that subsection;
 - (b) any subsection (4) of that section shall apply *mutatis mutandis* in relation to stormwater discharged in a public watercourse in terms of paragraph (d) of subsection (1) of this section.
- (3) (a) A local authority council may, if it has reason to believe -

- its
- (i) that on any immovable property occupied by any resident within area there is not sufficient provision for the disposal of sewage;
 - (ii) that on any such immovable property which is by way of a private sewer connected in any manner whatsoever with a public sewer there are no sanitary conveniences, baths or washbasins, by notice in writing addressed and delivered to the owner of such immovable property, require such owner to construct a private sewer or, as the case may be, to provide on such immovable property such number of sanitary conveniences, baths or washbasins as may be specified in such notice within such period of not less than 30 days as may be so specified.
- (b) If an owner referred to in paragraph (a) refuses or fails, within the period specified in the notice so referred to, to comply with the order contained in such notice to the satisfaction of the local authority council, the local authority council may cause such steps to be taken as may be necessary in order to comply with such notice and recover the costs connected therewith from the person concerned.

Construction of private sewers or combined private sewers

39. (1) No private sewer shall be constructed without the permission and otherwise than in accordance with such conditions as may be prescribed or otherwise determined by the local authority council.

(2) Subject to the provisions of subsection (3), the provisions of subsection (1) shall not be construed as imposing upon the local authority council any liability for the costs incurred in respect of the construction of any private sewer or combined private sewer.

(3) The costs incurred in respect of the construction of a private sewer or combined private sewer from the boundary of the immovable property in respect of which it is constructed to the point of connection with any other sewer whereby such private sewer or combined sewer is for the first time connected with a public sewer, shall be paid by the local authority council, except in so far as may be prescribed otherwise.

Construction of combined private sewers by local authority councils

40. A local authority council may, instead of connecting a private sewer to a public sewer -

- (a) construct a combined private sewer for the purpose of connecting two or more private sewers to such combined private sewer, and may recover the costs actually incurred in respect of such construction on such basis as may be determined by the local authority council from the owners of immovable property on which the private sewer is situated and which is connected to such combined private sewer;

- (b) Connect a private sewer to any other private sewer or to an existing combined private sewer, and the owner of the immovable property on which such first-mentioned private sewer is situated shall be liable to the owner or owners of such other private sewer or combined private sewer for such equal portion of the costs actually incurred by the owner or owners of such last-mentioned private sewer or combined private sewer on such basis as may be determined by the local authority council.

Granting of assistance by local authority councils to residents to provide sewerage to their immovable property

41. (1) A local authority council may render, upon the request of an owner of any immovable property and on such conditions, including conditions relating to the levying of interest, as may be determined by mutual agreement, assistance to such owner to provide sewerage for such immovable property by way of an advance or loan to such owner or by constructing such sewerage itself, and cause particulars of such advance, loan or expenses incurred in respect of the constructing of such sewerage to be noted by the registrar of deeds in his or her registers in respect of the immovable property in question.

(2) Any advance or loan granted under subsection (1) or expenses incurred in respect of the construction of sewerage under that subsection, together with any interest payable thereon, shall be a first charge upon the immovable property in respect of which such advance or loan has been granted or such expenses have been incurred and in respect of which particulars have been noted by the registrar of deeds in terms of that subsection.

Maintenance of private sewers and combined private sewers

42. The maintenance of private sewers and combined private sewers may be undertaken by the local authority council -

- (a) in the case of a private sewer, at the cost of the owner of the immovable property on which it has been situated;
- (b) in the case of a combined private sewer, at the joint cost of the owners of the
immovable properties in respect of which it has been constructed on such basis as may be determined by the local authority council.

Stoppages or defects of private sewers or combined private sewers, sanitary conveniences, baths and wash basins

43. It shall be the duty of an occupier of any immovable property on which any private sewer, combined private sewer or sanitary convenience discharging into any such sewer is situated to report any stoppage or defect which may occur in any such sewer or sanitary convenience, bath or wash-basin as soon as practicable, but not later than 24 hours after it has occurred.

Offences and penalties in relation to sewerage and drainage

44. (1) Any person who without the prior approval in writing of the local authority council and otherwise than in accordance with such conditions, if any, as may be determined by the local authority council -

- (a) refuses or fails to comply with an order referred to in section 38(3) or subsection (2) of this section;
- (b) over erects any building or other structure, whether movable or immovable, any sewer or storm-water drain or erects any such building or structure in a position or manner so as to interfere with or endanger the operation of any sewer or storm-water drain;
- (c) drain; makes an opening into, or any connection to, any sewer or stormwater drain;
- (d) stormwater damages, endangers, renders inoperable or destroys any sewer or drain or does any act likely to damage, endanger, render inoperable or destroy any sewer or stormwater drain;
- (e) discharges, permits to enter or put into any sewer -
 - (i) any gas or steam;
 - (ii) any liquid other than domestic waste water of a temperature higher than 40 degrees Celsius;
 - (iii) any petrol or oil or substances containing petrol or oil;
 - (iv) any liquid refuse from any abattoir;
 - (v) any chemical refuse;
 - (vi) any industrial, trade or manufacturing waste;
 - (vii) interfere any substance or stormwater which interferes or is likely to with, or endangers or is likely to endanger the operation of any sewer;
- (f) discharges, permits to enter or puts anything into any stormwater drain;
- (g) contravenes or fails to comply with the provisions of section 43,

shall be guilty of an offence and on conviction liable to a fine not exceeding R2 000 or to imprisonment for a period not exceeding six months or to both such fine and such imprisonment.

- (2) (a) A local authority council may by notice in writing order any person who has contravened or failed to comply with the provisions of subsection (1) -
- (i) to demolish or alter any building or structure referred to in paragraph (b) of subsection (1) or deal with such building or structure in such manner and within such period as may be specified in such notice;
- (ii) to repair or render operable any sewer or stormwater drain referred to in paragraph (c) or (d) of subsection (1) in such manner and within such period as may be so specified;
- (iii) to remove anything discharged, permitted to enter or put into any sewer or stormwater drain referred to in paragraph (e) or (f) of subsection (1).
- (b) If a person referred to in paragraph (a) refuses or fails, within the period specified in the notice so referred to, to comply with the order contained in such notice to the satisfaction of the local authority council, the local authority council may cause such steps as may be necessary in order to comply with such notice and recover the costs connected therewith from the person concerned.

PART VIII CEMETERIES

Closing of cemeteries

45. (1) Subject to the provisions of subsection (2), a local authority council may, and, if directed by the Minister in writing, shall close a cemetery situated in its area.

(2) A cemetery shall not be closed under subsection (1), unless a notice stating the intention to close any such cemetery, the date as from which it shall be closed and the reasons for such intention has, in the case of cemetery not vested in the local authority council, been submitted to the owner or other person in control of such cemetery, and such notice has been posted in a conspicuous place at the cemetery in question and published on at least one occasion in the *Gazette* and once a week for four consecutive weeks in at least one newspaper circulating in its area.

Use of closed cemeteries

46. (1) A local authority council may, with the approval of the Minister and notwithstanding any conditions of title, use any cemetery which has been closed for a period of not less than 20 years and which is vested in the local authority council for any

purposes not desecrating the ground, any human remains, memorials or monuments in such cemetery.

(2) A local authority council may, with the approval of the Minister, reverently remove to any other cemetery the human remains, memorials and monuments in any cemetery which has been closed for more than 20 years and which vests in the local authority council, and, thereupon, any rights, powers and privileges which vested in any person in respect of such cemetery shall cease, and the registrar of deeds shall, upon the request of the local authority council and with the approval of the Minister, by endorsement of the title deed expunge any condition of title limiting the use of the land on which such cemetery is situated for cemetery purposes.

(3) The Minister shall not grant his or her approval under subsection (1) or (2), unless the local authority council has posted in a conspicuous place at the cemetery in question, and has published in at least one newspaper circulating in its area once a week for four consecutive weeks, a notice stating its intention and calling upon interested persons to lodge any objections with the local authority council before a date not less than 14 days after the last publication specified in such notice.

Offences in relation to cemeteries

47. Any person who without the prior approval in writing of the local authority council and otherwise than in accordance with such conditions, if any, as may be determined by the local authority council in the public interest -

- (a) establishes a cemetery within the area, or buries or causes to be buried any human remains in a cemetery established without such approval;
- (b) buries any human remains in a cemetery which has been closed in terms of section 45,

shall be guilty of an offence and on conviction liable to a fine not exceeding R2 000 or to imprisonment for a period not exceeding six months or to both such fine and such imprisonment.

PART IX STREETS AND PUBLIC PLACES

Construction of streets and public places

48. (1) For purposes of the provisions of section 30(1)(e), a local authority council may -

- (a) construct or lay drains, culverts, bridges, sewers, water-mains, underground drains, electric mains, cables, lines, poles and pipes in streets and public places constructed in terms of that section;
- (b) construct in any public place swimming baths, public baths, zoological or

botanical gardens, aquariums, pavilions, dressing rooms, public conveniences and other public facilities, and, with the approval of the Minister and subject to such terms and conditions as may be determined by him or her, let or grant the right to use any such public place;

- public
- (c) provide and carry on refreshment rooms, cafes and restaurants in any place, and, with the approval of the Minister and subject to such terms and conditions as may be determined by him or her, let any such refreshment room, cafe or restaurant;
 - (d) provide such apparatus or equipment as may be necessary for use in any game, sport or other recreation in any public place;
 - (e) alter in any manner whatsoever any street or public place;
 - (f) light streets and public places;
 - (g) erect road traffic signs;
 - (h) adorn any public place by any architectural or other scheme of ornamentation, including statues, monuments, fountains or any other structures; and
 - (i) generally, perform or carry out any other function which is necessary for
- or
- conducive to its powers in relation to the construction of streets and public places in its area.

(2) A local authority council shall not construct any street or public place in or on any townlands situated within its area without the prior approval in writing of the Minister.

(3) Notwithstanding the provisions of section 33, the owner of any immovable property who has suffered any damage or loss in consequence of the alteration of any street by way of the lowering or raising of the level, or the narrowing or widening, of any street in which such immovable property is situated shall be entitled to such compensation as may be determined by mutual agreement between such owner and the local authority council in question or, in the absence of any such agreement, by arbitration.

Construction of culvert crossings

49. A local authority council may, at the request of the owner or occupier of any immovable property fronting a street -

- (a) construct and maintain culvert crossings from such immovable property to the street, and recover the costs of the construction of such crossings from such owner or occupier;

- (b) construct, pave and maintain the sidewalk or pavement in front of such immovable property or any part of its width in a special manner approved by the local authority council and desired by such owner or occupier, and recover the costs from such owner or occupier in so far as such costs exceed the costs of its construction in the ordinary manner.

Closing of streets or public places

50. (1) A local authority council may -

(a) at any time and upon such notice as it may deem fit -

- (i) temporarily close any public place or any part of a public place for any purpose which in its opinion requires it to be so closed;
- (ii) temporarily or permanently close any street or any portion of a street for any particular class of traffic for any purpose which in its opinion requires it to be so closed; or
- (iii) temporarily close or divert any street or any portion of a street for all traffic for the purpose of maintenance or any reason which in its opinion requires it to be so closed;
- (b) subject to such terms and conditions as may be determined by the local authority council, let or grant the right to use temporarily, any public place or part of a public place or any street or portion of a street closed in terms of paragraph (a) to any person for any period during the period in which it is so closed;
- (c) subject to the provisions of subsections (2), (3) and (4), permanently close any public place or any part of a public place, or permanently close or divert any street or any portion of a street;
- (d) re-open any public place or part of a public place or re-open or re-divert, *mutatis mutandis* in accordance with the provisions of subsections (2) and (3), any street or portion of a street closed or diverted in terms of paragraph (c).

(2) A public place or any part of a public place shall not be closed, or a street or any portion or a street shall not be closed or diverted, in terms of paragraph (c) of subsection (1), except upon a decision of the local authority council taken at a meeting at which a majority of its members are present and, in the case of a municipal council or town council, on the recommendation of its management committee; and

(Subs (2) substituted by s. 27(a) of Act. No. 24 of 2000)

- (3) (a) A local authority council shall, before it closes any public place or part of a public place or closes or diverts any street or portion of a street -

- (i) cause a plan to be prepared showing the nature of the closure or diversion of such public place or street and the location of such public place or street;
 - (ii) cause a notice to be published in the *Gazette* and in at least two newspapers circulating within its area, setting out -
 - (aa) the nature of the closure or diversion of such public place or street;
 - (bb) the location of such public place or street;
 - (iii) state that the plan referred to in subparagraph (i) is lying for inspection at the offices of the local authority council during ordinary office hours; and
 - (iv) call upon interested persons to lodge any objections to such closure or diversion with the local authority council in writing within a period of not less than 14 days after the date of the publication of such notice.
- (b) A copy of the notice referred to in subsection (1) shall within 14 days after its publication be served on the owner and occupier of any immovable property situated directly opposite any such public place or street.
- (c) If any objection is lodged in terms of paragraph (a), the public place or part of a public place or the street or portion of a street shall not be closed or diverted, as the case may be, unless -
- (i) the local authority council has submitted to the Minister such particulars as the Minister may require in relation to the proposed closure or diversion, together with the objections lodged and the comments of the local authority council thereon; and
 - (ii) the local authority council has obtained the approval of the Minister to so close such public place or such part of a public place or divert such street or such portion of a street.
- (4) A local authority council shall notify the Surveyor-General of any permanent closure or diversion of a street or portion of a street effected in terms of this section.
- (5) Notwithstanding the provisions of section 33, the owner of any immovable property who has suffered any damage or loss in consequence of the closure of any public place or part of a public place or the closure or diversion of any street or any portion of a street under this section, shall be entitled to such compensation as may

be determined by mutual agreement between such owner and the local authority council in question or, in the absence of any such agreement, by arbitration.

(6) Any person who uses a public place or street or any portion thereof that has been temporarily or permanently closed or diverted in terms of subsection (1) shall be guilty of an offence and on conviction be liable to a fine not exceeding N\$2 000 or to imprisonment for a period not exceeding six months or to both such fine and such imprisonment.

(Subs (6) added by s. 27 (b) of Act no 24 of 2000)

Offences and penalties in relation to streets and public places

51. (1) Any person who without the prior approval in writing of the local authority council and otherwise than in accordance with such conditions, if any, as may be determined by the local authority council in the public interest -

- (a) constructs, closes or diverts any street in its area;
- (b) erects any building or other structure, whether movable or immovable, so
as
to encroach upon any street;
- (c) refuses or fails to comply with an order referred to in subsection (2),

shall be guilty of an offence and on conviction liable to a fine not exceeding R2 000 or to imprisonment for a period not exceeding six months or to both such fine and such imprisonment.

(2) (a) A local authority council may by notice in writing order any
person
who has contravened or failed to comply with the provisions of subsection (1)(b) -

- (i) to demolish or alter any building or structure referred to in that subsection in so far as it encroaches upon such street or deal with such building or structure in such manner and within such period as may be specified in such notice;
- (ii) to restore the surface of the street to its former condition.
- (b) If a person referred to in paragraph (a) refuses or fails, within the period specified in the notice so referred to, to comply with the order contained in such notice to the satisfaction of the local authority council, the local authority council may cause such steps as may be necessary in order to comply with such notice and recover the costs connected therewith from the person concerned.

PART X SUPPLY OF ELECTRICITY AND GAS

Construction of works machinery in relation to supply of electricity and gas

52. For purposes of the provisions of section 30(1)(f), and a local authority council may-

- (a) establish, acquire, construct or provide, for purposes of the supply of electricity and gas to the residents in its area, any works and machinery whether within or outside its area, and maintain and carry on such works and machinery;
- (b) subject to the provisions of the Expropriation Ordinance, 1978 (Ordinance 13 of 1978), or on such terms and conditions as may otherwise be determined by mutual agreement between the local authority council and the owner of any immovable property, enter upon such property and -
 - (i) lay across, through or under any such immovable property, whether within or outside its area, any main and branch cables, wires and conduits for conveying electric current or gas, of which the ownership shall at all times vest in the local authority council;
 - (ii) connect, at the request of any owner or occupier of such property, such cables, wires and conduits within such property;
- (c) lay any such cables, wires and conduits through, across, under or over any street or public place;
- (d) generally, perform or carry out any other function which is necessary for, or
conductive to, the power of supplying electricity and gas to the residents in its area.

Supply of electricity or gas to persons other than residents

53. A local authority council may, on such terms and conditions as may be determined by mutual agreement, supply electricity or gas to any person other than a resident in its area, or cause electricity to be so supplied.

Granting of assistance by local authority councils to residents for purposes of acquisition of appliances in relation to supply of electricity or gas to their immovable property

54. (1) A local authority council may render, upon the request of an owner of any immovable property and on such conditions, including conditions relating to the levying of interest, as may be determined by mutual agreement, assistance to such owner to provide a supply of electricity or gas for such immovable property by way of an advance or loan to such owner or by constructing itself any appliances for purposes of such supply, and cause particulars of such advance, loan or expenses incurred in respect of the construction of such appliances to be noted by the registrar of deeds in his or her registers in respect of the immovable property in question.

(2) Any advance or loan granted under subsection (1) or expenses incurred in respect of the construction of appliances under that subsection, together with any interest payable thereon, shall be a first charge upon the immovable property in respect of which such advance or loan has been granted or such expenses have been incurred and in respect of which particulars have been noted by the registrar of deeds in terms of that subsection.

Failure by town council or village council to discharge adequately its functions in relation to services

54A (1) The Minister may, if he or she considers it necessary or expedient in the interest of any town or village by reason of the refusal, failure or inability of the town council or village council concerned to discharge adequately all or any of its functions in relation to any service, including the determination, levying or recovery of charges, fees or other moneys in connection with that service, by notice in writing call upon such town council or village council to show cause, within such period as may be specified in the notice, why that council shall not be divested of all or any of the functions specified in the notice.

(2) If the town council or village council fails to show cause as required by the notice under subsection (1), or in the opinion of the Minister has failed to show sufficient cause, he or she may declare, by further notice in writing to that town council or village council, such council to be divested of all or any of the functions referred to in subsection (1) and specified in the notice under this subsection.

(3) If the Minister declares a town council or village council to be divested of all or any of the functions specified in the notice under subsection (2), it shall be deemed that an agreement as contemplated in section 32 has been concluded between the Government and such town council or village council providing for the exercise or performance of the functions by the Minister with effect from the date of delivery of the notice under subsection (2).

(4) The Minister may enter, notwithstanding anything in this Act contained, into an agreement with any person, institution or body, providing for the performance on behalf of the Minister and the town council or village council concerned of any power, duty or function vested in the Minister by virtue of a notice issued under subsection (2), except the power conferred by section 94 to make regulations, or the power conferred by section 30(1)(u) to determine charges, fees and other moneys, in connection with the service concerned.

(5) Any person, institution or body with whom the Minister has concluded an agreement in terms of subsection (4) shall for the purposes of section 32(2) be deemed to be a functionary of the Government.

(6) The Minister may re-vest, after consultation with the town council or village council concerned, at any time the council concerned with all or any functions of which it has been divested under subsection (2), and may for that purpose terminate any agreement that may have been entered into with a person, institution or body referred to in subsection (4).

(7) The Minister shall make known, by notice in the *Gazette*, particulars of any action taken under subsection (2), (4) or (6).

(Sec 54A inserted by s. 28(1) of Act No. 24 of 2000)

Offences and penalties in relation to supply of electricity and gas

55. (1) Any person who -

- (a) without the prior approval in writing of the local authority council and otherwise than in accordance with such conditions, if any, as may be determined by the local authority council or otherwise than in accordance with an agreement contemplated in section 32, sells, supplies or enters into any agreement to sell or supply electricity within the local authority area in question;
- (b) without the prior approval in writing of the local authority council and otherwise than in accordance with such conditions, if any, as may be determined by the local authority council, makes any connection to any main or branch cable, wire or conduit for conveying any electric current or gas;
- (c) damages, endangers, renders inoperable or destroys any main or branch cable, wire or conduit for conveying any electric current or gas,

shall be guilty of an offence and on conviction liable to a fine not exceeding R2 000 or to imprisonment for a period not exceeding six months or to both such fine and such imprisonment.

(2) (a) A local authority council may by notice in writing order any person who has contravened or failed to comply with the provisions of subsection (1) -

(i) to remove any connection referred to in paragraph (b) of subsection (1) in such manner and within such period as may be specified in such notice;

(ii) to repair or render operable any main or branch cable, wire or conduit for conveying any electric current or gas in such manner within such period as may be so specified.

(b) If a person referred to in paragraph (a) refuses or fails, within the period specified in the notice so referred to, to comply with the order contained in such notice to the satisfaction of the local authority council, the local authority council may cause such steps to be taken as may be necessary in order to comply with such notice and recover the costs connected therewith from the person concerned.

PART XI PUBLIC TRANSPORT SERVICES

Establishment of public transport services on behalf of local authority councils

56. (1) For purposes of the provisions of section 30(1)(h) and subject to the provisions of subsection (2), a local authority council may -

- (a) on such terms and conditions as may be determined by mutual agreement, authorise any person to establish and carry on a public transport service on behalf of such local authority council;
- (b) on such conditions as may be determined by it, grant such assistance as it may deem necessary to any person referred to in paragraph (a) or any other person carrying on a transport service in its area.

(2) Any agreement contemplated in paragraph (a) of subsection (1) shall contain terms and conditions providing for -

- (a) the transport service in question to be provided on a regular basis;
- (b) the safeguarding of members of the public against personal injuries;
- (c) the enforcement of the due performance of the obligations undertaken by the person concerned;
- (d) the inspection from time to time of the transport service by the local authority council;
- (e) the indemnification of the local authority council against loss or damage caused in the course of the carrying on of such transport service;
- (f) any other purpose approved in writing by the Minister.

PART XII HOUSING SCHEMES

(See sec. 37(5) of the National Housing Development Act, 2000 (Act No. 28 of 2000))

Establishment of housing schemes by local authority councils

57. (1) For purposes of the provisions of section 30(1)(i), a local authority council may -

- (a) construct or acquire dwellings, and maintain, sell or, subject to such conditions as may be determined by the local authority council, let dwellings so constructed or acquired;
- (b) grant a loan to any person on first mortgage in favour of the local authority

council over the land on which a dwelling has been constructed or is to be constructed to enable such person to acquire or construct such dwelling for the accommodation of himself or herself and his or her dependants;

- (c) assist any banking institution as defined in section 1 of the Banking Institutions Act, 1998 (Act No. 2 of 1998), or a building society as defined in section 1 of the Building Societies Act, 1986 (Act 2 of 1986), to grant a loan to any person to enable such person to acquire or construct a dwelling for purposes of such accommodation.

(Para (c) substituted by s. 13 of Act No. 17 of 2002)

(2) A loan shall not, without the prior approval in writing of the Minister, be granted under subsection (1)(b) to any person who is the owner of a house or dwelling which is fit for human occupation or whose spouse is the owner of any such house or dwelling.

(3) A local authority council may consent to the taking over by any person who in the opinion of the local authority council is entitled to a loan in terms of subsection (1)(b) of the rights and obligations of any other person to whom a loan was granted, and may, in order to give effect to such taking over, consent to the substitution for such last-mentioned person of such first-mentioned person as holder of the mortgage bond in question as if such loan were granted to such first-mentioned person under that section.

Establishment of housing fund

58. (1) A local authority council which has established a housing scheme in terms of section 30(1)(i) shall establish a fund to be known as the Housing Fund into which shall be paid -

- (a) any loan raised by the local authority council for the purposes of any such housing scheme;
- (b) any amount received in respect of the letting of any dwelling under section 57(1)(a);
- (c) any amount received in respect of the repayment of any loan granted under section 57(1)(b);
- (d) any amount received in respect of the realisation from the sale of any dwelling referred to in section 57;
- (e) any interest derived from investments made under subsection (2);
- (f) any moneys accruing to the Housing Fund from any other source.

(2) A local authority council may invest any unexpended moneys in the Housing Fund which are not required for immediate use with such financial institution as may be approved by the Minister.

- (3) The moneys in the Housing Fund may be utilised for purposes of -
 - (a) the construction, acquisition or maintenance of any dwelling under section 57(1)(a);
 - (b) loans granted under section 57(1)(b);
 - (c) the repayment of any loans referred to in subsection (1)(a);
 - (d) the costs incurred in connection with the administration of any housing scheme established under section 30(1)(i);
 - (e) any other purpose approved in writing by the Minister.

Pre-emptive right of local authority councils in respect of dwellings constructed or acquired under housing schemes

59. (1) It shall be a condition of a loan granted under section 57(1)(b) that, notwithstanding the fact that the total amount of the loan, together with all interest thereon, has been repaid and that the mortgage bond which secured such loan has been cancelled by reason of such repayment, the person to whom the loan has been granted or his or her successors in title shall not sell or otherwise alienate any dwelling constructed or purchased by means of such loan within the period fixed in terms of subsection (3) from the date of registration of such mortgage bond, unless he or she has first offered such dwelling for sale to the local authority council at a price determined in accordance with the provisions of subsection (4).

(2) Any offer referred to in subsection (1) shall be made in writing and shall be accepted or rejected by the local authority council within 60 days after receipt thereof.

(3) The period referred to in subsection (1) shall be calculated on the basis of one quarter of the period within which the loan granted under section 57(1)(b) is to be repaid.

(4) If an offer referred to in subsection (1) is accepted, the price referred to in that subsection -

- (a) shall be determined before any amount of the loan granted under section 57(1)(b) is paid out to the mortgagor; and
- (b) shall be the actual cost of the land secured by such mortgage bond and an amount, determined by mutual agreement between the local authority council and the mortgagor, representing the value of the permanent improvements erected or to be erected on such land or, in the absence of any such agreement, a price determined by two arbitrators, one of whom shall be appointed by the mortgagor and the other one by the local authority council.

(5) When any dwelling purchased in terms of subsection (4) has been transferred to the local authority council, the provisions of this Part shall apply in respect of such dwelling as if it were a dwelling constructed or acquired by the local authority council under section 57(1)(a).

(6) No transfer of any dwelling in respect of which the condition referred to in subsection (1) applies, shall be passed to any person other than the local authority council, unless there is produced to the registrar of deeds a certificate signed on behalf of the local authority council to the effect that such dwelling has been offered for sale to the local authority council in terms of the said subsection and that the offer has been rejected in terms of subsection (2).

(7) The registrar of deeds shall at the request of the local authority council in question -

- (a) make such endorsements on the title deed of any dwelling and such entries in his or her registers as may be necessary to indicate that the provisions of subsection (1) apply in respect of such dwelling; and
- (b) cancel any such endorsements and entries where the chief executive officer has submitted a certificate referred to in subsection (6).

Further loans for purposes of improvements in respect of dwelling acquired under housing schemes

60. (1) A local authority council may, on such conditions as may be determined by it, grant to the owner of a dwelling in respect of which a loan was granted under section 57(1)(b) (hereinafter referred to as a housing loan), a further loan for the improvement or repair of such dwelling.

(2) If the amount of such further loan exceeds the amount actually owing by the owner concerned under the first mortgage bond securing such housing loan, the local authority council shall register a further mortgage bond over the property on which the dwelling in question is constructed, which shall rank with such first mortgage bond.

Remedies against persons in default of repayment of loans

61. If any person to whom a housing loan has been granted fails to comply with any term or condition on which such loan was granted to him or her, the local authority council may -

- (a) in addition to any other steps which the local authority council may lawfully take, by notice in writing of at least one month, require such person to make such additional payments, not exceeding four per cent per annum, calculated on the initial amount of the housing loan in question, or such amount as supplemented by any further loan granted under section 60, as the case may be, as may be determined by the local authority council, in reduction of the capital amount owing;

- (b) by notice in writing of at least three months, claim the capital amount and any interest owing in respect of the housing loan, including any such further loan, from such person and take such legal steps as the local authority council may deem fit to recover such amount and interest.

Definition of dwelling for purposes of this Part

62. For purposes of this Part, "dwelling" means any building which after its construction contains or will contain, in addition to a kitchen and the usual appurtenances, outbuildings, fences and permanent provision for lighting, water supply, drainage and sewerage, not more than five living rooms.

PART XIII IMMOVABLE PROPERTY OF LOCAL AUTHORITY COUNCILS

Circumstances in which Ministers approval for selling letting disposal hypothecation encumbrance or acquisition of immovable property is not required

63. (1) Notwithstanding the provisions of section 30(1)(t), but subject to the provisions of subsections (2) and (3) of this section, the approval of the Minister shall not be required in relation to -

- (a) the letting of immovable property other than townlands or any portion of such townlands by any local authority council for a period not exceeding one year;
- (b) the selling or disposal, or letting, hypothecation or encumbrance of immovable property other than townlands or any portion of such townlands by the municipal council of a municipality referred to in Part I of Schedule 1;
- (c) the acquisition by any local authority council of -
 - (i) immovable property transferred to the local authority council as a condition of any subdivision of land approved in terms of the Townships and Division of Land Ordinance, 1963 (Ordinance 11 of 1963);
 - (ii) immovable property by way of a grant or donation;
- (d) a cemetery taken over in accordance with the provisions of section 30(1)(d).

(2) A local authority council referred to in paragraph (b) of subsection (1) shall, before any immovable property so referred to is sold, disposed of, or let, hypothecated or otherwise encumbered, whether by way of public auction or tender or private transaction, cause a notice to be published in at least two newspapers circulating in its area on one occasion in a week for two consecutive weeks -

- (a) setting out the zoning and situation of such property and stating the place,

dates and times where full particulars relating to the sale, disposal, letting, hypothecation or encumbrance of such property will lie for inspection by interested persons for a period of not less than seven days after the last date of the publication of such notice;

- (b) in the case of the sale, disposal, letting, hypothecation or encumbrance of such immovable property by way of a private transaction, calling upon interested persons to lodge any objections to such sale, disposal, letting, hypothecation or encumbrance with the local authority council in writing within a period of not less than ten days after the last date of the publication of such notice.

(Subs (2) substituted by s. 29 of Act. No. 24 of 2000)

- (3) (a) If no objections have been lodged in terms of paragraph (b) of subsection (2), the local authority council in question shall be entitled to sell, dispose of, let, hypothecate or otherwise encumber such immovable property by way of such private transaction within one year as from such date.

(b) If any objection is lodged in terms of the said paragraph (b), the immovable property in question shall not be sold, disposed of, let, hypothecated or otherwise encumbered, unless -

- (i) the local authority council has submitted to the Minister such particulars as the Minister may require in relation to the proposed transaction, together with the objections lodged and the comments of the local authority council thereon; and
- (ii) the local authority council has obtained the approval of the Minister to so sell, dispose of, let, hypothecate or otherwise encumber such immovable property.

(c) The Minister may grant or refuse to grant his or her approval contemplated in paragraph (b)(ii) or may direct the immovable property in question to be sold, disposed of, let, hypothecated or otherwise encumbered by way of public auction or tender.

Powers of Minister in relation to approval for acquisition of immovable property by local authority councils

64. The Minister may, before considering his or her approval contemplated in section 30(1)(t) for the buying, hiring or acquisition of immovable property by a local authority council, direct the local authority council in question to publish a notice in at least two newspapers circulating in its area -

- (a) setting out particulars of such property, including particulars relating to the

purchase price, rental or other consideration to be paid in respect of the acquisition thereof;

- (b) calling upon interested persons to lodge any objection to such acquisition with the chief executive officer in writing within a period of not less than seven days after the last date of the publication of such notice,

whereupon the Minister may grant or refuse such approval.

Acquisition of ownership of immovable property of local authority councils by prescription

65. Notwithstanding the provisions of the Prescription Act, 1969 (Act 68 of 1969), or any other law, no person shall by prescription become the owner of any immovable property of a local authority council or of any right in such property.

PART XIV

VALUATION OF RATEABLE PROPERTY WITHIN LOCAL AUTHORITY AREAS

Valuation of rateable properties within local authority areas

66. (1) With the approval of the Minister, a local authority council may, by notice in the *Gazette*, declare that a general valuation of all rateable property situated within its area be held with effect from a date determined and made known by the local authority council in the notice.

(2) Notwithstanding subsection (1), but subject to subsection (4), the Minister may by notice in the *Gazette*, declare that a general valuation of rateable properties must be held in all local authority areas as soon as possible after the date specified in the notice and, thereafter, at intervals of not more than five years of the date so specified, and with effect from a date determined and made known by a local authority council by notice in the *Gazette*.

(3) There shall be an interim valuation of any rateable property in any local authority area to be held on a date during any period of five years referred to in subsection (2) as may be determined by the local authority council as its own motion or when directed by the minister by notice in writing to a local authority council.

(4) Notwithstanding subsection (2), the Minister may exclude any local authority council from holding, in terms of that subsection, a general valuation of rateable properties within its area, subject to such local authority council causing a general valuation to be held at intervals of not more than five years as from the date determined by the Minister in terms of that subsection, and with effect from a date to be determined and made known by the local authority council by notice in the *Gazette*.

(S. 66 substituted by s. 30 of Act. No. 24 of 2000)

Appointment and powers duties and function of valuer

67. (1) When a general valuation or interim valuer of all rateable properties is required to be held in terms of section 66, a local authority council shall, on

such terms and conditions as may be determined by it, appoint a fit and proper person as valuer who shall be responsible for the valuation of all rateable property within its area and the preparation of a provisional valuation roll containing -

- (a) a description of every such rateable property;
- (b) the name of its owner;
- (c) its size and extent;
- (d) its total value, showing separately the value of the land and the value of any improvements effected on such land.

(2) A provisional valuation roll prepared in terms of subsection (1) shall lie open for inspection by any interested person during ordinary office hours in the offices of the local authority council.

- (3) (a) A valuer shall, before assuming his or her duties, make and subscribe before a commissioner of oaths an oath in the following form:

I, A.B., do hereby swear and solemnly and sincerely promise to appraise and value in accordance with, and for purpose of the provisions of the Local Authorities Act, 1992, all rateable property within the area of the local authority of to the best of my skill and knowledge, without favour or prejudice, truly and impartially, conscientiously and for the full and fair value thereof according to the intent and requirement of the law.

So help me God.

- (b) A valuer may, in lieu of an oath, make and subscribe a solemn affirmation in corresponding form.

- (c) A local authority council shall cause a certificate of appointment be issued to the valuer upon his or her appointment.

- (4) (a) Subject to the provisions of paragraph (b), a valuer shall, for purposes of the valuation of any rateable property in terms of this Act, have the power to enter upon any such property at any reasonable time and after having given the owner, occupier or other person in control of such property prior notice as may in the circumstances be reasonable.

- (b) When a valuer exercises or performs a power, duty and function in terms of this Act in the presence of any person affected thereby, he or she shall on demand by any such person produce to him or her the certificate issued to him or her in terms of subsection (3)(c).

- at
- (c) The owner, occupier or other person in charge of any such property shall all times furnish such facilities and information as are reasonably required by a valuer in order to enable him or her to exercise or perform his or her powers, duties and functions in terms of this Act.
- (5) A valuer shall value any rateable property -
- in
- (a) in the case of the land portion of such rateable property, at a price which his or her opinion a willing buyer will be prepared to pay and a willing seller will accept, both acting on good faith;
(Paras (a) substituted by s. 31(a) of Act. No. 24 of 2000)
- estimated
- (b) in the case of any improvements on such land, on the basis of the costs of the construction or erection of such improvements had such improvements been constructed or erected at the time of such valuation with due regard to any structural depreciation, obsolescence or any change of circumstances in the vicinity of such improvements.

5(A) It shall be a condition of every appointment by a local authority council of a person as valuer in terms of subsection (1), including an appointment made before the date of commencement of this subsection, that -

- (a) all information provided to or gathered by the valuer for the purpose of performing his or her functions as valuer, and all calculations made and all records, plans and forms generated by him or her in the performance of those function, whether such information, calculations, records, plans or forms are kept in written form or stored in the form of data on a computer or any other mechanical or electronic device, shall be and remain the property of the local authority council;
- (b) the valuer shall, while being in the possession of the information, calculations, records, plans and forms referred to in paragraph (a), in whatever form, take all steps necessary to ensure their safe custody and to prevent them, or any part thereof from getting lost, destroyed or defaced or being rendered useless or inaccessible in any other manner; and
- (c) all such information, calculation, record, plans and forms as may from time to time be required by the local authority council from the valuer, and upon the termination of his or her appointment for whatever reason, shall be delivered by him or her to the local authority council, in whatever form they were kept or stored by him or her, at no consideration other than the remuneration to which he or she is entitled by virtue of the terms and conditions upon which he or she has been appointed,

but nothing in this subsection shall be construed as preventing a valuer or any other authority from dealing with any such information, calculations, records, plans or forms as may be required in terms of this Act.

(Subs (5A) inserted by s. 31(b) of Act. No. 24 of 2000)

(6) Any person who hinders or obstructs any valuer in the exercise or performance of his or her powers, duties and functions shall be guilty of an offence and on conviction liable to a fine not exceeding R2 000 or to imprisonment for a period not exceeding six months or to both such fine and such imprisonment.

Establishment of valuation court

68. (1) There is hereby established a valuation court for the area of every local authority, consisting of -

- (a) the magistrate of the district in which the area of such local authority council is situated, who shall be the presiding officer of the valuation court;
(Para (a) substituted by s. 32 of Act. No 24 of 2000)
- (b) one person appointed by the Minister; and
- (c) one person other than a member of the local authority council, as the case may be, appointed by the local authority council when it becomes necessary for purposes of a valuation of rateable property in terms of the provisions of section 66.

(2) A valuation court may appoint any other person as assessor or such other number of persons as additional assessors as may be determined by it on account of the special knowledge and experience of any such person in the evaluation of properties, to advise the valuation court on the exercise or performance of its powers, duties and functions.

- (3) (a) A valuation court shall sit at such dates, times and places within the local authority area as may from time to time be determined by the presiding officer of the valuation court.
- (b) The presiding officer and one other member of the valuation court shall form a quorum for a sitting of the valuation court.
- (c) A decision of the majority of the members of a valuation court shall be a decision of the valuation court.

Objections against provisional valuation roll

69. A local authority council shall cause a notice in writing to be published in at least two newspapers circulating in its area on a date not later than 30 days before the date determined under section 68(3)(a) for the sitting of the valuation court -

- (a) stating -

- (i) that the provisional valuation roll is lying open for inspection during ordinary office hours in the offices of the local authority council;
 - (ii) that the valuation court will sit on the date, time and place so determined to consider the valuations contained in such provisional valuation roll and to hear and determine any objections lodged in respect of any valuations contained in such roll;
- (b) calling upon the owners of rateable property in respect of which a valuation is contained in the provisional valuation roll to lodge objections and the grounds for such objections in writing against any such valuation with the local authority council within a period of 21 days as from the publication of such notice.

Consideration of valuation contained in valuation roll and objections lodged in relation to such valuations

70. (1) A valuation court shall be required to consider every valuation contained in the provisional valuation roll and to hear any objections lodged in connection with any valuations so contained and to determine the valuations of all rateable property contained in such roll.

(2) A local authority council shall cause an owner who has lodged an objection in terms of section 69 to be notified in writing of the date and time on which and the place at which the valuation court is sitting for purposes of considering such objection.

(3) Any owner who has lodged an objection against any valuation contained in the provisional valuation roll may appear in person or be represented by a legal practitioner enrolled under the Legal Practitioners Act, 1995 (Act No. 15 of 1995).

(Subs (3) substituted by s. 33 of Act. No. 24 of 2000)

(4) The presiding officer or any other member of the valuation court shall not take part in any manner whatsoever in any decision in relation to any rateable property of which he or she or any person related to him or her, whether by affinity or consanguinity, or who is a member of his or her household or a person with whom such presiding officer or member is in terms of the traditional laws and customs prevailing in Namibia, a partner in a customary union or his or her partner, agent or business associate is the owner.

(5) The valuer shall attend all sittings of the valuation court.

(6) In the exercise of its powers, duties and functions, a valuation court -

(a) may in its discretion -

- (i) require any person by notice in writing under the hand of the presiding officer or any other person authorised by him or her to

appear before it in relation to any valuation contained in the provisional valuation roll at a date, time and place specified in such notice;

- (ii) administer an oath or take an affirmation from any person referred to in subparagraph (i) or any person, including the valuer, present at any sitting of the valuation court, and question such person under oath or affirmation in connection with any matter which it may deem necessary in connection with its powers, duties and functions;
- (b) may, after having considered all matters pertaining to any valuation contained in the provisional valuation roll
 - (i) confirm the valuations contained in the provisional valuation roll;
 - (ii) uphold any objection lodged in terms of section 69 and decrease any valuation contained in such provisional valuation roll;
 - (iii) decrease and, after having afforded the owner of the property in question an opportunity to be heard, increase any other valuation contained in such provisional valuation roll;
 - (iv) order the valuer to value any rateable property omitted from the roll, or revalue any rateable property with due regard to such guidelines and directions as may be determined by it;
 - (v) make such other amendments to the provisional valuation roll as it may deem necessary.

(7) The valuation court shall keep proper record of the proceedings at sittings and the findings of the valuation court or cause such record to be kept.

Appeal against decision of valuation courts

71. (1) Any owner of rateable property in the area of a local authority who has lodged an objection in terms of section 69 and who feels aggrieved by a decision of a valuation court made in relation to that objection shall have the right to appeal against such decision to the High Court of Namibia.

(2) For purposes of an appeal referred to in subsection (1) and the procedure to be followed in connection with such appeal, the decision of the valuation court shall be deemed to be a judgement of a magistrate's court.

Main valuation roll

72. (1) The provisional valuation roll containing the valuations, as decreased or increased or otherwise amended by the valuation court, of all rateable property in the area of a local authority shall be the main valuation roll of such local authority for purposes of the determination of any rates on such rateable property in terms of the provisions of Part XV.

(2) The main valuation roll shall come into operation on the first day of the month following the month in which the valuation court has finally determined all the valuations contained in the provisional valuation roll.

(3) The main valuation roll shall at all times be available for inspection by any interested person during ordinary office hours at the office of the local authority council.

(4) A local authority council shall at the request of any interested person and on payment of such amount as may be determined the local authority council, furnish such person with an extract from the main valuation roll.

PART XV RATES ON RATEABLE PROPERTY

Rates levied on rateable property

73. (1) Subject to the provisions of this Part, there shall be levied and paid by the owner of any rateable property in a local authority area, for the benefit of the funds of the local authority council, in respect of each financial year a rate on the basis of the valuation, as shown on the main valuation roll, of -

- (a) the whole of such rateable property, to be known as a general rate;
- (b) the land of such rateable property only, to be known as a site value rate;
- (c) the improvements on such land only, to be known as an improvement rate;
or
- (d) such land and such improvements only, to be known as a site and improvement rate,

calculated at such rate, expressed in cent per rand of such valuation per annum, as may from time to time be determined by a local authority council by notice in the *Gazette* in respect of any financial year.

(1A) If a valuation of any rateable property or any part thereof contained in the provisional valuation roll of a local authority council has not been determined by a valuation court in terms of section 70 for inclusion in the main valuation roll of that local authority council, the owner of such property shall pay in respect of that property a rate, assessed in accordance with the rate determined by the local authority council under subsection (1), on the basis of the valuation reflected in such provisional valuation roll, but subject to adjustment in accordance with subsection (1B), if applicable.

(1B) If the rate concerned is assessed on the valuation of property reflected in a provisional valuation roll in accordance with subsection (1A) and such valuation is thereafter altered by a valuation court upon a determination under section 70 or by the High Court of Namibia upon an appeal under section 71, the local authority council shall adjust the assessment of the rates and -

- (a) refund the rates paid in respect of the amount by which such valuation is decreased; or
 - (b) recover the rates which remain unpaid in respect of the amount by which such valuation is increased.
- (Subsections (1A) and (1B) inserted by s. 34(a) of Act. No. 24 of 2000)

(2) Different rates may be determined under subsection (1) or different rates may be so determined on different bases in respect of rateable properties -

- (a) situated in different areas within a local authority area;
 - (b) in respect of which different zonings have been indicated on the map of the approved town planning scheme or general plan of every approved township and zoning shall, for purposes of this paragraph, include a consent use granted by a local authority council in terms of a town planning scheme promulgated in terms of the Town Planning Ordinance, 1954 (Ordinance No. 18 of 1954); and
- (Subs (2) substituted by s. 34(b) of Act. No. 24 of 2000)

(3) A rate shall not be determined under subsection 1 -

- (a) by the municipal council of a municipality referred to in Part I of Schedule 1 in excess of two and a half cent per rand of the valuation of any rateable property;
- (b) by any other local authority council,

except with the prior approval in writing of the Minister.

(4) Notwithstanding the provisions of subsection 1 -

- (a) any rate determined under that subsection -
 - (i) shall, in the case of any building, other than a dwelling, of which the ownership vests in the Government of Namibia or a regional council and which is used or occupied for public purposes, including the land on which any such building is actually constructed and any other land actually occupied for purposes of such building, in addition to any other reductions provided for in this Act, be reduced by 20 per cent;

- (ii) authority may, in the case of rateable property situated within a local area, but outside the area of an approved township which is in the opinion of the local authority council used mainly for agricultural purposes, be reduced by such percentage, not exceeding 75 per cent, as may be determined by the local authority council;
- (iii) may, in the case of rateable property situated in an approved township within a local authority area with a zoning of "residential", and which accommodates a dwelling used for residential purposes only, be reduced in respect of the site value, by such percentage not exceeding 50 per cent, as may be determined by the local authority council;
(Subpara (iii) added by s. 34(c) of Act. No. 24 of 2000)
- (b) a local authority council may, in the case of any rateable property in respect of which a condition has been determined in terms of -
- 11 (i) the Townships and Division of Land Ordinance, 1963 (Ordinance of 1963); or
- (ii) a term or condition of a contract of sale entered into between the local authority council and the owner of such rateable property or his or her successor in title,

by virtue of which such owner is required to construct on the land of such property a building or buildings of a value in an amount not less than the amount determined in, or determinable in terms of any such condition within a period or before a date specified in such condition, levy a rate on the valuation of such land and the value of such building or buildings, so determined, if such building or buildings are not constructed within such period or before such date, as from such date as may be determined by the local authority council and made known to such owner by notice in writing.

Levying of special rates in case of certain deficits

74. (1) Notwithstanding the provisions of section 73, a local authority council may -

- has (a) if at the end of two consecutive financial years a local authority council accumulated in the aggregate in any of its funds other than its capital fund and loan fund a deficit; and
- (b) if such deficit was at the end of each such financial year equal to or greater

than an amount equal to one half cent per rand on the valuation of the land of all rateable property contained in its main valuation roll,

in addition to any rates levied under that section, levy by notice in the *Gazette* a special rate on the land of such rateable property equal to an amount not exceeding such deficit.

- (2) A special rate referred to in subsection (1) shall not be levied -
 - (a) without the prior approval of the Minister;
 - (b) except upon a decision taken at a special meeting convened for purposes of the consideration of such special levy on a date within two months after receipt of the audited statements in which the deficit in question is reported;

(Para (b) substituted by s. 35 of Act. No. 24 of 2000)
 - (c) unless the local authority council has published a notice in at least two newspapers circulating in its area stating the date, time, place and purpose of such meeting.

(3) A special rate levied under subsection (1) shall be payable *mutatis mutandis* in accordance with the provisions of this Act on a date or dates, not later than six months after the date of the meeting on which it was so levied.

Exemption from rates levied on rateable property

75. (1) A local authority council may, upon an application made to it in respect of any financial year in such form as may be determined by the Minister, exempt in respect of such financial year from any rates levied under section 73 -

- (a) any land or building or any part of such land or building used exclusively for purposes of the principal activities of -
 - (i) any church, mission, hospital, school or hostel other than a church, mission, hospital, school or hostel which has been established and is maintained and managed by any person for profit or gain, whether directly or indirectly;
 - (ii) any amateur sporting organisation;
 - (iii) any State-aided institution or institution aided by any charitable institution,

or any portion of such land or building, or any land set aside for any such purposes;
- (b) any land or building -

- (i) used wholly and exclusively for the residence of any priest or minister employed on a full time basis by any church or mission referred to in paragraph (a)(i);
 - (ii) used for the boarding and lodging of persons employed on a full time basis on the medical, nursing and maintenance staff of any hospital referred to in the said paragraph;
 - (iii) used for the boarding and lodging of any pupils of any pupils of, or persons employed on a full-time basis as teachers or other members of the staff by, any school or hostel referred to in the said paragraph;
- (c) any land or building -
- (i) of which the ownership vests in, or is occupied by any non-political youth organisation -
 - (aa) which has as its aim the education of the youth or any particular group of youth and to develop amongst such youth the qualities of citizenship; and
 - (bb) which has, upon an application made by the local authority council in question, been approved by the Minister for purposes of this paragraph; and
 - (ii) which is used by such organisation exclusively for purposes of its aim or let for an amount not exceeding an amount necessary to maintain such immovable property or to raise funds in order to achieve such aims.

(2) The provisions of subsection (1) shall not apply in relation to any land or building used by an amateur sporting organisation on which any trade is carried on for gain.

(Subs (2) substituted by s. 36 of Act. No. 24 of 2000)

(3) A local authority council shall not grant any exemption under subsection (1), unless the application referred to in that subsection has been lodged to, or actually received by, it on or before 31 May in the year immediately preceding the financial year to which the application relates.

Reduction of rates in respect of certain properties

75A. (1) A local authority council may, notwithstanding the provisions of this Part, and subject to the approval of the Minister, upon an application of the owner of any rateable property, grant to such owner a rebate on the rate which is payable in respect of the property in terms of section 73(1), if the local authority council is satisfied that a business has been or is to be expanded, and that the establishment or expansion of the

business will result in the creation of substantial opportunities for permanent employment in the local authority area.

(2) A rebate under subsection (1) shall be granted subject to such conditions and for such period as the local authority council may determine with the approval of the Minister.

(3) If the owner of any rateable property referred to in subsection (1) is not, or will not be, the beneficial owner of the business conducted or to be conducted on the property, the local authority council may impose under subsection (2) any condition which it may consider necessary for ensuring that the whole or a specified part of the benefit of a rebate granted under subsection (1) will be passed on to the owner of the business concerned.

(S. 75A inserted by s. 37 of Act. No. 24 of 2000)

Payment of rates levied under this Part

76. (1) A rate levied under section 73 shall be paid in respect of a financial year or any part of a financial year -

- (a) in the case of an owner who is required to pay any such rate on the date of commencement of this Act, in monthly instalments as from the fifteenth day of the month in which this Act comes into operation or, if this Act comes into operation on a date after such day, on the last day of that month and, thereafter, on the fifteenth day of each succeeding month;
- (b) in the case of an owner who is required to pay such rate as from the first day of a financial year, in monthly instalments as from 15 August in every financial year and, thereafter, on the fifteenth day of each succeeding month;
- (c) in the case of an owner who is required to pay such rate as from any other date in a financial year, in monthly instalments as from the fifteenth day of the month following the month in which such owner is so required to pay such levy and, thereafter, on the fifteenth day of each succeeding month; or
- (d) in such other instalments and on such other dates as may be determined by the local authority council by notice in the *Gazette* or, in the case of any particular owner, by notice in writing to such owner.

(2) If rates are levied in terms of section 73(i)(c) or (d) on the valuation of improvements of land which have been constructed in the course of a financial year, such rates shall be payable in proportion to that financial year as from the fifteenth day of the month following the date in the preceding month on which such improvements were completed or from the date on which such improvements are actually used.

(3) A local authority council may on any rates not paid on or before the date referred to in subsection (1) charge interest at a rate not exceeding the rate prescribed

under the provisions of the Prescribed Rate of Interest Act, 1975 (Act 55 of 1975), which may be charged in respect of a judgement debt of a magistrate's court.

Levying of penalty rate

76A. (1) A local authority council shall levy, in addition to any rate referred to in section 73(1), for any financial year and with the prior approval of the Minister, a penalty rate -

- (a) not exceeding two times the rate levied under section 73(1), on rateable property which has remained unimproved for a period of two years or more reckoned from the date of commencement of this section or, in the case of rateable property which is situated in an area which has been declared an approved township upon or after the date of commencement, reckoned from the date of first alienation of such property by the township owner;
- (b) not exceeding four times the rate levied under section 73(1) on rateable property which has remained unimproved for a period of five years or more reckoned from the date of commencement of this section or, in the case of rateable property which is situated in an area which has been declared an approved township upon or after the date of commencement, reckoned from the date of first alienation of such property by the township owner.

(2) "Rateable property" shall for the purposes of subsection (1) be deemed to be unimproved unless there is constructed on such property a building or buildings to a value not being less than the amount stipulated -

- (a) in the relevant town planning scheme;
- (b) in the conditions of establishment of the particular approved township; or
- (c) in the case of property purchased from the local authority council concerned,
in the relevant deed of sale,

whichever may be applicable, as the minimum value for buildings required to be erected on the property in question.

(S. 76A inserted by s. 38 of Act. No 24 of 2000)

Rates levied on rateable properties for benefit of regional councils

77. (1) There shall be levied for the benefit of the funds of regional councils an amount equal to five per cent of the rates levied under section 73 on all rateable property situated in local authority areas.

(2) The amount referred to in subsection (1) shall be collected by a local authority council situated in the region of the regional council concerned in such manner

as may be determined by the Minister and paid over to the regional council on such date or dates as may be so determined.

Transfer of rateable properties

78. Subject to the provisions of section 89(4) of the Insolvency Act, 1936 (Act No. 24 of 1936), the registrar of deeds shall not registrar a transfer of any immovable property situated within a local authority area unless there is produced to him or her, in the case of a registration of transfer in terms of the Deeds Registries Act, 1937 (Act No. 47 of 1937), a conveyancer's certificate or, in the case of a registration of transfer in terms of the Registration of Deeds in Rehoboth Act, 1976 (Act No. 93 of 1976), the document referred to in section 48 of the last mentioned Act, certifying -

(a) that all rates leviable in respect of such immovable property in terms of this

Act. And all the feed, charges and other moneys due to the local authority council in respect of any service, amenity or facility supplied to such property in terms of this Act, inclusive of any availability charge and minimum charge provided for in section 30(1)(u) has been paid; or

(b) that such immovable property is not contained in the main valuation roll, a provisional valuation roll or any other register held by the local authority council.

(S. 78 substituted by s. 39 of Act. No. 24 of 2000 and amended by s. 14 of Act No. 17 of 2002)

PART XVI

ALTERNATIVE SYSTEM OF RATING FOR TOWN COUNCILS AND VILLAGE COUNCILS

Alternative system of rating for town councils village councils

79. (1) Notwithstanding the provisions of Parts XIV and XV, a town council or village council may, with the and prior approval of the Minister and in respect of such financial year or years as he or she may determine, levy and determine a rate on rateable property situated within its area upon a basis other than that of a valuation.

(2) Subject to the provisions of subsection (3), the Minister shall make regulations in relation to the system of rating to be applied for the purposes of subsection (1).

(3) The provisions of sections 73(4)(a)(i), 75, 77 and 78 shall apply *mutatis mutandis* to a system of rating contemplated in subsection (2).

(4) Different regulations may be made under subsection (2) in respect of the rateable property of different town councils and village councils.

(5) A rate determined by a town council or village council shall not exceed such rate as the Minister may prescribe under the regulations contemplated in subsection (2).

PART XVIA RECOVERY OF RATES

Rates as a debt due to the local authority council

79A. (1) Any rate or interest payable under section 73, 74, 76A or 79 shall, when it becomes due and payable, be deemed to be a debt due to the local authority council concerned and may be recovered by that local authority council in the manner provided for in this section.

(2) Subject to subsection (4), if an owner of rateable property fails to pay any rate or interest in accordance with the provisions of this Act when it becomes due and payable, the local authority council may file with the clerk or registrar of a court of competent jurisdiction a statement certified by the chairperson of the local authority council, as correct and setting forth the amount of all rates and interest that had accrued to the local authority council as well as any payments made by the owner and any amount still outstanding.

(3) A statement filed under subsection (2) shall for all purposes have the effect of, and any proceedings may be taken thereon as if it were, a civil judgment of the court at which that statement had been so filed, in favour of the local authority council for a liquid debt in the amount specified in that statement.

(4) The local authority council shall before filing a statement in terms of subsection (2), serve a notice accompanied by a copy of that statement on the owner concerned informing the owner of its intention to file such a statement after a lapse of 30 days after having served such notice.

(5) The chairperson of the local authority council may by notice in writing, addressed to the clerk or registrar of the relevant court, withdraw any statement filed with that clerk or registrar and that statement shall thereupon cease to have any effect.

(6) The local authority council may institute proceedings afresh under subsection (2) in respect of the rates or interest to which a statement withdrawn under subsection (5) relates.

(Part XVIA inserted by s. 15 of Act No. 17 of 2002)

PART XVII FINANCIAL MATTERS

Funds of local authority councils

80. (1) The funds of a local authority council shall consist of -

- (a) moneys appropriated by law for purposes of the funds of the local authority council;
- (b) the rates, charges, fees and other moneys levied under any provision of this

Act and received by the local authority council;

- the
- (c) any moneys borrowed by the local authority council by way of loans or issue of debentures, bills of exchange or other negotiable instruments;
 - (d) any interest or dividends derived from investments made under subsection (3);
 - (e) any fines imposed in respect of any contravention of, or failure to comply with, any provision of this Act or any other provision administered by a local authority council by virtue of the provisions of section 3(3) or 95(4);
 - (f) any moneys received by way of donation;
 - (g) any moneys accruing to the funds of the local authority council from any other source.

(2) A local authority council shall utilise any donations contemplated in subsection (1)(f) in accordance with the conditions, if any, imposed by the donor concerned, in so far as such conditions are capable of being carried out.

(3) A local authority council may invest any unexpended portion of its funds with a banking institution as defined in section 1 of the Banking Institutions Act, 1998 (Act No. 2 of 1998), a building society as defined in section 1 of the Building Societies Act, 1986 (Act 2 of 1986), the Savings Bank as defined in section 1 of the Posts and Telecommunications Companies Establishment Act, 1992 (Act No. 17 of 1992), or such other financial institution as may be approved by the Minister.

(Subsection (3) substituted by s. 16(a) of Act No. 17 of 2002)

(3A) An application and authorisation for the investment of moneys contemplated in subsection (3) shall be signed -

- (a) except in a case contemplated in paragraph (b), by the chief executive officer and be co-signed by -

(Words preceding substituted by s. 16(b) of Act No. 17 of 2002)

- of
 - (i) in the case of a municipal council or town council, the chairperson the management committee or any staff member of that council generally or specially authorised thereto by the council concerned;
 - (ii) in the case of a village council, the chairperson thereof or any staff member of that council generally or specially authorised thereto by that council; or
- (b) if specially authorised thereto by the local authority council, by the chairperson of the local authority council or any other member of the local authority council conjointly with the chief executive officer or any other staff member authorised as contemplated in paragraph (a),

and any application and authorisation for the investment of moneys so signed shall be deemed to have been duly executed on behalf of the local authority council concerned.

(Subs (3A) inserted by s. 40 of Act. No. 24 of 2000 and amended by s. 16(c) of Act No. 17 of 2002)

(4) A local authority council may establish such reserve or other funds and deposit therein such amounts as may be determined by it.

Accounting officers of local authority councils

81. The chief executive officer or any other staff member designated by the local authority council shall be the accounting officer of the local authority council and shall as such be charged with the responsibility of accounting for all the moneys received, and for all the payments made, by the local authority council.

Financial year of local authority councils

82. The financial year of a local authority council shall end on 30 June in each year.

Estimates of revenue and expenditure of local authority councils

- 83.** (1) Every management committee and every village council -
- (a) shall in each financial year cause to be prepared, after consultation with the regional council in whose area the local authority in question is situated, a statement of its estimated income and expenditure during the following financial year;
 - (b) may in any financial year at any time cause to be prepared, after such consultation, supplementary statements of its estimated expenditure for that financial year,

which statements shall be submitted by the chairperson of the local authority council concerned to the local authority council for its approval.

(Subs (1) substituted by s. 41 of Act No. 24 of 2000)

(2) A statement and supplementary statements referred to in subsection (1) shall be compiled in such form as may be determined by the Minister and shall at least specify -

- (a) the different revenue sources and the expected revenue from each such source; and
- (b) according to such arrangements as may be required by the Minister, the different programmes and different projects in such programmes for the purposes of which money is intended to be applied, and the estimated expenditure in respect of each such programme or project.

- under
- (3) (a) A local authority council may, until it has granted its approval under subsection (1) and if required, until the authorisation under section 84(4) has been granted, but for a period not exceeding three months after the commencement of the financial year in question, authorise in respect of that financial year the application of amounts in relation to any matter in respect of which there was such an approval and such authorisation in the immediately preceding financial year.
 - (b) The total amount which a local authority council may authorise under paragraph (a) shall not at any time exceed an amount equal to 25 per cent of the total amount appropriated for the immediately preceding financial year.
 - (c) Any expenditure on services incurred under an authorisation under paragraph (a) shall be deemed to be expenditure incurred under the approval contemplated in that paragraph.

Application of funds of local authority councils

84. (1) Subject to the provisions of this section, a local authority council shall not apply its money otherwise than in accordance with an approval granted under section 83(1) and, if required, the authorisation granted under subsection (4).

(2) A local authority council shall not incur any expenditure in respect of which an amount of money has been appropriated and which relates to revenue derived from the Government of Namibia, unless it has obtained the prior authorisation of the Minister under subsection (4).

(3) For the purposes of obtaining the authorisation referred to in subsection (2), a local authority council shall submit the statement or supplementary statement referred to in section 83(1) to the Minister, together with such other statement, document or information as he or she may require.

(4) The Minister shall, after receipt of the statement, supplementary statement or other statement, document or information referred to in subsection (3), authorise the expenditure referred to in subsection (2) if he or she is satisfied that the amount appropriated in respect of such expenditure has been appropriated in accordance with such conditions as may have been imposed in respect of the accrual of the revenue referred to in subsection (2).

- (5) (a) A local authority council may, with the approval of the Minister, apply an amount for a purpose for which no provision was made in a statement or supplementary statement referred to in section 83(1) or for the purpose of a programme or project for which insufficient provision was made in such a statement or supplementary statement.
- (b) An amount referred to in paragraph (a) shall be appropriated by the local authority council concerned before the end of the financial year in which its application has been approved;

- (c) A local authority council may, unless the Minister directs otherwise under subsection (4), apply any saving under -
 - (i) any particular programme on a statement or supplementary statement referred to in section 83(1) for the purpose of any other programme on such statement or supplementary statement;
 - (ii) any particular project in a programme on such a statement or supplementary statement for the purposes of any other project in the same programme.

(6) The Minister may at any time, after consultation with the local authority council in question, withdraw or suspend for any particular period any authorisation granted under subsection (4) for the expenditure of any particular amount in so far as that amount has not yet been expended.

Auditing of accounting records of local authority councils

85. The accounting records of a local authority council referred to in section 86 and its financial statements referred to in section 87 shall be audited by the Auditor-General.

Accounting records of local authority councils

- 86.** (1) The accounting officer of a local authority council -
- (a) shall keep such accounting records as are necessary to reflect the transactions and financial state of affairs of the local authority council;
 - (b) shall keep in the accounting records contemplated in paragraph (a) a revenue account which shall be credited with all moneys which accrue to and are received by the local authority council and be debited with all expenses of the local authority council.
- (2) The accounting officer of a local authority council shall deposit all the moneys received by him or her on behalf of the local authority council in an account held in terms of section 30(1)(y).
- (3) The accounting records contemplated in subsection (1) shall be kept at a place determined by the local authority council and shall not without the consent of the local authority council be removed from that place.
- (4) The Minister may, after consultation with the Auditor-General, issue instructions to an accounting officer in connection with the system of bookkeeping (including internal auditing) and accounting to be followed by that accounting officer in the performance of his or her functions in terms of this section and section 87

Financial statements and audit reports

87. (1) The accounting officer of a local authority council shall within three months or such longer period as the Auditor-General may approve, after the end of a financial year of the local authority council make out financial statements in such form as may be determined by the Auditor-General in respect of that financial year and submit such financial statements to the Auditor-General.

- (2) The financial statements referred to in subsection (1) shall consist of -
- (a) a balance sheet showing the assets and liabilities of the local authority at the end of that financial year;
 - (b) a statement of income and expenditure of the local authority council for that financial year; and
 - (c) such other statements as may from time to time be required by the Auditor-General.

(3) The mayor of a municipality or town, or the chairperson of a village council shall after he or she has received a report from the Auditor-General submit such report -

- (a) to the next succeeding ordinary meeting of the local authority council in question for consideration and to decide with rectifying steps are to be taken should the report reveal any irregularities; and
- (b) to the regional council of the region in which the local authority council is situated, for consideration.

(Subs (3) substituted by s. 42 of Act. No. 24 of 2000)

(4) Within two months after the date of the meeting referred to in subsection (3), the mayor or chairperson, as the case may be, shall submit a copy of the minutes of such meeting, containing the comments of the local authority council in regard to the report and indicating which steps were taken or are to be taken in connection with any irregularity revealed by the report, to the Minister who may take such further steps as he or she may deem necessary.

(5) The Minister shall forthwith submit a copy of the minutes in question to the Auditor-General, and shall notify the Auditor-General of the steps taken by him or her under subsection (4).

PART XVIII GENERAL PROVISION

Public meetings for purposes of discussion of matters of public interest

88. (1) The chairperson of a local authority council may, if he or she deems it fit, and shall, upon a request in writing signed by at least 10 per cent of the voters registered in terms of the laws governing elections for members of local authority councils in respect of such local authority council, convene a meeting of the local authority council to which the public is invited by public notice in any newspaper circulating within the local authority area and such other manner calculated to reach as many members of the public as possible for purposes of discussion of any matter of public interest set out in such request, on such date and at such time and public place within the local authority area as may be determined by the chairperson.

(2) For purposes of subsection (1) any matter relating to the promotion, opposition or discussion of the election of any person as a member of the local authority council shall be deemed not to be a matter of public interest.

(3) Any costs incurred by the chairperson of a local council in convening a meeting in terms of subsection (1) shall be paid out of the funds of the local authority council.

Meetings of local authority councils for purposes of discussion of matters of mutual interest

89. The Minister may at any time convene a meeting at such time and place as may be determined by him or her to which all members of all local authority councils or representatives of such local authority councils are invited for purposes of discussion of matters of mutual interest.

Responsibility of local authority councils in relation to public watercourses

90. (1) A local authority council shall at all times keep the natural channel and the banks of every public watercourse situated in its area within the lines indicating the maximum level likely to be reached on an average every 50 years by flood-waters into which -

- (a) any water is discharged by a local authority council from any waterworks or water-main in terms of section 34(1)(e);
- (b) any stormwater is drained by a local authority council in terms of section 38(1)(d),

clean and free from any artificial or natural obstruction other than any building lawfully erected at any time before the commencement of this Act which is likely to interfere with the flow of such watercourse or create a danger that such flood-water can threaten the safety or lives or property of any person.

- (2) (a) If any such natural channel or banks are situated on private land, the local authority council may by notice in writing addressed and delivered to the owner of such land require such owner to clean and free

such channel or banks from such obstruction within such period as may be specified in such notice.

- (b) If a person referred to in paragraph (a) refuses or fails, within the period specified in the notice so referred to, to comply with the order contained in such notice to the satisfaction of the local authority council, the local authority council may cause such steps as may be necessary in order to comply with such notice and recover the costs connected therewith from the person concerned.

Power to enter immovable property for performance of certain functions

90A. (1) If any water main, stormwater drain or public sewer or any cables, wires or conduits forming part of the main of a local authority council for conveying electricity or gas, are placed or installed on or are laid on or across any immovable property, whether underground or overhead, the local authority council concerned may authorise any staff member of the local authority council or any other person to enter such immovable property for the purpose of performing any work in connection with the inspection, maintenance, removal, replacement or renewal of any of such works or accessories thereof.

(2) Any person who is authorised by a local authority council to enter any immovable property for any purpose contemplated in subsection (1), may -

- (a) be accompanied by such other persons as may be reasonably required for carrying out the work;
- (b) take onto such immovable property such goods, equipment and materials
as
may be reasonably required for purposes of carrying out the work;
- (c) make such excavations or erect such equipment as may be reasonably required for the purposes of carrying out the work;
- (d) require from the owner of the property to remove any tree, shrub or
growth
or any fence or other obstacle preventing or impeding such excavations to be made or such equipment to be erected, and, in the event of such owner refusing or failing to comply with any such request reasonably made, cause any such obstacle to be removed in such manner as such authorized person considers necessary or expedient.

(3) A person authorised as contemplated in subsection (1) shall, except in a case of an emergency or if for other reasonable cause he or she is unable to give prior notice, give reasonable notice to the owner or occupier of the immovable property concerned of his or her intention to enter onto such property and of the nature of the work to be carried out.

(4) Any person acting under an authorisation under subsection (1) shall cause the work in question to be carried out in such a manner as to limit any damage to the

property concerned or any fixtures thereon and to cause as little inconvenience as possible to the persons occupying the property.

(5) The local authority council shall be responsible to repair or pay compensation for any damage caused to the property or any fixture thereon in the carrying out of work in terms of this section.

(6) To the extent that this section interferes with the right to privacy of any person, such interference is authorised on the grounds of public safety and economic well-being as contemplated in Article 13(1) of the Namibian Constitution.

(S. 90A inserted by s. 43 of Act. No. 24 of 2000)

Right of entry upon private land by local authority councils

91. (1) Subject to the provisions of subsection (2), the chief executive officer or any other staff member of a local authority council may, in order to exercise any power or perform any duty or function conferred or imposed by this Act -

- (a) at all reasonable times enter upon any land or place where any combined private sewer, private sewer, sewage works, water-main or waterworks have been constructed;
- (b) make such investigations and inquiries as may be necessary to determine whether the provisions of this Act or any term and condition, direction or order determined, given or made under this Act is being complied with.

(2) The chief executive officer or other staff member referred to in subsection (1) shall before exercising any powers under that subsection, identify himself or herself to the owner, occupier or other person in charge of the land or place in question.

- (3) (a) The owner, occupier or person in charge of the land or place in question shall provide the chief executive officer or other staff member referred to in subsection (1) with such reasonable facilities or assistance as may be necessary for the exercise of the powers or the performance of the duties and functions conferred or imposed upon such chief executive officer or staff member of a local authority council in terms of this Act.
- (b) Any person who contravenes or fails to comply with the provisions of paragraph (a) shall be guilty of an offence and on conviction liable to a fine not exceeding N\$2 000 or to imprisonment for a period not exceeding six months.

Power to set aside reception areas

91A (1) A municipal council and town council may in its local authority area set aside reception areas for the construction and erection of informal housing structures or buildings.

(2) For the purposes of subsection (1) "informal housing structures or buildings" means structures or buildings of a temporary nature which is not a dwelling

house, incremental house or initial self-help dwelling as contemplated in the National Housing Development Act, 2000.

(S. 91A inserted by s. 44 of Act. No. 24 of 2000)

Failure by local authority councils to exercise or perform its powers duties and functions

92. (1) If, in the case of a local authority council other than the municipal council of a municipality referred to in Part I of schedule 1, the Minister is satisfied -

- (a) that a local authority council is unable to exercise the powers and perform the duties and functions by law conferred and imposed on such council;
- (b) on account of a report by the Auditor-General after conducting an ordinary audit or conducting an audit at the request of the Minister -
 - (i) that the local authority council is unable to meet its financial commitments; or
 - (ii) that no proper control is exercised over the assets and liabilities of the local authority council; or
- (c) that the local authority council does not comply with the requirements of section 14(1)(a) in relation to the holdings of meetings,

the Minister may by notice in writing, after having given such local authority council an opportunity to submit representations to him or her, instruct such local authority council to take such steps in order to rectify the issues concerned, within the period of time and in accordance with any details and directives, as specified in the notice.

(2) If a local authority council fails to comply with or to adhere to an instruction under subsection (1), the Minister may by notice in the *Gazette* -

- (a) declare that all the powers, duties and functions of the local authority council, or any thereof as specified in the notice, shall be vested in the Minister; and
- (b) remove or suspend, the members of such local authority council from office, if all the powers, duties and functions of such local authority council are vested in the Minister under paragraph (a);

(Para (b) substituted by s. 17(a) of Act No. 17 of 2002)

(3) The Minister may declare at any time by notice in the *Gazette*, after consultation with the local authority council concerned, such local authority council to be re-vested, with effect from a date specified in the notice, with the powers, duties and functions which in terms of a notice under subsection (2) were vested in the Minister.

(4) A notice under subsection (2) shall provide for an election of members of such local authority council to be held on a date specified in the notice, which date shall

not be later than three months after the date of publication of the notice, but if a general election for members of local authority councils is to be held within six months after the date of the notice concerned, the election provided for in the notice shall not be held.

(Subsection (4) substituted by s. 17(b) of Act No. 17 of 2002)

(5) If the members of a local authority council have been removed or suspended under subsection (2)(b), the Minister -

- (a) shall have, and may exercise and perform the powers, duties and functions conferred or imposed upon the local authority council by law; and
- (b) may authorise in writing any other person to exercise or perform any of those power, duties and functions, subject to the directions and control of the Minister,

until the election contemplated in subsection (4) has taken place.

(6) If an election is to be held by virtue of the provisions of subsection (4), such election shall be deemed to be an election of members of the first local authority council of a newly established local authority area.

(7) A local authority council elected at an election referred to in subsection (6) shall be deemed, for the purposes of sections 11(2)(a), 14(1)(a) and 21(2)(a), to be a new local authority council.

(S. 92 substituted by s. 45 of Act. No 24 of 2000)

Delegation of powers and assignment of functions and duties

92A. (1) The Minister may in writing -

- (a) delegate any power conferred upon him or her by or under any provision of this Act, excluding the power to make regulations;
- (b) assign the performance of any function or duty entrusted to him or her by or under this Act,

to any staff member in the Ministry of Regional and Local Government and Housing.

(2) A delegation or assignment under subsection (1) may be made subject to such conditions or restrictions as the Minister may determine, as the case may be, and may be withdrawn or amended by him or her.

(3) The Minister shall not be divested of a power or function or duty delegated or assigned by him or her in terms of subsection (1), and may amend or withdraw any decision made in the exercise of such delegated powers or performance of such assigned functions or duties.

(4) If a power or function is delegated or assigned under subsection (1) to the holder of an office, such delegation or assignment shall be deemed to have been made to the holder for the time being of the office or to any person at any time lawfully acting in the capacity of such holder.

(S. 92A inserted by s. 46 of Act. No 24 of 2000)

Service of documents

93. (1) Any document, notice or other communication required or authorised under the provisions of this Act to be served, given or delivered to any person by the Minister, a local authority council, the chief executive officer or other staff member shall be deemed to have been served, given or delivered -

- (a) if delivered to such person personally;
- (b) if despatched by registered post addressed to such person at his or her last known address which may be any such place or office as is referred to in paragraph (c) or his or her last known post office box number or private bag number or that of his or her employer or accredited agent, if any;
- (c) if left with some adult person apparently residing at or occupying or employed at his or her last known abode or office or place of business; or
- (d) in the case of a company -
 - (i) if delivered to the public officer of the company;
 - (ii) if left with some adult person apparently residing at or occupying or employed at its registered address;
 - (iii) if despatched by registered post addressed to the company or its public officer at its or his or her last known address, which may be any such office or place as is referred to in subparagraph (ii) or its or his or her last known post office box number or private bag number or that of its or his or her employer; or
 - (iv) if transmitted by means of a facsimile transmission to the person concerned at the registered office of the company.

(2) Any document, notice or other communication referred to in subsection (1) which has been served, given or delivered in the manner contemplated in paragraph (b) or (d)(iii) of that subsection shall, unless the contrary is proved, be deemed to have been received by the person to whom it was addressed at the time when it would, in the ordinary course of post have arrived at the place to which it was addressed.

***Prima facie* proof of amounts due and payable**

93A. If an amount is due and payable to a local authority council in terms of this Act or any other law, an amount specified in a certificate to that effect signed by the

accounting officer of the local authority council shall be *prima facie* proof of the amount due.

(S. 93A inserted by s. 47 of Act no 24 of 2000)

Regulations by local authority councils

94. (1) A local authority council may, after consultation with the Minister, make regulations by notice in the *Gazette* in relation to -

(a) the supply, distribution and use of water in its local authority area, including -

- (i) subject to the provisions of the Water Act, 1956 (Act 54 of 1956), the prohibition, restriction, regulation and control of the sinking, maintenance or use of boreholes or wells;
- (ii) the quantity of water to be supplied to immovable property within or outside such area;

- (iii) the size, discharge capacity, nature, materials, strength and workmanship and the mode of arrangement connection, disconnection, alteration and repair of water fittings or fixtures to be used;

(Subpara (iii) substituted by s. 48(b) of Act. No. 24 of 2000)

- (iv) the standard or quality of water fittings to be used;
- (v) the use of water fittings which are not of any particular standard or quality or which are of such a nature or so arranged or connected as to cause or permit, or be likely to cause or permit, waste, undue consumption, misuse, erroneous measurement or contamination of water, or reverberation of pipes;
- (vi) the manner in which, the persons by whom and the places where connections may be made;
- (vii) the cutting off of water on account of failure to pay any charges or fees determined in respect of the supply of water or on account of the contravention of any provision relating to waste, misuse or contamination of water;
- (viii) the protection from pollution of water;
- (ix) the washing in, or in any manner defiling or polluting the water in drinking troughs provided for the use of animals;
- (ixA) the restriction or prohibition of use of water for particular purposes or during specified hours and any measures required to be taken or fittings, fixtures or equipment to be installed or provided for the

purpose of conserving water or curtailing the evaporation of water from swimming pools or other open structures or containers ordinarily used for containing water;

(Subpara (ixA) inserted by s. 48(c) of Act. No. 24 of 2000)

- (x) generally for the protection from damage or injurious use of any waterworks, watermains, leadings and fittings of the local authority council, whether within or outside such area;
- (b) the regulation, protection and use of a system of sewerage and drainage, including -
 - (i) the types of sanitary conveniences, baths and wash-basins which may discharge into a public sewer;
 - (ii) the connection of such sanitary conveniences, baths and wash-basins to such system of sewerage and the construction of private sewers;
- (c) the provision, regulation and control for the removal or disposal of nightsoil, refuse, slop water, garden and stable litter and otherwise offensive or unhealthy matter;
- (d) subject to the provisions of the Road Traffic and Transport Act, 1999 (Act No. 22 of 1999), and the Roads Ordinance, 1972 (Ordinance 17 of 1972), the regulation and control of -

(Words preceding substituted by s. 18(a) of Act No. 17 of 2002)

 - (i) traffic, processions, performances, singing, dancing and gathering in streets and public places;
 - (ii) the use in streets and public places of loudspeakers and other devices for the reproduction or amplification of sound;
 - (iii) the maintenance of order in streets and public places;
 - (iv) the temporary closure of streets and public places for the purpose of construction, repairs, possessions, festivities or similar events or on account of serious illness, fire or other emergency;
 - (v) the conveyance of articles, burdens or loads;
 - (vi) the overhanging or encroaching of trees and shrubs upon private property or the obtruding thereof into streets or public places;
 - (vii) the use of streets by fire brigades, ambulances, street watering

- vehicles and vehicles used in connection with repair and servicing of overhead electrical wires;
- (viii) the use of streets and public places by animal drawn traffic of any description or by particular classes of traffic;
- (ix) the driving, riding or leading of livestock in streets or public places;
- (x) the use of cycles and vehicles, whether propelled by mechanical means or otherwise, and whether used for private or other purposes on any street or public place;
- (xi) the obstruction of streets and public places;
- (xii) the use of parking garages and areas designated for the parking of vehicles;
- (e) the regulation and control of scaffolding and decorations in streets and the erection and removal of temporary platforms, seats and other structures for the use of the public at any meeting or entertainment or for the accommodation of spectators at any procession, ceremony or display of any kind;
- (f) the regulation of the naming from time to time of streets, and the numbering of houses, buildings and places in such streets;
- (g) the prohibition, restriction, regulation and control of begging in streets or public places and the soliciting or touting for employees or for business or trade;
- (h) subject to the provisions of the Children's Act, 1960 (Act 33 of 1960), and the National Welfare Act, 1965 (Act 79 of 1965), the regulation of the collection of money in streets and public places therein or from door to door for charitable or other purposes;
- (i) the regulation and control of street lines and building lines;
- (j) the supply of electricity and gas, including the prohibition, restriction and use of electrical appliances, and the cutting off of electricity or gas on account of failure to pay any charges or fees determined in respect of the supply of electricity or gas;
- (k) the regulation, control and use of cemeteries or crematoriums under the management and control of a local authority council and interments in such cemeteries;
- (l) the restriction, regulation and control of quarries in order to prevent the

creation of public nuisances, sources of danger or the destruction or impairment of scenic or other amenities;

- (m) subject to the provisions of the said Road Traffic and Transport Act, 1999 the regulation, control and use in its local authority area of public motor vehicles;
(Para (m) substituted by s. 18(b) of Act No. 17 of 2002)
- of (n) the granting of loans in terms of housing schemes and the administration such housing schemes;
- (o) the regulation, control, maintenance and use of markets and sales to the public at such markets;
- (p) subject to the provisions of the Public Health Act, 1919 (Act 36 of 1919), and the Abattoir Industry Act, 1976 (Act 54 of 1976) -
- of (i) the prohibition, restriction, regulation and control of the slaughter of bovine and equine animals, sheep, goats, pigs, poultry and ostriches;
- (ii) the preservation and safeguarding of public health;
- (iii) the prevention and treatment of infectious or contagious diseases;
- the (q) subject to the provisions of the Aviation Act, 1962 (Act 74 of 1962), and Aerodrome Ordinance, 1963 (Ordinance 12 of 1963), the regulation, control and use of aerodromes and the rendering of services connected therewith;
- (r) the regulation, control and use of -
 - (i) ambulance services;
 - (ii) dipping tanks and disinfecting apparatuses;
 - (iii) museums and libraries
(Subpara (iii) substituted by s. 48(d) of Act. No 24 Of 2000)
 - (iv) pounds;
 - (v) nurseries;
 - (vi) fire brigades;
- (s) the establishment, regulation and control of bands and orchestras;

- (t) the regulation of the erection and construction in local authority areas of depots or cold storage works for purposes of the storage of meat, milk and food intended for public sale, and the regulation, control and use of such depots or cold storage works;
- local (u) the conditions subject to which bursaries and loans may be granted by authority councils for educational purposes;
- (v) the regulation of the power of the local authority council to enter into any contracts for the furnishing of supplies and services to, or for the hiring or letting of anything or the acquisition or granting of any right for or on behalf of, the local authority council;
- restriction, (w) the prevention and abatement of public nuisances, including the regulation and use of bells, hooters and similar instruments on vehicles;
- structures (x) the regulation, control and use of public recreational areas and of and appliances provided in such areas for the amusement or recreation of the public, whether on public or private property;
- (y) the prohibition, restriction, regulation and control of the construction, and the regulation and control of maintenance and use, of public baths and public swimming baths;
- on (z) the prohibition, restriction, regulation and control of boating and fishing or in dams;
- (aa) the regulation of the erection, construction and use of places of public entertainment;
- (ab) the prohibition, restriction, regulation and control of camping, and the regulation, control and use of camping sites and rest camps;
- (ac);
(Para (ac) deleted by s. 48(e) of Act no 24 of 2000)
- (ad) the restriction, regulation and control of the use of common pasture and townlands, including a prohibition on the removal of soil, sand, clay, stones, grave, firewood, vegetation or any other materials from such land;
(Para (ad) substituted by s. 48(f) of Act. No. 24 of 2000)
- (ae) the prohibition, restriction, regulation and control of advertising in any manner whatsoever and the posting of bills or other material on streets, walls, roofs of buildings, fences, land, rocks, trees or other natural features;

- (af) subject to the provisions of the Municipal Dog Tax Ordinance, 1967 (Ordinance 13 of 1967), and the Nature Conservation Ordinance, 1975 (Ordinance 4 of 1975), the prohibition, restriction, regulation and control of the keeping of animals, including wild animals, bees or birds, and the preservation and protection of wild animals, bees or birds and their nests and eggs;
- (ag) the prohibition, restriction, regulation and control of the construction, erection and use, and the regulation and control of maintenance and demolition of buildings, including informal housing structures or buildings in reception areas contemplated in section 91A;
(Para (ag) substituted by s. 48(g) of Act. No. 24 of 2000)
- (ah) subject to the provisions of the said Public Health Act, 1919, and the
Food,
Drugs and Disinfectants Ordinance, 1952 (Ordinance 36 of 1952), the prohibition, restriction, regulation and control of the introduction into, and the possession and sale for the purposes of human consumption or the handling (otherwise than for the purpose of destruction), in, local authority areas of diseased animals, diseased meat, fish or other articles of food or drink unfit for human consumption;
- (ai) the regulation and control in its local authority area, and the maintenance
of
funeral parlours or mortuaries;
- (aj) the prohibition, restriction, regulation and control of the conducting of any trade or occupation or other activity for gain, including -
 - (i) the prohibition of the conducting of any business or occupation or other activity for gain on or from any premises which are not registered with the local authority council;
 - (ii) the prohibition of the conducting of any business or occupation or any other activity for gain in or alongside streets and other public places, except in an area or at a place allocated by the local authority council for the purpose or otherwise than under the authority of a permit obtained from the local authority council;
 - (iii) the application procedure and requirements for the registration of premises referred to in subparagraph (i) and for the granting of permits referred to in subparagraph (ii), including the fees, if any, payable in respect thereof;
 - (iv) the imposing of conditions for the conducting of the business, occupation or other activity for gain, including the display of permits referred to in subparagraph (iii);
 - (v) the prohibition of the obstruction of pedestrians and traffic; and

- (vi) the regulation and control of the removal of persons illegally conducting any business, occupation or other activity for gain, and the impounding of goods, including the disposal of impound goods;

(Para (aj) substituted by s.48(h) of Act. No. 24 of 2000 and subpara (vi) substituted by s. 18(c) of Act No. 17 of 2002)

- (ak) subject to the provisions of the Locust Suppression Proclamation, 1923 (Proclamation 34 of 1923), and the Agricultural Pests Ordinance, 1927 (Ordinance 11 of 1927), the prevention and destruction of locusts and other noxious insects and agricultural pests;
- (al) the prohibition, restriction, regulation and control of the erection and construction, and the regulation and use, of cowsheds, milking places and dairies and other livestock;
- (am) the procedure to be followed in respect of property of local authority councils to be sold by way of tender or public auctions;
- (an) the destruction or disposal of any abandoned movable property found in public places;
- (ao) the restriction, regulation and control of hand-carts and other vehicles of a similar nature not propelled by animal or mechanical power;
- (ap) the regulation and control of the use of immovable property;
- (aq) the enclosure of residential buildings with solid boundary walls;
- (ar) the valuation of rateable property by valuers and valuation courts,
- (as) the registration, and cancellation of any such registration, of contractors undertaking to carry out electrical or plumbing or drainlaying work in connection with systems of electrical supply or water supply or sewerage or drainage, and the qualification required of applicants for such registration, and the control or prohibition of the undertaking of any such work by persons who are not so registered;
- (at) the registration, regulation, control or prohibition of newspaper and magazine vendors and the handing out of brochures and pamphlets in streets and residential areas, or certain streets and certain residential areas, including -
 - (i) the designation of places or areas for the selling of newspapers and magazines and the handling out of brochures and pamphlets; and
 - (ii) the issuing of identification cards limiting the bearer to a site specified therein for purposes of selling newspapers and magazines or handing out brochures and pamphlets;

- (au) the procedure to be followed during the receiving of payments by local authority councils, and the issue of receipts in respect thereof, including the signing and co-signing of receipts; and

(Paras (as), (at) and (au) inserted by s. 48(i) of Act no. 24 of 2000)

and, in general, in relation to any matter which the local authority council may consider necessary or expedient to prescribe or regulate in order to attain or further the objects of this Act.

- (2) (a) The Minister may make model regulations in relation to any matter referred to in subsection (1).
- (b) Until a local authority council other than the municipal council of a municipality referred to in Schedule 1 makes regulations under subsection (1), the model regulations made under paragraph (a) shall apply to any such local authority council, except to the extent as such local authority council may, after consultation with the Minister, determine otherwise by notice in the *Gazette*.

(2A) A local authority council may in any regulation made by it under subsection (1) -

- (a) adopt any model regulations made under subsection (2), or any part thereof,
as its own regulations merely by reference to such model regulation; and
- (b) amend, subject to subsection (1), the provision of such model regulations
to
such extent as the local authority council may consider necessary or expedient for its purposes.

(2B) The Minister may, if he or she considers it advisable in the public interest

-

- (a) direct in writing any town council or village council to adopt any model regulation, or part thereof, made under subsection (2), as may be specified by the Minister; and
- (b) adopt, if the town council or village council fails to comply with such direction within three months, by notice in the *Gazette* such model regulations or part thereof for and on behalf of such council.

(2C) If any model regulation adopted by or for and on behalf of a local authority council under subsection (2A) or (2B), as the case may be, are -

- (a) repealed or substituted *in toto* by the Minister, such regulations shall remain of full force and effect as the regulations of such local authority council as if such repeal or substitution had not occurred;

- (b) amended by the Minister, such amendment by the Minister shall be applicable to such local authority council, except an amendment to a particular provision of such regulations which has been amended by the local authority council under subsection (2A)(b).
(Subsections (2A), (2B) and (2C) inserted by s. 48(j) of Act no 24 of 2000)
- (3) Different regulations may be made under subsection (1) or (2) in respect of different areas within a local authority area.
- (4) A regulation made under subsection (1) or (2) may in respect of any contravention thereof or a failure to comply therewith prescribe a penalty not exceeding a fine of N\$2 000 or imprisonment for a period not exceeding six months.
- (5)
 - (a) All regulations shall, for the purposes of Article 111(5) of the Namibian Constitution, be tabled by the Minister in the National Assembly within 14 days after promulgation thereof if the National Assembly is then in ordinary session or if the National Assembly is not in ordinary session, within 14 days after the commencement of its next ensuing ordinary session, and shall remain on the Table of the National Assembly for a period of not less than 28 consecutive days, and if that session is terminated before the said 28 days have elapsed, such regulations shall again be tabled within 14 days after the commencement of its next ensuing ordinary session.
 - (b) If the National Assembly passes a resolution referred to in the said Article 111(5) during the said period of 28 days in respect of any regulations tabled in terms of paragraph (a) or any provision thereof, such resolution shall not affect the validity of anything done in terms of such regulations or of such provision thereof up until the date immediately before the date when such resolution was so passed. or to any right, privilege, obligation or liability acquired, accrued or incurred as at the said date in terms of such regulations or such provision thereof.
 - (c) For the purposes of this subsection, "regulations" shall mean any regulations made under subsection (1) or (2) or any determination under subsection (2).

Regulations by Minister

- 94A.** (1) The Minister may make regulations relating to -
 - (a) the establishment and composition of local tender boards, including -
 - (i) the tenure and vacation of office and the remuneration, if any, of members of local tender boards;
 - (ii) the disclosure of interest by members of local tender boards;

- (iii) the powers and functions of local tender boards;
- (iv) committees of local tender boards and the delegation of powers;
- (v) meetings and decisions of local tender boards;
- (vi) invitation of tenders and applications for pre-qualification;
- (vii) final invitations of tenders where application for pre-qualification have been invited;
- (ix) contents of title of tender;
- (x) examination, evaluation, comparison and non-acceptance of tenders;
- (xi) acceptance of tenders and entry into force of agreements;
- (xii) exemption, if any, from tender procedures;
- (xiii) the performance of administration work;
- (xiv) expenditure
- (xv) the conclusion or cancellation of agreements;
- (xvi) the procurement of goods and services of local authorities;
- (xvii) the letting or hiring of anything on behalf of local authorities;
- (xviii) the acquisition or granting of rights for or on behalf of local authorities;
- (xix) the disposal of property of local authorities;
- (xx) the procedure and quorum at meetings of local tender boards and any committee thereof, including the manner of voting and the number of votes required for a decision of a local tender board;
- (xxi) decisions of a local tender board;
- (xxii) the granting by a local tender board of price preferences when comprising tenders, including the basis on which such preferences may be granted;
- (xxiii) the imposition by a local tender board of a monetary penalty, calculated on such basis as may be prescribed, on any person with whom a local tender board has concluded an agreement on behalf of a local authority on the strength of a misrepresentation by that

person, or on the strength of information furnished by that person which, after the conclusion of such agreement, is shown to have been incorrect information, including the manner in which any such penalty may be recovered;

by a (xxiv) the recovery of expenses, losses or damages incurred or suffered
local authority;

(xxv) a code of procedure relating to tender boards;

(xxvi) generally, all matters in respect of which the Minister considers it necessary or expedient to make regulations in order to achieve any objects relating to tender board matters;

joint (b) the circumstances under which a local authority council may enter into
business ventures, including -

enter (i) the type of businesses with which a local authority council may
into a joint business venture;

venture (ii) the purpose for which income derived from a joint business
may be utilised;

(iii) the approval required, if any, and the conditions which may be imposed before a local authority council may enter into a joint business venture;

(iv) the form of a joint business venture;

(v) the alienation, encumbrance or disposal of shares, assets or other interests in a joint business venture;

(vi) the obtaining of shares or other interests in a joint business venture by -

(aa) a member or staff member of a local authority council; or

(bb) any other person -

(ab) who is related to such member, whether by affinity
or consanguinity;

(ac) who is a member of the household of such member;

- (ad) with whom such member is in terms of the traditional laws and customs a partner in a customary union; or
 - (ae) who is a partner, agent or business associate of such member;
 - (vii) the ratio of representation of a local authority council on the management body of a joint business venture;
 - (viii) the particulars which may be incorporated in the documents stating the objects and purposes of a joint business venture;
 - (ix) the authority to which the accounting records and financial statements of a joint business venture shall be submitted;
- (c) the circumstances under which a local authority council may commercialise any service rendered or function or duty exercised or carried out by it, including -
 - (i) the nature of the commercialisation concerned;
 - (ii) the approval required, if any, and the conditions which may be imposed before a local authority council may commercialise a service, duty or function;
 - (iii) the alienation, encumbrance or disposal of shares, assets or other interests in a commercialised business;
 - (iv) the obtaining of shares or other interests in a commercialised business by -
 - (aa) a member or staff member of a local authority council; or
 - (bb) any other person -
 - (ab) who is related to such member, whether by affinity or consanguinity;
 - (ac) who is a member of the household of such member;
 - (ad) with whom such member is in terms of the traditional laws and customs a partner in a customary union; or
 - (ae) who is a partner, agent or business associate of such member;

- (v) the particulars which may be incorporated into the documents stating the objects and purposes of a commercialised business;
 - (vi) the authority to which the accounting records and financial statements of a commercialised business shall be submitted;
- (d) the procedures to be followed by a local authority council when appointing any staff member, including the town clerk, and the reappointment of any such person, including the form of and the procedures relating to the application for appointment or reappointment;
- (e) the delegation of powers and the assignment of duties or functions by any staff member of a local authority council, including the procedures relating thereto; and
- (f) any other matter which the Minister may consider expedient to prescribe in order to attain the objects of this Act.

(2) A regulation made under subsection (1) may prescribe in respect of any contravention thereof or a failure to comply therewith a penalty not exceeding a fine of N\$2 000 or imprisonment for a period not exceeding six months or both such fine and such imprisonment.

(3) Regulations made under this section shall apply, unless determined otherwise in a regulation, to all local authority councils.

Incorporation of standard publications

94B. (1) The power conferred by section 94(1) and (2) to make regulations shall include the power to incorporate in regulations so made the provisions of any standard publication or any part thereof by reference to such standard publication or part thereof, without the publication of the provisions of such standard publication in the *Gazette*.

(2) In this section "standard publication" means any code of practice, standard specification or standard regulations published or issued by any body, organisation or authority established with the object of promoting standardisation, whether in Namibia or elsewhere, and which Namibia is authorised to apply in terms of an agreement entered into with that body, organisation or authority.

(3) Any alteration, amendment or substitution of any provision of a standard publication, whether before or after the commencement of this section, shall be specifically incorporated by a local authority concerned in regulations incorporating such standard publication by reference.

(4) A local authority council shall, while any regulations incorporating any standard publication or part thereof are in force, keep copies of -

- (a) such standard publication;
- (b) any supplementary standard publication or specification or document incorporated by reference in the main standard publication which has been incorporated in the regulations; and
- (c) any amendment of the main standard publication or any supplementary standard publication or specification or document referred to in paragraph (b),

which shall be open to inspection, free of charge, at the office of the local authority council during official office hours.

(Sections 94A and 94B inserted by s. 49 of Act. No 24 of 2000)

Repeal of laws and savings

95. (1) The laws specified in column 2 of Schedule 4 are hereby repealed to the extent set out in column 3 of that Schedule.

(2) (a) Notwithstanding the repeal of the laws referred to in subsection (1),

the provisions of such laws shall continue to be in force in relation to a municipality referred to in Schedule 1 and the Peri-Urban Development Board established by section 2 of the Peri-Urban Development Board Ordinance, 1970 (Ordinance 19 of 1970), until the date immediately before the date fixed in terms of Article 137(5) of the Namibian Constitution.

(b) On the date referred to in paragraph (a), all moneys standing to the credit of

the fund established by section 17 of the Natives (Urban Areas) Proclamation, 1951, (Proclamation 56 of 1951), shall be paid into the funds of the municipal council under the jurisdiction of which such fund was administered immediately before that date, or be dealt in accordance with the provisions of subsection (4)(b), as the case may be.

(3) (a) Notwithstanding the repeal of the Municipal Ordinance, 1963 (Ordinance 13 of 1963), for the purposes of any law in force at the commencement of this Act, any reference in such law to a municipality, established or constituted, or deemed to be established or constituted, under that Ordinance, shall be construed as a reference to the municipal council, town council or village council, as the case may be, of a municipality, town or village declared under section 3 or deemed to have been so declared.

(b) The provisions of paragraph (a) shall not apply in relation to such provisions

of any law so referred to as the Minister may determine, to such extent or in relation to such matter and with effect from such date, which may be a

date earlier than the date of the determination, as the Minister may determine and make known by notice in the *Gazette*.

- (c) Anything done under any provision of any law referred to in paragraph (a) before the commencement of this Act, shall be deemed to have been done under such provision as construed in terms of that paragraph.
- Peri- (4) (a) For the purposes of subsection (2)(a), the provisions of the said Urban Development Board Ordinance, 1970, in relation to any powers, duties and functions conferred or imposed thereunder upon the said Peri-Urban Development Board, shall so continue to be in force as if the Minister were the Peri-Urban Development Board until the date immediately before the date fixed in terms of Article 137(5) of the Namibian Constitution.
- (b) As from the date referred to in paragraph (a) -
 - (i) the assets, liabilities, rights and obligations which vested in the Peri-Urban Development Board immediately before the date so fixed shall vest in the local authority council whose area consists of or includes a peri-urban area administered by the said Peri-Urban Development Board which ceased to exist as from that date by virtue of the provisions of this Act or in a regional council in whose region such area is situated or the State to such extent and as from such date as may from time to time be determined by the Minister;
 - (ii) any person in the employ of the Peri-Urban Development Board on the date immediately before the date so fixed shall as from that date be deemed to be in the service of the State, and, subject to the provisions of section 14(5)(b) of the Public Service Act, 1980 (Act 2 of 1980), on conditions of employment not less favourable than the conditions of employment which applied to such person on such first-mentioned date and the provisions which applied to such person on that date shall continue to apply to such person until such time as the Minister, on the recommendation of the Public Service Commission, determines otherwise.
- (c) The registrar of deeds shall, in the case of any asset referred to in subparagraph (i) of paragraph (b) consisting of immovable property which vests by virtue of the provisions of that subparagraph in a local authority council, a regional council or the State, upon production to him or her of the deed of any such immovable property, endorse such deed to the effect that the immovable property described therein vests in that local authority council, regional council or the State and shall make the necessary entries in his or her registers, and thereupon that deed shall serve and avail for all purposes as proof of the title of that local authority council or regional council or the State.

- (d) No transfer duty, stamp duty or any other fee or charge shall be payable in respect of any endorsement or entry referred to in paragraph (c).
- (5) Anything done under a provision of a law repealed by subsection (1) which could have been done under a corresponding provision of this Act, shall be deemed to have been done under such corresponding provision of this Act.
- (6) (a) Notwithstanding the provisions of section 3(5) and the other provisions of this section, if it appears at the date fixed in terms of Article 137(5) of the Namibian Constitution, that due to an insufficient number of voters registered or candidates nominated, an election in terms of the provisions of that Article could not be held in respect of the area of a village referred to in Schedule 3 and which consists of or includes a peri-urban area administered by the said Peri-Urban Development Board, the President may by proclamation in the *Gazette* determine that, with effect from the said date -
 - (i) such area shall not be deemed to have been declared a village under the said section 3(5); and
 - (ii) the name of such village shall be deleted in Schedule 3, whereupon such area shall continue to be a peri-urban area.
- (b) For the purposes of paragraph (a) -
 - (i) an area which so continues to be a peri-urban area shall be managed and controlled by the Minister in terms of the provisions of the said Peri-Urban Development Board Ordinance, 1970;
 - (ii) all assets, liabilities, rights and obligations which vested in the said Peri-Urban Development Board immediately before the date referred to in paragraph (a) shall vest in the State to the extent that such assets were used by the said Peri-Urban Development Board in relation to such area and such liabilities, rights and obligations are connected with such assets, until such time as such area is declared to be a settlement area under the provisions of section 31 of the Regional Councils Act, 1992.
- (c) If an area contemplated in paragraph (b) is so declared to be settlement area -
 - (i) all assets, liabilities, rights and obligations contemplated in paragraph (b) shall continue to vest in the State or vest in the regional council concerned to such extent and from such date as may from time to time be determined by the Minister;

- (ii) the provisions of paragraphs (b), (c) and (e) of section 31(2) of the said Regional Councils Act, 1992, shall apply *mutatis mutandis* in respect of such settlement area and such regional council as if the reference to the laws contemplated in paragraph (a) of that section were a reference to the said Peri-Urban Development Board Ordinance, 1970.

Short title and commencement

96. (1) This Act shall be called the Local Authorities Act, 1992, and shall come into operation on a date to be fixed by the Minister by notice in the *Gazette*.

(2) Different dates may be fixed under subsection (1) in respect of different provisions of this Act.

(3) A reference in this Act to the date of its commencement shall be construed as a reference to the applicable date fixed under subsection (2).

SCHEDULE 1 MUNICIPALITIES (Section 3)

Column 1	Column 2	Column 3
No.	Name of municipality	Number of members of municipal council

PART I

1	Swakopmund	7
2	Walvis Bay	10
3	Windhoek	12

**[Part (1) of Schedule (1) substituted by Proc. No. 18 of 1994.]*

PART II

1	Gobabis	7
2.	Grootfontein	7
3.	Karibib	7
4.	Karasburg	7
5.	Keetmanshoop	7
6.	Mariental	7
7.	Okahandja	7
8.	Omaruru	7
9.	Otavi	7
10.	Otjiwarongo	7
11	Outjo	7
12.	Tsumeb	7
13.	Usakos	7

SCHEDULE 2

TOWNS
(Section 3)

Column 1	Column 2	Column 3
No.	Name of town	Number of members of town council
1.	Arandis	7
2.	Hentiesbaai	7
3.	Katima Mulilo	7
4.	Khorixas	7
5.	Lüderitz	7
6.	Okakarara	7
7.	Ondangwa	7
8.	Ongwediva	7
9.	Opuwo	7
10.	Oshakati	7
11.	Rehoboth	7
12.	Rundu	7

*[Schedule 2 substituted by Proc. No. 28 of 1992.]

SCHEDULE 3
VILLAGES
(Section 3)

Column 1	Column 2
No.	Name of village
1.	Aranos
2.	Ariamsvlei
3.	Aroab
4.	Aus
5.	Berseba
6.	Bethanie
7.	Gibeon
8.	Gochas
9.	Grünau
10.	Kalkfeld
11.	Kalkrand
12.	Kamanjab
13.	Koës
14.	Leonardville
15.	Maltahöhe
16.	Noordoewer
17.	Stampriet
18.	Tses
19.	Uis
20.	Warmbad
21.	Witvlei

*[Schedule (3) substituted by Proc. No. 22 of 1993.]

SCHEDULE 4

LAWS REPEALED
(Section 95)

Column 1	Column 2	Column 3
No. and year of law	Title	Extent of repeal
Proclamation 11 of 1922	Native Administration Proclamation, 1922	The whole
Ordinance 7 of 1927	Local Loans Ordinance, 1927	The whole
Proclamation 15 of 1928	Native Administration Proclamation, 1928	Section 26, in so far as it relates to Proclamation 11 of 1922 and Proclamation 11 of 1927 in the Schedule
Proclamation 43 of 1929	Native Administration Proclamation, 1922, Further Amendment Proclamation, 1929	The whole
Proclamation 17 of 1933	Native Administration Amendment Proclamation, 1933	The whole
Ordinance 5 of 1934	Local Loans Amendment Ordinance, 1934	The whole
Proclamation 9 of 1938	Native Administration Amendment Proclamation, 1938	The whole
Proclamation 30 of 1938	Native Administration Further Amendment Proclamation, 1938	The whole
Proclamation 38 of 1941	Native Administration Amendment Proclamation, 1941	The whole
Proclamation 6 of 1943	Native Administration Amendment Proclamation, 1943	The whole
Proclamation 56 of 1951	Natives (Urban Areas) Proclamation, 1951	The whole
Ordinance 24 of 1952	Housing Schemes Loans Ordinance, 1952	The whole
Ordinance 21 of 1953	Finance Ordinance, 1953	Section 3
Ordinance 2 of 1954	Natives (Urban Areas) Proclamation Amendment Ordinance, 1954	The whole
Ordinance 25 of 1954	Natives (Urban Areas) Proclamation, 1951 Further Amendment Ordinance, 1954	The whole
Ordinance 4 of 1955	South west Africa Native Affairs Administration Ordinance, 1955	The whole, in so far as it relates to Proclamation 56 of 1951 in the First Schedule
Ordinance 24 of 1960	Native Administration Amendment Ordinance, 1960	The whole
Proclamation 335 of 1960	Natives (Urban Areas) Amendment Proclamation, 1960	The whole
Proclamation 168 of 1962	Natives (Urban Areas) Amendment Proclamation, 1962	The whole
Ordinance 13 of 1963	Municipal Ordinance, 1963	The whole
Ordinance 14 of 1963	Village Management Boards Ordinance, 1963	The whole

Ordinance 26 of 1963	Local Loans Amendment Ordinance, 1963	The whole
Proclamation 47 of 1963	Natives (Urban Areas) Amendment Proclamation, 1963	The whole
Ordinance 5 of 1964	Municipal Amendment Ordinance, 1964	The whole
Ordinance 29 of 1964	Municipal Amendment Ordinance, 1965	The whole
Ordinance 34 of 1965	Establishment of Local Government in Coloured Townships, Ordinance 1965	The whole
Ordinance 6 of 1967	Local Loans Amendment Ordinance, 1967	The whole
Ordinance 13 of 1967	Municipal Dog Tax Ordinance, 1967	Section 18
Ordinance 37 of 1967	Municipal Amendment Ordinance, 1967	The whole
Ordinance 11 of 1968	Municipal Amendment Ordinance, 1968	The whole
Proclamation 85 of 1968	Natives (Urban Areas) Amendment Proclamation, 1968	The whole
Proclamation 194 of 1968	Natives (Urban Areas) Amendment Proclamation, 1968	The whole
Proclamation 243 of 1968	Natives (Urban Areas) Amendment Proclamation, 1968	The whole
Proclamation 246 of 1968	Natives (Urban Areas) Amendment Proclamation, 1968	The whole
Ordinance 13 of 1969	Municipal Amendment Ordinance, 1969	The whole
Ordinance 23 of 1969	Municipal Further Amendment Ordinance, 1969	The whole
Ordinance 27 of 1969	Village Management Boards Amendment Ordinance, 1969	The whole
Ordinance 17 of 1970	Municipal Amendment Ordinance, 1970	The whole
Ordinance 19 of 1970	Peri-Urban Development Board Ordinance, 1970	The whole
Act 94 of 1970	Limitation of Legal Proceedings (Provincial and Local Authorities) Act, 1970	Section 9, in so far as it relates to Ordinance 13 of 1963 in the Schedule
Ordinance 7 of 1971	Municipal Amendment Ordinance, 1971	The whole
Ordinance 11 of 1971	Village Management Boards Amendment Ordinance, 1971	The whole
Ordinance 12 of 1971	Peri-Urban Development Board Amendment Ordinance, 1971	The whole
Ordinance 14 of 1971	Local Loans Amendment Ordinance, 1971	The whole
Ordinance 10 of 1972	Peri-Urban Development Board Amendment Ordinance, 1972	The whole
Ordinance 15 of 1972	Municipal Amendment Ordinance, 1972	The whole
Ordinance 9 of 1973	Municipal Amendment Ordinance, 1973	The whole
Ordinance 18 of 1973	Peri-Urban Development Board Amendment Ordinance, 1973	The whole
Ordinance 9 of 1974	Municipal Amendment Ordinance 1974	The whole
Proclamation 218 of 1974	Native Administration Amendment Proclamation, 1974	The whole
Ordinance 11 of 1975	Village Management Boards Amendment Ordinance, 1975	The whole

Ordinance 16 of 1975	Local Loans Amendment Ordinance, 1975	The whole
Proclamation 105 of 1975	Native Administration Amendment Proclamation, 1975	The whole
Ordinance 8 of 1976	Municipal Amendment Ordinance, 1976	The whole
Proclamation AG. 5 of 1977	General Law Amendment Proclamation, 1977	Sections 2 to 13, 15(a) and (b)
Ordinance 11 of 1977	Municipal Amendment Ordinance, 1977	The whole
Proclamation AG. 12 of 1977	Natives (Urban Areas) Amendment Proclamation, 1977	The whole
Proclamation AG. 3 of 1978	Municipal Elections Postponement Proclamation, 1978	The whole
Ordinance 7 of 1978	Peri-Urban Development Board Amendment Ordinance, 1978	The whole
Ordinance 10 of 1978	Fire Brigade Services Ordinance, 1978	Section 18
Ordinance 12 of 1978	Municipal Amendment Ordinance, 1978	The whole
Proclamation AG. 36 of 1978	Municipal Elections Postponement Amendment Proclamation, 1978	The whole
Proclamation AG. 47 of 1978	Establishment of Local Government in Coloured Townships Amendment Proclamation, 1978	The whole
Proclamation AG. 79 of 1978	Second Municipal Elections Postponement Proclamation, 1978	The whole
Proclamation AG. 2 of 1979	Municipal Elections Postponement Amendment Proclamation, 1979	The whole
Ordinance 9 of 1979	Municipal Amendment Ordinance, 1979	The whole
Ordinance 17 of 1979	Second Municipal Amendment Ordinance, 1979	The whole
Ordinance 5 of 1980	Peri-Urban Development Board Amendment Ordinance, 1980	The whole
Proclamation AG. 6 of 1980	Municipal Elections Further Postponement Proclamation, 1980	The whole
Act 12 of 1980	Natives (Urban Areas) Amendment Act, 1980	The whole
Ordinance 12 of 1980	Municipal Amendment Ordinance, 1980	The whole
Act 24 of 1980	Second Natives (Urban Areas) Amendment Act, 1980	The whole
Proclamation AG. 3 of 1982	Municipal Amendment Proclamation, 1982	The whole
Ordinance 4 of 1982	Village Management Boards Amendment Ordinance, 1982	The whole
Ordinance 5 of 1982	Peri-Urban Development Board Amendment Ordinance, 1982	The whole
Act 20 of 1982	Co-operation in relation to Housing Schemes Act, 1982	The whole
Proclamation AG. 1 of 1983	Advisory Board Elections Postponement Proclamation, 1983	The whole
Proclamation AG. 15 of 1984	Municipal Amendment Proclamation, 1984	The whole
Proclamation AG. 30 of	Peri-Urban Development Board	The whole

1984	Amendment Proclamation, 1984	
Act 5 of 1985	Peri-Urban Development Board Amendment Act, 1985	The whole
Act 18 of 1985	Municipal Amendment Act, 1985	The whole
Act 25 of 1986	Peri-Urban Development Board Amendment Act, 1986	The whole
Act 6 of 1987	Advisory Board Elections Postponement Amendment Act, 1987	The whole
Act 13 of 1987	Municipal Amendment Act, 1987	The whole
Act 3 of 1988	Municipal Amendment Act, 1988	The whole
Act 15 of 1988	Liquor Affairs Amendment Act, 1988	Sections 2 and 3
Act 22 of 1988	Natives (Urban Areas) Proclamation Amendment Act, 1988	The whole
Act 23 of 1988	Second Natives (Urban Areas) Amendment Act, 1988	The whole
Act 24 of 1988	Peri-Urban Development Board Amendment Act, 1988	The whole
Proclamation AG. 26 of 1989	Municipal Councils Vacancies Proclamation, 1989	The whole
Proclamation AG. 5 of 1990	Local Authorities Amendment Proclamation, 1990	The whole