



# GOVERNMENT GAZETTE

## OF THE

# REPUBLIC OF NAMIBIA

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## Government Notice

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### OFFICE OF THE PRIME MINISTER

No. 230 ..... 2002

#### PROMULGATION OF ACT OF PARLIAMENT

The following Act which has been passed by the Parliament and signed by the President in terms of the Namibian Constitution is hereby published in terms of Article 56 of that Constitution.

No. 17 of 2002: Local Authorities Amendment Act, 2002.

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**EXPLANATORY NOTE:**

\_\_\_\_\_ Words underlined with a solid line indicate insertions in existing provisions.

[                    ] Words in bold type in square brackets indicate omissions from existing provisions.

**ACT**

To **amend the Local Authorities Act, 1992, so as to delete and substitute certain definitions; to repeal a provision relating to the delimitation commission; to repeal a provision providing for the election of members of local authority councils according to the ward system; to extend the period within which the third general election for members of local authority councils is to be held; to further regulate the vacation of office by members of local authority councils and of management committees; to further regulate the election of chairpersons of management committees; to provide for the recovery of certain rates; to replace certain obsolete provisions; and to provide for matters incidental thereto.**

*(Signed by the President on 23 December 2002)*

**BE IT ENACTED** by the Parliament of the Republic of Namibia, as follows:-

**Amendment of section 1 of Act No. 23 of 1992, as amended by section 1 of Act No. 24 of 2000**

1. Section 1 of the Local Authorities Act, 1992 (hereinafter referred to as the principal Act), is hereby amended -

- (a) by the deletion of the definition of "delimitation commission";
- (b) by the substitution for the definition of "municipality" of the following definition:

" 'municipality' means a municipality declared as such under section 3(1) or deemed to **[be] have been** so declared under section 3(5)(a)(i);"

- (c) by the insertion of the following definition before the definition of "prescribed":

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

- (d) by the substitution for the definition of "village" of the following definition:

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

**Repeal of section 2A of Act No. 23 of 1992, as inserted by section 2 of Act No. 24 of 2000**

2. Section 2A of the principal Act is hereby repealed.

**Repeal of section 5 of Act No. 23 of 1992, as substituted by section 1 of Act No. 3 of 1997 and amended by section 5 of Act No. 24 of 2000**

3. Section 5 of the principal Act is hereby repealed.

**Amendment of section 6 of Act No. 23 of 1992, as substituted by section 2 of Act No. 3 of 1997 and amended by section 6 of Act No. 24 of 2000**

4. Section 6 of the principal Act is hereby amended -

(a) by the substitution for subsection (2) of the following subsection:

“(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.”; and

(b) by the substitution for the words preceding paragraph (a) of subsection (4) of the following words:

“For the purposes of any election contemplated in **[paragraph (a) of]** subsection (2), each party list shall contain as candidates for such election - ”.

**Substitution of section 8 of Act No. 23 of 1992, as substituted by section 1 of Act No. 14 of 1997**

5. The following section is hereby substituted for section 8 of the principal Act:

**“Dates for elections for members of local authority councils**

8. A general election of local authority councils shall be held not later than 28 February 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.”.

**Substitution of section 13 of Act No. 23 of 1992, as amended by section 10 of Act No. 24 of 2000**

6. The following section is hereby substituted for section 13 of the principal Act:

**“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 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 organization which nominated him or her for election;
  - (d) is absent, without the leave of the local authority council or, if authorized 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 and delivered to the chief executive officer, resigns as member of the local authority council; and
  - (g) is withdrawn by the political party, association or organization which nominated him or her for election.
- (2) (a) The Minister may remove by notice in writing any member of a local authority council from office, if, on 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.
- (4) (a) Subject to the provisions of paragraph (b), a casual vacancy in a local authority council shall be filled within three months after it has occurred by the nomination by the political party, association or organization which nominated the member who has vacated his or her office, of any person on the election list compiled by that party, association or organization in respect of the previous election of the local authority council, or by nominating any member of that party, association or organization.
- (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.”.

#### **Amendment of section 15 of Act No. 23 of 1992**

7. Section 15 of the principal Act is hereby amended by the substitution for subsection (2) of the following subsection:

“(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.”.

**Amendment of section 23 of Act No. 23 of 1992, as substituted by section 15 of Act No. 24 of 2000**

8. Section 23 of the principal Act is hereby amended -

(a) by the substitution for paragraph (d) of the following paragraph:

“(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;”;

(b) by the deletion of the words following after paragraph (d); and

(c) by the addition of the following paragraph:

“(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.”.

**Amendment of section 24 of Act No. 23 of 1992, as amended by section 16 of Act No. 24 of 2000**

9. Section 24 of the principal Act is hereby amended -

(a) by the insertion after subsection (1) of the following subsection:

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

(b) by the substitution for subsection (2) of the following subsection:

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

(c) by the substitution for subsection (3) of the following subsection:

“(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.”.

**Substitution of section 25 of Act No. 23 of 1992, as substituted by section 17 of Act No. 24 of 2000**

10. (1) The following section is hereby substituted for section 25 of the principal Act:

**“Chairpersons of management committees**

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

(2) The mayor of the municipal council or town council concerned 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 a 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 a meeting may, with due regard to subsection (1), elect, shall preside at meetings of the management committee.”.

(2) Notwithstanding the amendments effected by subsection (1), section 25 of the principal Act, as in force and applicable immediately prior to the said amendments, shall continue to apply to a management committee of a municipal council or town council, but only until the constitution of any such committee at the first election of the members of such committee to be held after the commencement of this Act.

**Amendment of section 27 of Act No. 23 of 1992, as amended by section 18 of Act No. 24 of 2000**

11. Section 27 of the principal Act is hereby amended by the substitution for the words preceding paragraph (a) of subsection (1) of the following words:

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

**Amendment of section 30 of Act No. 23 of 1992, as amended by section 20 of Act No. 24 of 2000**

12. Section 30 of the principal Act is hereby amended -

(a) by the substitution for paragraph (f) of subsection (1) of the following paragraph:

“(f) subject to the provisions of Part X and the [Electric Power Proclamation, 1922 (Proclamation 4 of 1922)] Electricity Act, 2000 (Act No. 2 of 2000), to supply electricity or gas to the residents in its area;”;

(b) by the substitution for subparagraph (vii) of paragraph (k) of subsection (1) of the following subparagraph:

“(vii) museums and libraries.”;

- (c) by the substitution for paragraph (y) of subsection (1) of the following paragraph:

“(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 No. 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;” and

- (d) by the substitution for subsection (3) of the following subsection:

“(3) A power referred to in -

- (a) paragraph (g), (h), (i), (k)(i), (ii), (vii), (ix) and (x), (l), (m), (p), (q), (r), (x) or (aa) and (ab) of subsection (1) shall only be exercised by a town council or village council;
- (b) paragraph (f), (k)(iii), (v) and (vi), (o) or (s) of that subsection shall only be exercised by a village council,

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

#### **Amendment of section 57 of Act No. 23 of 1992**

13. Section 57 of the principal Act is hereby amended by the substitution for paragraph (c) of subsection (1) of the following paragraph:

“(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 No. 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.”

#### **Amendment of section 78 of Act No. 23 of 1992, as amended by section 7 of Act No. 35 of 1994 and substituted by section 39 of Act No. 24 of 2000**

14. Section 78 of the principal Act is hereby amended by the substitution for paragraph (b) of the following paragraph:

“(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.”

#### **Insertion of PART XVIA in Act No. 23 of 1992**

15. The following Part is hereby inserted in the principal Act after Part XVI:

“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.”.

**Amendment of section 80 of Act No. 23 of 1992, as amended by section 40 of Act No. 24 of 2000**

16. Section 80 of the principal Act is hereby amended -

(a) by the substitution for subsection (3) of the following subsection:

“(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 No. 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.”;

(b) by the substitution for the words preceding subparagraph (i) of paragraph (a) of subsection (3A) of the following words:

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



- (c) by the substitution for the words following after paragraph (b) of subsection (3A) of the following words:

“and any **[applicant]** 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.”.

**Amendment of section 92 of Act No. 23 of 1992, as substituted by section 45 of Act No. 24 of 2000**

17. Section 92 of the principal Act is hereby amended -

- (a) by the substitution for paragraph (b) of subsection (2) of the following paragraph:

“(b) remove or suspend **[subject to subsection (4),]** the members of such local authority council from office, if all the powers, duties and functions of the local authority council are vested in the Minister under paragraph **[(b)](a)**.”; and

- (b) by the substitution for subsection (4) of the following subsection:

“(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.”.

**Amendment of section 94 of Act No. 23 of 1992, as amended by section 48 of Act No. 24 of 2000**

18. Section 94 of the principal Act is hereby amended -

- (a) by the substitution for the words preceding subparagraph (i) of paragraph (d) of subsection (1) of the following words:

“subject to the provisions of the **[Road Traffic Ordinance, 1967 (Ordinance 30 of 1967)] 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 -”;

- (b) by the substitution for paragraph (m) of subsection (1) of the following paragraph:

“(m) subject to the provisions of the said **[Road Traffic Ordinance, 1967, and the Road Transportation Act, 1977 (Act 74 of 1977)] Road Traffic and Transport Act, 1999**, the regulation, control and use in its local authority area of public motor vehicles;”;

- (c) by the substitution for subparagraph (vi) of paragraph (aj) of subsection (1) of the following subparagraph:

“(vi) the regulation and control of the removal of persons illegally conducting any business **[illegally]**, occupation or other activity for gain, and the impounding of goods, including the disposal of impounded goods;”.

**Short title and commencement**

**19.** (1) This Act shall be called the Local Authorities Amendment Act, 2002, and shall come into operation on a date to be determined by the Minister by notice in the *Gazette*.

(2) Different dates may be determined in terms of subsection (1) in respect of different provisions of this Act.

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