



# GOVERNMENT GAZETTE

## OF THE

# REPUBLIC OF NAMIBIA

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No.2455

### CONTENTS

*Page*

#### GOVERNMENT NOTICE

No. 289 Promulgation of Local Authorities Amendment Act, 2000 (Act 24 of 2000),  
of the Parliament..... 1

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## Government Notice

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#### OFFICE OF THE PRIME MINISTER

No. 289 2000

#### 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. 24 of 2000: Local Authorities Amendment Act, 2000.

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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 amend certain definitions and insert new definitions; to provide that the delimitation commission contemplated in the Local Authorities Act shall be the same delimitation commission as contemplated in the Regional Councils Act, 1992, and that such commission shall make recommendations to the President in relation to the changing of the boundaries of local authorities; to entrust to the Minister of Regional and Local Government and Housing certain powers and functions in relation to the declaration, control over, administration and functioning of local authority councils; to provide that a member of a local authority council who is guilty of contravening the code of conduct may be removed from office by the Minister; to do away with the appointment of management committees for village councils; to provide that the mayor and deputy mayor of a municipal council or town council shall be the chairperson and vice-chairperson of the municipal council or town council concerned; to add new provisions relating to the powers, duties and functions of the mayor of a local authority council; to make new provision relating to the retaining of a chief executive officer in his or her office; to amend the provisions relating to the discharge of staff members of local authority councils; to further regulate the power of local authority councils to determine charges, fees and other moneys payable to the council; to amend the provisions relating to the delegation of powers by local authority councils; to make provision for the signing of contracts on behalf of local authority councils; to further regulate the limitation on the supply of water; to make provision for the actions that may be taken by the Minister if a town council or village council is unable or fails to discharge its functions adequately in relation to services; to amend the provisions relating to the sale, disposal, letting, hypothecation or encumbrance of immovable property; to further regulate the valuation of rateable property; to make provision for the duties of valuers appointed by local authority councils in relation to the information gathered and compiled by them in the performance of their functions and for the vesting of the ownership of such information and documents or other material relating thereto in the local authority council; to provide for the granting of a rebate on rates payable on certain properties; to provide for the levy of a penalty rate in respect of rateable properties which have remained unimproved for a period of two years from a certain date and the levy of double the penalty rate in respect of rateable properties which have remained unimproved for a period of five years from a certain date; to amend the provisions relating to the transfer of rateable properties; to provide that audit reports from the Auditor-General shall also be submitted to regional councils; to make provision that authorised persons may enter onto private properties for performing certain work and to define their powers; to provide that local authority councils may set reception areas aside for the construction and erection of informal housing structures and buildings; to make new provision regarding the failure by local authority councils to exercise or perform its powers, duties and functions; to provide for the delegation of powers and the assignment of functions in terms of the Act; to make provision for further matters in relation to which local authority councils may make regulations; to further provide for the adoption or amendment of model regulations by local authority councils; to provide that the Minister may make

**regulations relating to the entering into joint business ventures by local authority councils in order to promote economic development and job creation within their local authority areas or in order to supplement their funds, to the commercialisation of services rendered or functions or duties exercised or carried out by local authority councils and to tender board matters; to make provision for the incorporation of certain standard publications into regulations; to provide for the substitution of certain words; and to provide for matters incidental thereto.**

*(Signed by the President on 21 December 2000)*

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

**Amendment of section 1 of Act No. 23 of 1992**

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

- (a) by the insertion of the following definition after the definition of "combined private sewer":

" 'delimitation commission' means the delimitation commission contemplated in section 5(1) of the Regional Councils Act, 1992 (Act No. 22 of 1992);"

- (b) by the insertion of the following definition after the definition of "deputy mayor":

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

- (c) by the substitution for the definition of "magistrate" of the following definition :

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

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

" 'management committee' means the management committee of a [local authority] municipal council or a town council established by section 21;"

- (e) by the substitution for the definition of "Minister" of the following definition:

" 'Minister' means the Minister [of] responsible for Regional and Local Government and Housing;"

- (f) 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 so declared under section 3(5)(i);"

- (g) by the insertion after the definition of "regional council" of the following definition :

" 'regulation' means a regulation made under this Act;"

- (h) by the insertion of the following definition after the definition of “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;”;
- (i) by the substitution for the definition of “town” of the following definition:
- “ ‘town’ means a town declared as such under section 3(1) or deemed to be so declared under section 3(5)(a)(ii);”;
- and
- (j) by the substitution for the definition of “village” of the following definition:
- “ ‘village’ means a village [**described**] declared as such under section 3(1) or deemed to be so declared under section 3(5)(iii);”.

#### Insertion of section 2A in Act No. 23 of 1992

2. The following section is inserted in the principal Act after section 2 :

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

**2A.** (1) The delimitation commission shall make recommendations to the President in relation to the changing of the boundaries of local authority areas.

(2) The delimitation commission shall -

(a) for the purpose of changing the boundaries of a local authority area, give due regard to the number of eligible voters ordinarily resident therein in comparison to the number of eligible voters in existing local authority areas and wards, and generally any such other matter as may be necessary or expedient in achieving the objectives of this Act;

(b) submit to the President a report containing -

(i) particulars of the change contemplated in subsection (1), with the recommended name for such local authority area, and a definition of the boundaries of such local authority area;

(ii) a map showing the change; and

(iii) such other particulars as it may deem necessary or appropriate.

(3) The President may refer to the delimitation commission for its further consideration any matter relating to its report or arising out of its powers, duties and functions.”.

**Amendment of section 3 of Act No. 23 of 1992**

3. Section 3 of the principal Act is amended -

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

“(1) Subject to the provisions of this section, the **[President]** Minister may from time to time by **[proclamation]** notice in the *Gazette* establish any area specified in such **[proclamation]** 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 **[proclamation]** notice.”;

(b) by the substitution in subsection (2) for the words preceding paragraph (a) of the following words :

“(2) The **[President]** Minister shall not declare any area referred to in subsection (1) to be -”;

(c) by the substitution in subsection (2)(a)(ii) for the words preceding subparagraph (aa) of the following words :

“(ii) its municipal council will in the opinion of the **[President]** Minister be able -”;

(d) by the substitution in subsection (2)(b)(ii) for the words preceding subparagraph (aa) of the following words :

“(ii) its town council will in the opinion of the **[President]** Minister be able -”;

(e) by the substitution for paragraph (c) of subsection (2) of the following paragraph :

“(c) a village, unless -

(i) it consists of a community which in the opinion of the **[President]** 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 **[President]** 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.”;

(f) by the substitution for subsection (4) of the following subsection:

“(4) A **[proclamation]** notice referred to in subsection (1) shall -

(a) in the case of a **[proclamation]** 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 **[proclamation] 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 **[proclamation] notice** declaring an area to be a village, amend or substitute Schedule 3 so as to include such village;
- (d) **[(i) determine a date on which an election of members of the municipal council, town council or village council, as the case may be, shall take place;]**
- [(ii) come into operation on the date on which [the] an election referred to in [subparagraph (i)] subsection (4A) takes place.];**
- (g) by the insertion of the following subsection after subsection (4) :
- “(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.”; and
- (h) by the substitution for the words following subparagraph (iii) of paragraph (a) of subsection (5) of the following words:
- “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 **[President] Minister** under section 6.”.

#### Amendment of section 4 of Act No. 23 of 1992

4. Section 4 of the principal Act is amended -
- (a) by the substitution for the words preceding paragraph (a) of subsection (1) of the following words:
- “Subject to the provisions of this Act, the **[President] Minister** may from time to time by **[proclamation] notice** in the *Gazette* by way of the repeal, amendment or substitution of a **[proclamation] notice** issued under section 3, or of a proclamation issued under that section before its amendment by the Local Authorities Amendment Act, 2000 -”;
- (b) by the substitution for subsection (2) of the following subsection :
- “(2) A **[proclamation] notice** referred to in subsection (1) -

- (a) shall, if such **[proclamation]** 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 **[proclamation]** 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 **[proclamation]** 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 **[proclamation]** notice, vest in any other local authority council as may be so specified;
- (iii) that any person who immediately before the commencement of such **[proclamation]** notice held an appointment as officer or employee 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 **[proclamation]** notice, be appointed by any other local authority council specified in such **[proclamation]** notice.”;
- (c) by the substitution for subsection (4) of the following subsection:
- “(4) If the **[President]** 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 **[President]** 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 **[President]** Minister may cause that survey to be carried out and may recover the costs thereof from the local authority council.”;
- (d) by the substitution for subsection (5) of the following subsection:

- “(5) (a) The **[President] Minister** may, at any time **[after the first elections for members of local authority councils have been held by virtue of the provisions of Article 137(5) of the Namibian Constitution]** abolish any village council by **[proclamation] notice** in the *Gazette* if, in the opinion of the **[President] 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 **[proclamation] 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 **[proclamation] 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.”; and
- (c) by the substitution for subsection (6) of the following subsection:
- “(6) A **[proclamation] 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.”.

**Amendment of section 5 of Act No. 23 of 1992, as substituted by section 1 of Act No. 3 of 1997**

5. Section 5 of the principal Act is amended:
- (a) by the substitution for the heading of the following heading:
- “[Appointment of delimitation commission and] [d]Delimitation of local authority areas into wards”;**
- (b) by the substitution for subsection (1) of the following subsection:
- “(1) The [President shall appoint from time to time by proclamation in the Gazette, in accordance with the provisions of subsection (2), a delimitation commission consisting of a judge or retired judge of the Supreme Court or the High Court of Namibia, who shall be the chairperson, and two other persons, to] delimitation commission shall perform in accordance with the provisions of subsection (2) the functions prescribed by this section.”;**
- (c) by the substitution for subsection (2) of the following subsection:
- “(2) [A] The delimitation commission shall [be appointed] -**



- (a) not later than **[three]** four years after the second general election for members of local authority councils after the commencement of this Act, **[to]** carry out the first delimitation of local authorities into wards for the purposes of the third general elections of such councils which are to be held in accordance with the provisions of section 8;
- (b) whenever a new local authority area is established under section 3 after the third general elections referred to in paragraph (a), **[to]** carry out a delimitation of such local authority area into wards for the purposes of the election referred to in section 3(4)(d)(i);
- (c) whenever it is necessary to do so or the **[President] Minister** considers it expedient on account of any change occurring in relation to any local authority area in any of the circumstances contemplated in section 4(1), **[to]** revise the existing delimitation of wards in such local authority area; and
- (d) generally, at intervals of not more than ten years commencing from the first delimitation contemplated in paragraph (a), **[to]** revise the existing delimitation of wards in all local authority areas.”;
- (d) by the substitution for subsection (5) of the following subsection :
- “(5) **[A]** The delimitation commission shall have the powers and jurisdiction of the High Court of Namibia in relation to the summoning of witnesses, the production of documents and the administration of oaths to witnesses, and the punishment of persons who disregard any summons to appear before it”; and
- (e) by the substitution for subsection (6) of the following subsection:
- “(6) Upon the delimitation of a local authority area into wards, **[a]** the delimitation commission shall cause -
- (a) a map of that local authority area, showing the wards into which it is proposed to be divided, to be made available for inspection by the public during a period of 30 days at a place determined by it; and
- (b) **[cause]** a notice to be published in the *Gazette* and at least one newspaper notifying the public of the arrangements made under paragraph (a) for the inspection of the map and inviting interested persons to submit to it any written objections to the proposed delimitation within the period of 30 days.”.

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

6. Section 6 of the principal Act is amended -
- (a) by the substitution for paragraph (a) of subsection (1) of the following paragraph :

- “(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 **[President] Minister** in the **[proclamation] notice** establishing the municipality; ”; and
- (b) by the substitution for paragraph (b) of subsection (1) of the following paragraph :
- “(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 **[President] Minister** and specified in the **[proclamation] notice** establishing the town;”.

#### Amendment of section 10 of Act No. 23 of 1992

7. Section 10 of the principal Act is amended by the addition of the following subsection :

- “(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.”.

#### Amendment of section 11 of Act No. 23 of 1992

8. Section 11 of the principal Act is amended -

- (a) by the substitution for paragraph (a) of subsection (1) of the following paragraph:
- “(a) in the case of a municipal council or a town council,
- [- (i)] one person as mayor and another person as deputy mayor of the municipality or town in question, [; and
- (ii) one person as chairperson and another person as vice-chairperson of the municipal council or town council in question,] who [may] shall** in each case be **[such mayor or deputy mayor] the chairperson and vice-chairperson of the municipal council or town council concerned;** ”; and
- (b) by the addition of the following subsection:
- “(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.”

**Amendment of section 12 of Act No. 23 of 1992**

9. Section 12 of the principal Act is amended -

- (a) by the substitution for subsection (1) of the following subsections :

“(1) **[A magistrate designated by the Minister of Justice upon request of the Minister]** The magistrate of the district in which a local authority area is situated shall for the 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

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

“(3) A member of a local authority council 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.”.

**Amendment of section 13 of Act No. 23 of 1992**

10. Section 13 of the principal Act is amended -

- (a) by the addition of the following paragraph to subsection (1) :

“(e) is removed from office under subsection (1A),”; and

- (b) by the insertion after subsection (1) of the following subsection:

- “(1A) (a) The Minister may remove by notice in writing any member of a local authority council from office, if, on the recommendation of the local authority council concerned, 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.”.

#### **Amendment of section 14 of Act No. 23 of 1992**

11. Section 14 of the principal Act is amended by the addition of the following paragraph to subsection (6):

“(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.”.

#### **Amendment of section 19 of Act No. 23 of 1992**

12. Section 19 of the principal Act is amended by the substitution for the words following after subparagraph (iv) of paragraph (b) of subsection (1) of the following words:

“is materially interested or intends to become so interested in any contract which the [regional council] local authority council 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 -

- (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.”.

#### **Substitution of section 21 of Act No. 23 of 1992**

13. The following section is substituted for section 21 of the principal Act :

**“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 office 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.”

**Amendment of section 22 of Act No. 23 of 1992**

14. Section 22 of the principal Act is amended -

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

“(1) [A magistrate designated by the Minister of Justice upon request of the Minister] The magistrate of the district in which the area of a municipal council or town council is situated shall for the purposes of the provisions of this section preside at a meeting of [a local authority council]

that municipal council or town council during which the election of members of the management committee is held, and during such meeting no debate shall be allowed.”;

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

“(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 signifies his or her acceptance of the proposal, but the proposal shall lapse if it is not seconded at the meeting.”;

- (c) by the substitution for subsection (6) of the following subsection :

“(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 **[local authority council]** municipal council or town council concerned.”;

- (d) by the substitution for subsection (7) of the following subsection:

“(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 **[local authority council]** 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).”;

- (e) by the substitution for subparagraph (ii) of paragraph (a) of subsection (8) of the following subparagraph:

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

#### **Substitution of section 23 of Act No. 23 of 1992**

15. The following section is substituted for section 23 of the principal Act:

“23. A member of **[the]** 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 **[local authority]** municipal council or town council;

- (b) if he or she is absent without the leave of the management committee, or, if **[authorised thereto by]** 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 **[local authority]** municipal council or town council resolves by a majority of all its members that it has no confidence in such member;
- (d) if he or she is elected as the mayor or deputy mayor **[chairperson]** of the **[local authority]** municipal council or town council; or

if he or she in writing under his or her hand, 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**

**16.** Section 24 of the principal Act is amended by the substitution for subsection (1) of the following subsection:

“(1) Subject to any rules made under subsection (4), meetings of **[the]** 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.”.

#### **Substitution of section 25 of Act No. 23 of 1992**

**17.** The following section is substituted for section 25 of the principal Act:

**“25. (1)** A management committee shall immediately after the meeting of a municipal council or town council at which the election of members of that management committee has been held, convene a meeting under the chairpersonship of the magistrate referred to in section 22, to elect one of the members of the management committee as the chairperson and another member as the vice-chairperson of the management committee.

(2) The provisions of section 22 which relate to the procedure for the election of members of a management committee shall apply *mutatis mutandis* to the election of the chairperson and vice-chairperson of a management committee.”.

#### **Amendment of section 27 of Act No. 23 of 1992**

**18. (1)** Section 27 of the principal Act is amended -

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

“(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 a municipal council or town council, in the management committee;
- (ii) in the case of a village council, in the village council.”;
- (b) by the substitution for subsection (3) of the following subsection:
- “(3) (a) Subject to the provisions of section 29 -
- (i) (aa) a person who is appointed as chief executive officer or **[an officer or employee]** ~~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 of five years **[as]** from the date of his or her appointment or promotion **[until two years after the next general election of members of local authority councils, or an election in terms of section 92(2)(b), as the case may be, has taken place]**;
- (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 **[two]** ~~three~~ calendar months before the expiry of the period contemplated in **[sub]**paragraph (a)(i) or any previously extended period contemplated in **[sub]**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 the extended employment.”;
- (c) by the insertion of the following subparagraphs after subparagraph (ii) of paragraph (b) of subsection (3) :
- “(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.

(v) The provisions of subparagraph (ii) shall apply *mutatis mutandis* in respect of a notice given or deemed to have been given in terms of subparagraph (iv).”; and

(d) by the substitution for subsection (4) of the following subsection:

“(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 **[an officer or employee]** a staff member of the local authority council designated in writing by the management committee, or the village council, as the case may be, for that purpose.”.

(2) The provisions of section 27(3)(a)(i)(aa) as amended by subsection (1)(b) of this section shall not be construed as affecting any right of any person serving as a chief executive officer immediately prior to the amendment concerned.

#### **Amendment of section 29 of Act No. 23 of 1992**

19. Section 29 of the principal Act is amended -

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

“(1) The power to discharge the chief executive officer or other **[officers or employees]** 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 **[officer or employee]** 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.”;

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

“(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.”;

(c) by the substitution for subsection (4) of the following subsection :

“(4) (a) A chief executive officer who absents himself or herself from his or 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

(ii) shall, if he or she is not discharged under subparagraph (i) and such 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.”;

(d) by the substitution for paragraph (a) of subsection (5) of the following paragraph:

“(a) If [the] a management committee or village council, as the case may be, has reason to believe that any [officer or employee] 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 [out] efficiently, the management committee or village council, as the case may be, shall designate [an officer or officers] a staff member or staff members in the service of the local authority council to inquire into such reasons.”;

(e) by the substitution for subparagraph (ii) of paragraph (c) of subsection (5) of the following subparagraph:

“(ii) If it has been found that the [officer or employee] 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 so notified, to the management committee or village council concerned, as the case may be, against such finding.”;

(f) by the substitution for the words preceding subparagraph (aa) of paragraph (d)(i) of subsection (5) of the following words:

- “(i) If the **[officer or officers]** staff member or staff members conducting the inquiry has found that the **[officer or employee]** staff member concerned is unfit for his or her duties or incapable of carrying them out 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 **[officer or employee]** staff member concerned an opportunity to make representations in relation to any intended action to be taken against him or her -”;
- (g) by the substitution for subparagraph (ii) of paragraph (d) of subsection (5) of the following subparagraph:
- “(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).”;
- (h) by the substitution for paragraph (e) of subsection (5) of the following paragraph:
- “(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).”;
- (i) by the substitution for paragraph (d) of subsection (6) of the following paragraph:
- “(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 [an officer

**or officers] a staff member** in the service of the local authority council to inquire into the charge.”;

- (j) by the substitution for subparagraph (ii) of paragraph (f) of subsection (6) of the following paragraph :

“(ii) If the **[officer or employee] 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.”;

- (k) by the substitution for subparagraph (i) of paragraph (g) of subsection 6 of the following subparagraph:

“(i) If the **[officer or employee] staff member** charged is found guilty of the charge by the **[officer or officers] staff 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 **[officer or officers] 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 or 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 **[officer or employee] staff member** concerned an opportunity to make representations in relation to any intended action, take such action as it may, with due regard to such recommendations, deem to be fair and equitable.”;

- (l) by the substitution for subparagraph (bb) of subparagraph (ii) of paragraph (h) of subsection (6) of the following subparagraph:

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

- (m) by the substitution for subparagraph (ee) of subparagraph (ii) of paragraph (h) of subsection (6) of the following subparagraph:

“(ee) the reference in paragraph (g)(i) to [the] 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

(n) by the addition of the following subsections:

“(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 1944), shall apply *mutatis mutandis*.”.

#### **Amendment of section 30 of Act No. 23 of 1992**

20. Section 30 of the principal Act is amended -

(a) by the addition of the following subparagraph to paragraph (k) of subsection (1):

“(x) a traffic service;”;

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

“(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 -

(i) deposits payable as security for payment of any such charges, fees or other moneys;

(ii) the levy of interest at a specified rate, which shall not exceed the rate prescribed in terms of section 1(2) of the Prescribed Rate of Interest Act, 1975 (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;”;
- (c) by the substitution for paragraph (aa) of the following paragraphs :
- “(aa) to enter, subject to the regulations, into joint business ventures;
  - (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 provisions 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.” ;
- (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) **[and]**, (ix) and (x), (l), (m), (p), (q), (r), **[or]** (x) 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, if the Minister has assigned such power to such town council or village council, as the case may be, by notice in the *Gazette*. ”.

#### **Substitution of section 31 of Act No. 23 of 1992**

21. The following section is substituted for section 31 of the principal Act:

#### **“Delegation of powers by local authority councils**

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."

#### **Insertion of section 31A in Act No. 23 of 1992**

22. The following section is inserted after section 31 of the principal Act :

#### **"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."

**Amendment of section 34 of Act No. 23 of 1992**

23. Section 34 of the principal Act is amended by the addition of the following paragraph to subsection (1) :

“(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.”.

**Amendment of section 36 of Act No. 23 of 1992**

24. The following paragraph is substituted for paragraph (a) of section 36 of the principal Act :

“(a) that 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 [prevailing within such area] or a disruption of the water supply; and”.

**Amendment of section 37 of Act No. 23 of 1992**

25. Section 37 of the principal Act is amended by the substitution for paragraph (c) of subsection (1) of the following paragraph :

“(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;”.

**Amendment of section 38 of Act No. 23 of 1992**

26. Section 38 of the principal Act is amended by the addition of the following paragraph to subsection (1) :

“(f) generally perform or carry out any other function which is necessary for, or conducive to, the power of supplying a system of sewerage and drainage for the benefit of the residents in its area.”.

**Amendment of section 50 of Act No. 23 of 1992**

27. Section 50 of the principal Act is amended -

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

“(2) A public place or any part of a public place shall not be closed, or a street or any portion of 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 [on] at which [at least two-thirds] 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

(b) by the addition of the following subsection :

“(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.”.



**Insertion of section 54A in Act No. 23 of 1992**

28. (1) The following section is inserted after section 54 of the principal Act:

**“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).”

(2) Any agreement entered into by the Minister before the commencement of section 54A of the principal Act, as inserted by subsection (1) of this section, whereby any person, institution or body has been entrusted with the function of rendering the service concerned in the area of any local authority council in the stead of the local authority council concerned, shall be deemed to be an agreement entered into pursuant to the provisions of subsection (4) of section 54A, notwithstanding that the provisions of subsection (1) of that section have not been complied with.

**Amendment of section 63 of Act No. 23 of 1992**

29. Section 63 of the principal Act is amended by the substitution for subsection (2) of the following subsection :

“(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 **[three]** two consecutive weeks -

- (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 sale, disposal, letting, hypothecation or encumbrance]** 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 objection to such sale, disposal, letting, hypothecation or encumbrance with the local authority council in writing within a period of not less than **[seven]** ten days after the last date of the publication of such notice.”.

**Substitution of section 66 of Act No. 23 of 1992**

30. The following section is substituted for section 66 of the principal Act:

**“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.”.

**Amendment of section 67 of Act No. 23 of 1992**

31. Section 67 of the principal Act is amended -

(a) by the substitution for paragraph (a) of subsection (5) of the following paragraph:

“(a) in the case of the land portion of such rateable property, at a price which in his or her opinion a willing buyer will be prepared to pay and a willing seller will accept, both acting on good faith;” and

(b) by the insertion of the following subsection after subsection (5):

“(5A) 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 functions, 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, calculations, records, 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.”.

**Amendment of section 68 of Act No. 23 of 1992**

32. Section 68 of the principal Act is amended by the substitution for paragraph (a) of subsection (1) of the following paragraph:

- “(a) **[a magistrate designated, at the request of the local authority council, by the Minister of Justice and appointed by the local authority council]** 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;”.

#### **Amendment of section 70 of Act No. 23 of 1992**

33. Section 70 of the principal Act is amended by the substitution for subsection (3) of the following subsection:

“(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 **[admitted as an advocate in terms of the Admission of Advocates Act, 1964 (Act 74 of 1964), or as an attorney in terms of the Attorneys Act, 1979 (Act 53 of 1979)]** enrolled under the Legal Practitioners Act, 1995 (Act No. 15 of 1995).”.

#### **Amendment of section 73 of Act No. 23 of 1992**

34. Section 73 of the principal Act is amended -

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

“(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.”;

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

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

- (a) situated in different areas within the local authority area;
- (b) **[in areas]** 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

- (c) by the addition of the following subparagraph to paragraph (a) of subsection (4):

“(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;”.

#### **Amendment of section 74 of Act No. 23 of 1992**

35. Section 74 of the principal Act is amended by the substitution for paragraph (b) of subsection (2) of the following paragraph:

“(b) except upon a decision taken at a special meeting convened for the purposes of the consideration of such special levy at a date within [21 days] two months after the receipt of the audited statements in which the deficit in question is reported;”.

#### **Amendment of section 75 of Act No. 23 of 1992**

36. Section 75 of the principal Act is amended by the substitution for subsection (2) of the following subsection:

“(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 [under a licence under any law]”.

#### **Insertion of section 75A in Act No. 23 of 1992**

37. The following section is inserted after section 75 of the principal Act:

##### **“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 established on such property, or that a business conducted on such property 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.”.

**Insertion of section 76A in Act No. 23 of 1992**

38. The following section is inserted after section 76 of the principal Act :

**“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.”.

**Substitution of section 78 of Act No. 23 of 1992, as amended by Act No. 35 of 1994**

39. The following section is substituted for section 78 of the principal Act:

**“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 register 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 fees, 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 contained in the main valuation roll, a provisional valuation roll or any other register held by the local authority council.”.

#### **Amendment of section 80 of Act No. 23 of 1992**

40. Section 80 of the principal Act is amended by the insertion of the following subsection after subsection (3) :

“(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 -
- (i) 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;
- (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 applicant 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 83 of Act No. 23 of 1992**

41. Section 83 of the principal Act is amended by the substitution for subsection (1) of the following subsection :

“(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.”.

**Amendment of section 87 of Act No. 23 of 1992**

42. Section 87 of the principal Act is amended by the substitution for subsection (3) of the following subsection:

“(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 which 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.”

**Insertion of section 90A in Act No. 23 of 1992**

43. The following section is inserted after section 90 of the principal Act :

**“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 authorised 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 concerned 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.”.

#### Insertion of section 91A in Act No. 23 of 1992

44. The following section is inserted after section 91 of the principal Act :

##### “Power to set aside reception areas

**91A.** (1) A municipal council and a 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. ”.

#### Substitution of section 92 of Act No. 23 of 1992

45. The following section is substituted for section 92 of the principal Act :

“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 holding 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, subject to subsection (4), 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 (b).

(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 be held.

(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 powers, 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."

#### **Insertion of section 92A in Act No. 23 of 1992**

46. The following section is inserted after section 92 of the principal Act :

#### **"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.”

#### Insertion of section 93A in Act No. 23 of 1992

47. The following section is inserted after section 93 of the principal Act :

##### **“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.”

#### Amendment of section 94 of Act No. 23 of 1992

48. Section 94 of the principal Act is amended -

(a) by the substitution for the heading thereof of the following heading:

**“Regulations by local authority councils”;**

(b) by the substitution for subparagraph (iii) of paragraph (a) of subsection (1) of the following subparagraph:

**“(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;”;**

(c) by the insertion of the following subparagraph after subparagraph (ix) of paragraph (a) of subsection (1):

**“(ixA) the restriction or prohibition of the 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;”;**

(d) by the substitution for subparagraph (iii) of paragraph (r) of subsection (1) of the following subparagraph:

**“(iii) museums and libraries;”;**

- (e) by the deletion of paragraph (ac) of subsection (1);
- (f) by the substitution for paragraph (ad) of subsection (1) of the following paragraph:
- “(ad) the restriction, regulation and control **[and]** of the use of common pasture and townlands, including a prohibition on the removal of soil, sand, clay, stones, gravel, firewood, vegetation or any other materials from such land;”;
- (g) by the substitution for paragraph (ag) of subsection (1) of the following paragraph:
- “(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;”;
- (h) by the substitution for paragraph (aj) of subsection (1) of the following paragraph:
- “(aj) the prohibition, restriction, regulation and control of **[hawkers and peddlers and persons employed by hawkers and peddlers in soliciting business]** 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; and
  - (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 conducting any business illegally, occupation or other activity for gain, and the impounding of goods, including the disposal of impounded goods;”;

- (i) by the addition of the following paragraphs to subsection (1) :

“(as) the registration, and cancellation of any such registration, of contractors undertaking to carry out electrical or plumbing or drain-laying work in connection with systems of electrical supply or water supply or sewerage or drainage, and the qualifications 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 handing 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

- (j) by the insertion of the following subsections after subsection (2) :

“(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 regulations; 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 regulations, 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 regulations 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 2(a)(b).”.

**Insertion of sections 94A and 94B in Act No. 23 of 1992**

49. The following sections are inserted after section 94 of the principal Act :

**“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) contents of applications for pre-qualification;
  - (viii) final invitations of tenders where applications 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 administrative work;
  - (xiv) expenditure;
  - (xv) the conclusion or cancellation of agreements;
  - (xvi) the procurement of goods and services for 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;
  - (xxiv) the recovery of expenses, losses or damages incurred or suffered by a 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;
- (b) the circumstances under which a local authority council may enter into joint business ventures, including -
- (i) the type of businesses with which a local authority council may enter into a joint business venture;
  - (ii) the purposes for which income derived from a joint business venture 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 re-appointment of any such person, including the form of and the procedures relating to the application for appointment or re-appointment;
  - (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

Act No. 24, 2000

**LOCAL AUTHORITIES AMENDMENT ACT, 2000**

- (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.”.

**Substitution of words in Act No. 23 of 1992**

**50.** The principal Act is amended by the substitution for the words “other officers or employees”, “other officers and employees”, “other officer or employee”, “an officer or employee”, “an officer or officers” and “officer or officers”, wherever they occur, for the words “other staff members”, “other staff members”, “other staff member”, “a staff member”, “a staff member or staff members” and “staff member or staff members”, respectively.

**Short title and commencement**

**51.** (1) This Act shall be called the Local Authorities Amendment Act, 2000, 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 under subsection (1) in respect of different provisions of this Act.

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