



GOVERNMENT GAZETTE

OF THE

REPUBLIC OF NAMIBIA

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No. 469

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No. 115 Promulgation of Regional Councils Act, 1992 (Act 22 of 1992), of the
National Assembly

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Government Notice

OFFICE OF THE PRIME MINISTER

No. 115

1992

PROMULGATION OF ACT OF THE NATIONAL ASSEMBLY

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

No. 22 of 1992: Regional Councils Act, 1992.

ACT

To establish regional councils in respect of regions determined in accordance with Article 103 of the Namibian Constitution; to provide for the election by regional councils of members of the National Council; and to define the rights, powers, duties and functions of such regional councils; and to provide for incidental matters.

(Signed by the President on 28 August 1992)

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SCHEDULE 1

REGIONS IN RESPECT OF WHICH REGIONAL COUNCILS HAVE BEEN ESTABLISHED AND SEATS OF REGIONAL COUNCILS

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NUMBER OF MEMBERS OF REGIONAL COUNCILS AND CONSTITUENCIES OF REGIONAL COUNCILS

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

INTRODUCTORY PROVISIONS

Definitions.

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

“chairperson” means the Governor of a regional council referred to in section 18;

“local authority council” means a local authority council as defined in section 1 of the Local Authorities Act, 1992;

“management committee” means the management committee of a regional council established by section 18;

“magistrate” includes any additional magistrate or assistant magistrate;

“Minister” means the Minister of Local Government and Housing;

“region” means the region in respect of which a regional council has been established and which is specified in column 2 of Schedule 1;

“regional council” means a regional council established under section 2;

“regional officer” means the regional officer of a regional council appointed under section 23;

“settlement area” means a settlement area declared under section 31.

PART I ESTABLISHMENT AND CONSTITUTION OF REGIONAL COUNCILS

Establishment of regional
councils.

2. (1) There shall be a regional council for every region specified in column 2 of Schedule 1, to be known as the regional council for that region.

(2) The boundaries of a region shall -

(a) in the case of a regional council established by this section on the date of commencement of this Act, be the boundaries which have been established by the President in terms of the provisions of Article 137(4) of the Namibian Constitution by Proclamation 6 of 1992; or

(b) in the case of a region of which the boundaries have been changed, or of a new region created, in terms of Article 103(2) of the Namibian Constitution after the commencement of this Act, be the boundaries made known by the President by Proclamation in the *Gazette* in terms of section 5(3) of this Act.

(3) As from the date on which the election for its first members takes place, a regional council shall under its name be a juristic person.

Seats of regional councils.

3. The place specified in column 3 of Schedule 1 opposite the name of the region of a regional council shall be the seat of that regional council.

Constitution of regional councils.

4. (1) A regional council shall consist of the number of persons determined in terms of Article 105 of the Namibian Constitution and specified in column 3 of Schedule 2 opposite the name of such region specified in column 2 of that Schedule.

(2) A member of a regional council shall be elected in respect of a constituency specified in column 4 of Schedule 2 of which the boundaries have been fixed in accordance with the provisions of Article 106(1) of the Namibian Constitution and which -

- (a) in the case of a constituency situated within a region contemplated in section 2(2)(a), shall be made known by the President by proclamation in the *Gazette* as soon as possible after the commencement of this Act; or
- (b) in the case of the division or re-division of regions or new regions into constituencies after the commencement of this Act as contemplated in section 5(3), have been made known by the President by proclamation in the *Gazette* in terms of that section.

Appointment of delimitation commission for purposes of changes to boundaries of regions or creation of new regions, or division or re-division of regions into constituencies.

5. (1) The President -

- (a) may at any time with a view to changing the boundaries of any region, or to creating any new region;
- (b) shall at intervals of not less than six years and not more than 12 years, commencing from the commencement of this Act, with a view to re-dividing the regions into constituencies,

appoint, in accordance with the provisions of Article 104(1) of the Namibian Constitution, by proclamation in the *Gazette* a delimitation commission to make recommendations to him or her in relation to such change, new region or constituencies, as the case may be, and, in consequence of any such change, the re-division of a region into constituencies, or in relation to the division of a new region into constituencies.

(2) The delimitation commission appointed in terms of subsection (1) -

(a) shall, for purposes of determining the boundaries of any region, new region or constituency, give due regard to -

- (i) the number of eligible voters ordinarily resident therein in comparison to the number of such eligible voters in existing regions and constituencies;
- (ii) the geographical features thereof;
- (iii) the infrastructure, resources and means of communication which are situated therein;
- (iv) the socio-economic characteristics and circumstances which exist therein;
- (v) the boundaries of districts, the areas of local authorities and settlement areas;
- (vi) the effective exercise and performance of its powers, duties and functions by the regional council therein,

and generally any such other matter as may be necessary or expedient in achieving the objects of this Act;

(b) shall submit to the President a report containing -

- (i) particulars of the change or new region contemplated in paragraph (a) of subsection (1) determined by the delimitation commission, with the recommended name for such region or new region and a definition of the boundaries of such region or new region;
- (ii) the number of constituencies into which a region or new region is to be divided or re-divided, with recommended names for such constituencies and a definition of the boundaries of such constituencies;

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(iii) a map showing the change or new region and the constituencies into which any region or new region is to be divided or re-divided;

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

(3) The President -

(a) may refer to the delimitation commission for its further consideration and final recommendation any matter relating to its report or arising out of its powers, duties and functions;

(b) shall -

(i) in the case of any recommendation relating to a change or new region referred to in paragraph (a) of subsection (1) which has been accepted by him or her;

(ii) in the case of the division or re-division of a region or new region into constituencies,

as soon as possible make known by proclamation in the *Gazette* the definition of the boundaries of any such region of which the boundaries have been changed or any new region created or constituencies into which a region or new region is to be divided or re-divided in accordance with the report referred to in subsection (2), together with the names allotted by the President to such region, new region or constituencies.

(4) A proclamation referred to in paragraph (b) of subsection (3) -

(a) shall come into operation in relation to the next general election for members of regional councils held after the date on which that proclamation is published and not earlier;

(b) may, if the boundaries of a region have been changed, provide -

- (i) that anything done under this Act by or in respect of a regional council specified in such proclamation, shall, after the boundaries of its region have been changed, be deemed, subject to the limitations, qualifications and conditions, if any, as may be so specified, to have been done by or in respect of such other regional council established in respect of such other region as may be so specified;
 - (ii) that the assets, liabilities, rights and obligations of the regional council in respect of which the boundaries of its region have been changed, shall, subject to the limitations, qualifications and conditions, if any, as may be so specified, as from a date specified in such proclamation, vest in any other regional council as may be so specified;
 - (iii) that any person who immediately before the commencement of such proclamation held an appointment as regional officer or other officer or employee of a particular regional council shall, as from such commencement and subject to such conditions and in accordance with such directives as may be contained in such proclamation, be appointed by any other regional council specified in such proclamation;
- (c) shall amend, substitute or repeal any proclamation referred to in paragraph (a) of section 2(2) or paragraph (a) of section 4(2) in consequence of any change of the boundaries of any region or the creation of any new region or any division or re-division of a region or new region into constituencies;
- (d) shall, in the event of any change in the number and names of regions or constituencies into which regions are divided or re-divided, amend or substitute Schedule 1 or 2 so as to bring such Schedule in line with such change, division or re-division.
- (5) (a) The registrar of deeds shall, in the case of any asset referred to in subparagraph (ii) of paragraph (b) of subsection (4) consisting of immovable

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

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

PART II
QUALIFICATIONS OF, AND DATES FOR ELECTIONS FOR,
MEMBERS OF REGIONAL COUNCILS, AND MEETINGS
OF REGIONAL COUNCILS

Qualifications of members of regional councils.

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

(a) unless he or she -

- (i) is registered, in terms of the laws governing elections for members of regional councils, as a voter for an election for members of regional councils;
- (ii) is qualified to be elected as a member of the National Council in terms of Article 72 of the Namibian Constitution;
- (iii) is ordinarily resident within the constituency for which he or she is elected, or, if such person is not so resident at the time of his or her election, becomes so ordinarily resident within a period of three months as from the date of his or her election as such a member;

(b) if he or she is a member of any other regional council.


(2) (a) Notwithstanding anything to the contrary contained in any law, but subject to the provisions of paragraph (b), a remunerated member of the public service, contemplated in paragraph (e) of Article 47(1) of the Namibian Constitution, may accept nomination as candidate for election as a member of a regional council, but shall, if he or she is elected as such a member, be deemed to have resigned from the public service, as so contemplated, with effect from the date on which he or she is so elected.

(b) A remunerated member of the public service referred to in paragraph (a) who has been nominated as candidate for election as a member of a regional council shall be deemed to be on leave until the date on which such election takes place as if such leave were granted to him or her in terms of the laws governing the conditions of employment of members of such public service or any agreement governing the conditions of employment of such member, as the case may be.

(3) For purposes of paragraph (a)(iii) of subsection (1), a person shall be regarded as being ordinarily resident in the constituency in question if his or her home or the place where he or she normally lives and to which he or she returns regularly after any period of temporary absence, is within such constituency.

(4) Any person who is in terms of the provisions of the Namibian Constitution and this section disqualified to be a member of a regional council and who, while he or she is so disqualified and knowing or having reasonable grounds for knowing that he or she is so disqualified, sits as a member of such regional council, shall be liable to a penalty of R500 for each day on which he or she so sits, which may be recovered by such regional council by action in any competent court for the benefit of the funds of such regional council.

7. (1) After the election for the first regional councils held by virtue of the provisions of Article 137(6) of the Namibian Constitution, a general election of members of regional councils shall be held on a date, not later than six years as from the date on which such election for the first regional councils has been held, determined by the President by proclamation in accordance with the provisions of Article 106(5) of the Namibian Constitution, and thereafter at intervals not exceeding six years on a date so determined.



Dates for elections for members of regional councils.

(2) Any general election of members of regional councils or any election to fill a casual vacancy for a member of a regional council shall be held in accordance with the laws governing elections for members of regional councils.

Periods of office of members of regional councils.

8. A member of a regional council shall, subject to the provisions of section 10(1), hold office as such a member for a period of six years -

(a) in the case of the first election for members of regional councils, as from the date of such election;

(b) in the case of any general election for members of regional councils held after such first election, as from the date following the date of expiry of the period of office of the members elected at such first election or general election held from time to time after such first election.

Oath by, and code of conduct for, members of regional councils.

9. (1) Every member of a regional council shall, before assuming his or her duties, make and subscribe before the magistrate referred to in section 19 or, if such member assumes his or her duties after a chairperson has been elected, the chairperson, an oath in the following form:

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

So help me God.

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

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

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

10. (1) A member of a regional council shall vacate his or her office if he or she -

- (a) becomes disqualified to be a member of a regional council;
- (b) is convicted of any offence in terms of section 16(3) or 17(2);
- (c) in the case of a member who has been nominated as a candidate by a political party in accordance with the laws governing elections for members of regional councils, ceases to be a member of that political party;
- (d) is absent, without the leave of the regional council or, if authorized thereto by the regional council, the chairperson on three consecutive sitting days of the regional council, and his or her absence is not condoned by the regional council,

and may resign his or her office as member of the regional council by writing under his or her hand addressed to the regional officer of the regional council.

(2) When a member of a regional council has vacated his or her office as such a member in terms of this section or has died, the regional officer shall forthwith by notice in the *Gazette* give notice that a vacancy in the membership of the regional council has occurred, the date on which it occurred, the cause thereof and the constituency in respect of which it has occurred.

(3) A casual vacancy in a regional council shall be filled within three months after it has occurred by the election, on a date to be determined by the President by proclamation in the *Gazette*, of a member as contemplated in section 7(2) for the unexpired portion of the period of office of the member who has vacated his or her office, unless the period of office of the member who has so vacated his or her office expires during the said period of three months.

(4) In paragraph (d) of subsection (1) "sitting days" mean separate days for which a meeting of the regional council has been convened and on which the regional council has actually sat.

Meetings of regional
councils.

- 11. (1)(a)** The first meeting of a regional council after a general election for members of regional councils shall be held at the seat of the regional council and at such time, being a date not later than seven days after such general election, as may be determined by the Minister, and meetings thereafter shall be held at such seat and at such times as may from time to time be determined by the chairperson or, if, and for so long as, the office of chairperson is vacant, by the regional officer.
- (b) The chairperson or, if, and for so long as, the office of chairperson is vacant, the regional officer may at any time or, at a request in writing signed by not less than half of the members of the regional council, shall within 14 days after receipt of such request or, if the National Council is then in session, within 14 days after such session, convene a special meeting of the regional council.
- (c) Notwithstanding the provisions of paragraph (a) or (b), no meeting of a regional council shall be convened during any period during which the National Council is in session.
- (d) A notice signed by the regional officer and containing the time, date and place of, and the matters to be dealt with at, every meeting of the regional council shall be delivered to every member of the regional council so as to reach such member at least 72 hours before such meeting.
- (2) (a) Every meeting of a regional council shall be open to the public, except on any matter relating to -
- (i) the appointment, promotion, conditions of employment and discipline of any particular officer or employee of a regional council;
- (ii) any offer to be made by the regional council by way of tender or otherwise for the purchase of any property;

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

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

- (b) The regional council may allow the regional officer or any other officer or employee of the regional council or other interested person to attend any proceedings of a regional council and to take part in any such proceedings, but such regional officer or other officer or employee or person shall not have the right to vote in respect of any decision of the regional council.

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

(4) If the chairperson is absent from a meeting of a regional council, the members present shall elect a person from amongst its members to preside at such meeting, and such person shall, while he or she so presides, have all the powers and shall perform all the duties and functions of the chairperson.

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

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

- (b) The Minister shall as soon as possible after the commencement of this Act make standing rules contemplated in paragraph (a) which shall apply in respect of every regional council until such time

as a regional council by any standing rules made under that paragraph provides otherwise.

- (7) (a) Subject to the provisions of any rules made under subsection (6), there shall be freedom of speech and debate in any meeting of a regional council.
- (b) No member of a regional council shall be subject to any legal proceedings by reason of his or her speech or vote in any meeting of the regional council.

Minutes of meetings.

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

(2) The regional officer shall within seven days of any meeting of the regional council or such longer period as the Minister may allow, submit a copy of the minutes of such meeting to the Minister, together with a copy of the agenda of such meeting and any other connected documents or reports as may be required by the Minister.

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

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

Inspection of, copies of and extracts from, minutes.

13. (1) The minutes of a meeting of a regional council as confirmed in accordance with the provisions of section 12(3), excluding the minutes or part of such minutes relating to any matter referred to in section 11(2)(a) considered during a period during which a meeting of the regional council was not open to the public, shall during ordinary office hours be available for inspection by any person.

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

Validity of certain decisions taken by regional councils and acts performed on authority of regional councils.

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

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

(3) For the purposes of this section, "regional council" shall include its management committee.

Remuneration, allowances and benefits of members of regional councils.

15. (1) A regional council may -

- (a) pay or provide to a member of a regional council any remuneration, allowances or other benefits not exceeding such remuneration, allowances or other benefits as may be determined by the President by proclamation in the *Gazette* subject to such conditions as may be so determined by the President;
- (b) indemnify its members in respect of any harm, damage or loss suffered by them in the course of the exercise or performance of their powers, duties and functions.

(2) Any allowances or other benefits determined under subsection (1) may differ in respect of different regional councils, and any remuneration, allowances and benefits so determined may differ in respect of different members of a regional council according to -

- (a) the different offices held by them in the regional council; or

- (b) the different powers, duties and functions exercised or performed by them from time to time.

Contracts with, and work for, regional councils in which members are interested.

16. (1) If -

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

is materially interested or intends to become so interested in any contract which the regional council in question has entered into or considers entering into or in any other matter administered by or under the control of such regional 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 regional council.

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

(3) Any member of a regional council who contravenes or fails to comply with the provisions of subsection (1) or (2), shall be guilty of an offence and be liable on

conviction to a fine not exceeding R4 000 or to imprisonment for a period not exceeding 12 months or to both such fine and such imprisonment.

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

Prohibited practices in respect of members of regional councils.

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

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

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

PART III MANAGEMENT COMMITTEES OF REGIONAL COUNCILS

Management committees of regional councils.

18. (1) There shall be a management Committee for every regional council consisting of a chairperson, who shall be called the Governor of the regional council, and —

(a) in the case of a regional council consisting of less than nine members, two other members,

(b) in the case of a regional council consisting of nine or more members, three other members,

and who shall be elected by the regional council from amongst its members in the manner provided in section 19.

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

(a) in the case of the first such election after a general election of members of regional councils, at the first meeting of such regional council held after such general election and before it proceeds to the dispatch of any other business;

(b) in the case where the office of a member of a management committee referred to in paragraph (a) becomes vacant before the expiration of his or her period of office by reason of the death of such member or the vacation by such member of his or her office for any other reason, on a date not later than 30 days after the office so became vacant;

(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 so elected expires.

(3) Subject to the provisions of section 20, a member of a management committee shall hold office for the period referred to in Article 109(3) of the Namibian Constitution or, in the case of such a member elected in an election held in terms of paragraph (b) of subsection (2), for the unexpired portion of the period of office for which his or her predecessor has been elected, but shall be eligible for re-election.

Manner of elections for chairperson and members of management committees.

19. (1) A magistrate designated by the Minister of Justice upon the request of the Minister, shall for purposes of the provisions of this section preside at a meeting of a regional council during which the election for the chairperson and the other members of its management committee is held, and during such meeting no debate shall be allowed.

(2) A member of a regional council, having first obtained the willingness by any instrument in writing of -

- (a) a member whom he or she wishes to propose as chairperson of the management committee to serve if elected;
- (b) not more than one member in respect of each other vacancy to be filled in the management committee whom he or she wishes to propose as a member or members of the management committee to serve if elected,

may upon the submission of such instrument so propose such member or members, but any such proposal shall lapse if it is not seconded.

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

(4) A member who has already proposed or seconded a candidate for election as chairperson may not propose or second any other such candidate.

(5) If -

- (a) only one candidate is proposed and seconded as chairperson;
- (b) not more candidates than the number of other vacancies to be filled in the management committee are proposed and seconded,

such candidate or candidates shall be declared duly elected by the magistrate presiding at the meeting.

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

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

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

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

(7) The magistrate presiding at the meeting shall declare, in the case of an election for the chairperson, the candidate, or, in the case of an election for the other members of the management committee, 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 shall not be less than the majority of all the members of the regional council.

(8) If due to an equality of votes or to the proviso to subsection (7), no candidate is, in the case of an election for the chairperson, declared duly elected as contemplated in that subsection, or, in the case of an election for the other members of the management committee, the number of candidates declared so elected 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 regional council present at such meeting, whereupon at such an adjourned meeting a further vote shall be taken in accordance with the provisions of subsection (9).

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

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

(ii) a member of the regional council shall have the right to propose a member of the regional council in respect of each such vacancy *mutatis mutandis* in accordance with the provisions of subsections (2), (3) and (4).

(b) If -

(i) only one candidate is proposed and seconded as chairperson;

(ii) not more candidates than the number of other vacancies to be filled in the management committee are proposed and seconded,

such candidate or candidates shall be declared duly elected by the magistrate presiding at the meeting.

(c) If more candidates than the number of vacancies to be filled are proposed and seconded, a vote shall be taken *mutatis mutandis* in accordance with the provisions of subsection (6).

(d) The magistrate presiding at the meeting shall declare, in the case of an election for the chairperson, the candidate, or, in the case of an election for the other members of the management committee, the candidates equal to the number of vacancies to be filled, and in whose favour the greater or greatest number of votes are recorded duly elected.

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

Vacation of office by
members of management
committees.

20. A member of a management committee shall vacate his or her office -

- (a) if he or she ceases to be a member of the regional council;
- (b)
 - (i) in the case of the chairperson, if he or she is absent without the leave of the management committee from three consecutive meetings of the management committee, and his or her absence is not condoned by the management committee;
 - (ii) in the case of any other member, if he or she is absent without the leave of the management committee or, if authorized thereto by the management committee, the chairperson from three consecutive meetings of the management committee, and his or her absence is not condoned by the management committee;
- (c) if the regional council resolves by a majority of all its members that it has no confidence in such member,

and may resign from his or her office by writing under his or her hand addressed and delivered to the regional officer.

Meetings of management committees.

21. (1) Subject to any rules made under subsection (4), meetings of the management committee shall be held at such places and times as may from time to time be determined by the chairperson.

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

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

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

Powers, duties and functions of management committees.

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

- (a) to ensure that the decisions of the regional council are carried out;
- (b) to consider any matter entrusted to the regional council by virtue of any provision of this Act or any other law in order to advise the regional council on such matter;
- (c) to prepare and compile for the approval of the regional council the estimates and supplementary estimates of revenue and expenditure of the regional council;
- (d) to control the expenditure of moneys voted by the regional council in its approved estimates and additional estimates and all other moneys or funds made available to the regional council;
- (e) to report at meetings of the regional council on the exercise of the powers and the performance of the duties and functions of the management committee;
- (f) to exercise any power conferred upon the management committee under any provision of this Act or any other law;
- (g) to exercise any power of the regional council delegated to the management committee by the regional council under section 29,

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

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

PART IV
REGIONAL OFFICERS AND OTHER OFFICERS AND
EMPLOYEES OF REGIONAL COUNCILS

Appointment of regional
officers and other officers
and employees by regional
councils.

23. (1) Subject to the provisions of section 24, a regional council shall -

(a) appoint, after consultation with the Minister, a person as the regional officer of the regional council who shall be the chief executive officer of the regional council and who shall, subject to the control and directions of the regional council, be responsible for the carrying out of the decisions of the regional council and for the administration of the affairs of the regional council;

(b) appoint such other officers and employees of the regional council as it may deem necessary for purposes of the performance of the work incidental to the exercise of the powers and the performance of the duties and functions of the regional council.

(2) (a) No person shall be appointed under subsection (1) as a chief executive officer, unless he or she is a Namibian citizen.

(b) The Minister may from time to time determine that, in respect of any such post on the fixed establishment of a regional council as may be specified by him or her, no person shall be appointed in such post unless it has been advertised in such manner and for such period as may be so determined by the Minister.

(3) The powers conferred and the duties and functions imposed upon the regional officer by or under the provisions of this Act or any other law may be exercised or performed by the regional officer personally or, except in so far as the regional officer otherwise determines, by any officer or employee referred to in subsection (1)(b) engaged in carrying out such provisions under the direction and control of the regional officer.

(4) When the regional 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 regional officer is vacant, the

powers, duties and functions of the regional officer shall be exercised or performed by an officer or employee of the regional council designated by the regional council for that purpose.

Application of Act 2 of 1980 to regional councils and regional officers and other officers and employees of regional councils.

24. (1) Subject to the provisions of section 23 and subsection (2) of this section, the provisions of -

- (a) sections 2(1) and (2), 6, except paragraph (i) of subsection (2), 7, 8(1) and (7), 9, 10, 10A, 11, 12, 13, 14, except in so far as it relates to the chief executive officer of a ministry, 15, 16, 17, 18, 19, 20, 21, 22, 23, 23A, 24, 25, 26, 30 and 31 of the Public Service Act, 1980 (Act 2 of 1980), and the regulations made, and the directions given thereunder;
- (b) the Pension Matters of Government Institutions Proclamation, 1989 (Proclamation AG. 56 of 1989), and the rules made thereunder; and
- (c) sections 1, 6(3)(a)(i)(aa), (bb) and (dd), 7 and 8 of the Public Service Commission Act, 1990 (Act 2 of 1990),

shall apply *mutatis mutandis* to regional councils and regional officers and the other officers and employees referred to in section 23(1).

(2) For purposes of the application of -

- (a) the provisions of the Public Service Act, 1980, referred to in subsection (1)(a) and the regulations made, and the directions given, thereunder -
 - (i) any reference to a ministry, shall be construed as a reference to a regional council;
 - (ii) any reference to the public service shall be construed as a reference to a regional council service;
 - (iii) any reference to the revenue fund or account thereof from which any person is remunerated, shall be construed as a reference to the funds of a regional council;

- (iv) any reference to a chief executive officer shall be construed as a reference to the regional officer of a regional council;
- (v) any reference to a public office shall be deemed to have been deleted;
- (vi) the reference in section 6(1)(a)(ii) of that Act to the Cabinet, shall be construed as a reference to a regional council;
- (vii) the words "or in any other ministry or public office" in paragraph (a) of subsection (2) of section 6 of that Act, shall be deemed to have been deleted;
- (viii) the reference in subsection (3) of section 6 of that Act in so far as it relates to paragraph (a) of that subsection, shall be construed as a reference to a regional council;
- (ix) the words "of any law and which relates to any person" in the words preceding paragraph (a) of section 7(1) of that Act, shall be deemed to have been substituted for the words "sections 6(2)(h) and 11";
- (x) the words preceding paragraph (a) of section 7(2) of that Act, shall be deemed to have been substituted for the following words:

“(2) Any recommendation other than a recommendation referred to in subsection (1) or a recommendation for making regulations, made by the Commission in accordance with the provisions of any law -”;
- (xi) the references in sections 9, 12(3)(a) and (4), 13(2), 14(3), (4), (6)(b) and (7), 15, 16, 17(2), 18, 19, 23A, 24, 25, 26 of that Act to the Cabinet, shall be construed as references to a regional council;
- (xii) the following section shall be deemed to have been substituted for section 10A:

"Appointment
of regional
officer.

10A. (1) Subject to the provisions of this Part and Part IV -

- (a) (i) a person who is appointed as an officer in the office of regional officer; or
- (ii) an officer who is promoted to that office,

shall occupy that office for a period as from the date of his or her appointment or promotion until two years after the next general election of members of regional councils has taken place;

- (b) a term of office referred to in paragraph (a) may, subject to the provisions of subsection (2), be extended at the expiry thereof for a further period or successive periods as contemplated in that paragraph.

- (2) (a) The regional council shall in writing inform the regional officer concerned at least two calendar months before the expiry of the term contemplated in subsection (1)(a) or any previously extended term contemplated in subsection (1)(b), of its intention to retain him or her in service for an extended term, or not.

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- (b) If the regional council so informs the regional officer of its intention to retain him or her in service for an extended term, he or she shall in writing inform the regional council within one month from the date of that communication of his or her acceptance or not of that extended employment.”;
- (xiii) the words “or any other” in section 13(1) of that Act, shall be deemed to have been deleted;
- (xiv) the reference in section 13(6) of that Act to the service of any other government, shall be construed as including a reference to the public service or the service of any other regional council;
- (xv) the word “may”, where it occurs for the first time in section 15(11) and in section 18(13) of that Act, shall be deemed to have been substituted for the word “shall”;
- (xvi) the reference in paragraph (i) of section 17(1) of that Act to a legislative body, shall be construed as including a reference to a regional council;
- (b) the Pension Matters of Government Institutions Proclamation, 1989, referred to in subsection (1)(b) and the rules made thereunder -
 - (i) a regional council shall be deemed to be a statutory institution;
 - (ii) any service of a regional officer or other officer or employee of a regional council who, without any interruption of service, is appointed in the public service or in the service of any other regional council shall, for purposes of the said rules, be deemed to be uninterrupted as a member of the Government Institutions Pension Fund; and

(c) the provisions of the Public Service Commission Act, 1990, referred to in subsection (1)(c) -

(i) any reference in section 6(3)(a) of that Act to the President or the Government, shall be construed as including a reference to a regional council;

(ii) any reference to the public service, shall be construed as a reference to a regional council service.

Appointment of regional officers or other officers or employees or persons in service of State without interruption of service in service of other regional councils.

25. (1) If -

(a) a regional officer or other officer or employee of a regional council is appointed without any interruption of service in the service of any other regional council, such regional officer, other officer or employee;

(b) a person in the service of the State is so appointed in the service of any regional council, such person;

(c) a regional officer or other officer or employee in the service of a regional council is so appointed in the service of the State, such regional officer, other officer or employee,

shall be entitled to be so appointed with due regard to the seniority of such regional officer, other officer, employee or person, his or her accumulated vacation leave or sick leave and his or her existing employment benefits and obligations.

(2) The Minister of Finance may from time to time prescribe measures in relation to the transfer of funds between the Government of Namibia and regional councils or between different regional councils which may be necessary for the purposes of subsection (1).

PART V ELECTIONS FOR MEMBERS OF NATIONAL COUNCIL

Elections for members of National Council by regional councils.

26. (1) For purposes of the provisions of Article 69 of the Namibian Constitution, a regional council shall

elect from amongst its members two persons as members of the National Council in the manner provided in section 27.

(2) The election of members of the National Council shall be held -

- (a) in the case of the first such election after the first general election of members of a regional council, at a meeting of such regional council on the date fixed in terms of Article 137(7) of the Namibian Constitution;
- (b) if a member of the National Council dies or for any other reason vacates his or her seat as a member of the National Council before the expiration of his or her period of office and any vacancy which so occurred is, by virtue of the provisions of Article 70(2) of the Namibian Constitution, required to be filled, on a date not later than 30 days after the office became vacant;
- (c) in the case of any election to be held after the said first or any subsequent general election of members of a regional council, at a meeting of the regional council held on a date before the expiration of the period of office of the existing members of the National Council fixed by the President by notice in the *Gazette*,

and any member so elected shall become a member of the National Council with effect from the date of his or her election or, in the case of a member referred to in paragraph (c), with effect from the date following the date on which the period of office of the existing members expires.

Manner of elections for members of National Council by regional councils.

27. (1) A person designated by the Electoral Commission established by the laws governing elections shall for purposes of the provisions of this section preside at a meeting of a regional council during which an election for a member or members of the National Council in terms of Article 69 of the Namibian Constitution is held, and during such meeting no debate shall be allowed.

(2) A member of a regional council, having first obtained the willingness by any instrument in writing of not more than one member in respect of each vacancy to be

filled whom he or she wishes to propose as a member or members of the National Council to serve if elected, may upon the submission of such instrument so propose such member or members, but the proposal shall lapse if it is not seconded.

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

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

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

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

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

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

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

(iv) as soon as every member who wishes to vote has done so, the person presiding at the meeting shall examine the ballot papers and

determine the number of votes cast for each candidate, and shall announce the result of the voting.

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

(7) If due to an equality of votes or 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 person presiding at such meeting after consultation with the members of the regional council present at such meeting, whereupon at such an adjourned meeting a further vote shall be taken in accordance with the provisions of subsection (8).

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

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

(ii) a member of the regional council shall have the right to propose a member of the regional council in respect of any such vacancy *mutatis mutandis* in accordance with the provisions of subsections (2) and (3).

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

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

- (d) The person presiding at the meeting shall declare the candidates equal to the number of vacancies to be filled and in whose favour the greater or greatest number of votes are recorded duly elected.
- (e) If two or more candidates have received the same number of votes the candidate to be elected shall be determined by lot.

PART VI
POWERS, DUTIES, FUNCTIONS, RIGHTS AND
OBLIGATIONS OF REGIONAL COUNCILS

Powers, duties, functions,
rights and obligations of
regional councils.

28. (1) In addition to the powers conferred upon a regional council by Article 108 of the Namibian Constitution or any other provision of this Act, a regional council shall have the power -

- (a) to undertake, with due regard to the powers, duties and functions of the National Planning Commission referred to in Article 129 of the Namibian Constitution and any other law relating to planning, the planning of the development of the region for which it has been established with a view to -
 - (i) the physical, social and economic characteristics of such region and, in so far as any neighbouring region has or is likely to have any effect on the physical development of that region, the physical, social and economic characteristics of any such neighbouring region;
 - (ii) the distribution, increase and movement and the urbanization of the population in such region;
 - (iii) the natural and other resources and the economic development potential of such region;
 - (iv) the existing and the planned infrastructure, such as water, electricity, communication networks and transport systems, in such region;

- (v) the general land utilization pattern;
- (vi) the sensitivity of the natural environment;
- (b) to exercise in connection with its region such powers, and to perform the duties and functions connected with such powers, as may be delegated by the President to the regional council in terms of section 29;
- (c) subject to the provisions of Part VII, to establish, manage and control settlement areas;
- (d) to make recommendations to the Minister in relation to the exercise, in relation to a local authority situated within its region, of any power conferred upon the Minister under the Local Authorities Act, 1992, or any other law;
- (e) to advise the President or any Minister on any matter referred to the regional council by the President or such Minister;
- (f) to assist any local authority council in the exercise or performance of its powers, duties and functions;
- (g) to make, for purposes of the preparation of the estimate of expenditure to be presented to the National Assembly in terms of Article 126 of the Namibian Constitution, recommendations to the Minister of Finance in so far as it relates to matters concerning its region;
- (h) to establish from time to time such committees as it may deem necessary to advise it in the exercise of any of its powers or the performance of any of its duties or functions and may appoint such members or such other persons as it may deem fit to be members of such committees;
- (i) to acquire or hire, or hypothecate, let, sell or otherwise dispose of movable property;
- (j) with the approval in writing of the Minister previously obtained in general or in every particular case and subject to such conditions, if any, as may be determined by him or her -

- (i) to acquire or hire, or hypothecate, let, sell or otherwise dispose of immovable property or any right in respect of immovable property;
- (ii) to borrow money from time to time by way of loans from any source within Namibia and against the security which the regional council may deem fit or the issue of debentures, bills of exchange and other negotiable instruments;
- (k) to guarantee the due fulfilment of the contracts and obligations of any person, and enter into surety bonds or deeds of security;
- (l) to open banking accounts, including savings accounts with a building society as defined in section 1 of the Building Societies Act, 1986 (Act 2 of 1986), and the Post Office Savings Bank controlled and managed by the Namibia Post Limited established by section 2 of the Posts and Telecommunications Companies Establishment Act, 1992;
- (m) to accept, with the approval in writing of the Minister previously obtained in every particular case and subject to such conditions as may be determined by him or her, donations and to so receive moneys offered to it and to so make donations;
- (n) to pay all expenses in connection with its establishment and administration;
- (o) to exercise any power assigned to regional councils by the laws governing communal land which vests in the Government of Namibia by virtue of the provisions of Schedule 5 to the Namibian Constitution, or any other power so assigned by any other law,

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

- (2) In addition to the powers referred to in subsection (1), a regional council -

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- (a) may be consulted in relation to all proposed legislation or submissions made to the Cabinet by any ministry on any matter which may have any effect in its region, and may make recommendations in connection with such matter;
 - (b) shall have the right to make submissions on its own motion to the Cabinet or the Minister in relation to the administration of any provision in any law which confers or imposes any power, duty or function on the Minister, or on any matter peculiar to its region.
- (3) Anything purporting to have been done by the chairperson by order of the regional council by virtue of any power vested in the regional council under this Act or any other law shall be deemed to have been done by the regional council.

Delegation of powers by President to regional councils, and by regional councils to management committees or regional officers or other officers or employees.

29. (1) (a) The President may, with a view to the effective administration of any law in a region or promoting the moral and social welfare of the residents of a region, delegate, on such conditions, if any, as may be determined by the President, by proclamation in the *Gazette* any power, other than a power to issue proclamations or to make regulations, conferred by or under any law upon the President, the Prime Minister or any other Minister to a regional council, and may at any time by like proclamation amend or withdraw any such proclamation.
- (b) Different proclamations may be issued under paragraph (a) in respect of different regional councils.
- (2) A regional council may delegate in writing, on such conditions, if any, as may be determined by it, any power other than a 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,

conferred upon it by or under this Act or any other law or delegated to it under subsection (1), to its management committee or its regional officer or any other officer or employee of the regional council, or authorize its management committee, the chief executive officer or other officer or employee to perform any duty or function imposed upon it by or under this Act.

(3) The President, Prime Minister or other Minister in respect of whom a power has been delegated under subsection (1) or a regional council which has delegated any power under subsection (2), shall not be divested of any power so delegated, and may alter or withdraw any decision given in the exercise of that power by the regional council, management committee, the regional officer or other officer or employee, as the case may be.

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

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

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

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

(2) Any power, duty or function which in terms of any agreement referred to in subsection (1) has been exercised or performed by a regional council or any functionary of the Government or such other regional

councils or local authority council or any officer or employee or body in the employ or under the control of such regional council or the Government or regional councils or local authority council and, which in terms of this Act or any other law, is conferred or imposed upon a functionary of the Government, regional council, local authority council, officer, employee or body other than such regional council, shall be deemed to have been exercised or performed by such functionary, the regional council, local authority council, officer, employee or body upon which such power, duty or function is so conferred or imposed.

PART VII SETTLEMENT AREAS

Declaration of certain areas in regions as settlement areas.

31. (1) If a regional council is, in respect of any area falling within the region in respect of which it has been established, but outside any local authority area, as defined in section 1 of the Local Authorities Act, 1992, of the opinion -

- (a) that by reason of circumstances prevailing in such area provision should be made for the management, control and regulation of matters pertaining to the health and welfare of the inhabitants of such area;
- (b) that by reason of circumstances prevailing in such area, the area is an area which ought to be developed so as to be established as a local authority,

the regional council may by notice in the *Gazette* declare such area to be a settlement area, and shall specify in such notice the name assigned to, and the boundaries determined of, such area.

- (2) (a) If the area of any township or village management area established or purporting to have been established by or under any law on the establishment of townships or village management boards on communal land is, in terms of subsection (1), declared to be a settlement area, the assets used in relation to such township or village management area and all rights, liabilities and obligations connected with such assets shall vest in the

regional council concerned to such extent and as from such date as may be determined by the Minister.

- (b) The registrar of deeds shall, in the case of any asset referred to in paragraph (a) consisting of immovable property which vests by virtue of the provisions of that subsection in a regional council, upon production to him or her of the deed of any such immovable property, endorse such deed to the effect that the immovable property described therein vests in that regional council and shall make the necessary entries in his or her registers, and thereupon that deed shall serve and avail for all purposes as proof of the title of that regional council.
 - (c) No transfer duty, stamp duty or any other fee or charge shall be payable in respect of any endorsement or entry referred to in paragraph (b).
 - (d) Notwithstanding the declaration of any township or village management area under paragraph (a) to be a settlement area, any provision of any law referred to in that paragraph which relates to any matter which may be determined or prescribed under any provision of this Act shall be deemed to have been so determined or prescribed.
 - (e) Anything done under any law referred to in paragraph (a) by or in relation to a township or village management area so referred to which may be done under any corresponding provision of this Act, shall be deemed to have been done in relation to such settlement area under such corresponding provision.
- (3) A regional council may by notice in the *Gazette* at any time -
- (a) alter the boundaries of any settlement area;
 - (b) combine two or more settlement areas, whether or not such settlement areas are contiguous;
 - (c) include any part of any settlement area in any other settlement area, whether or not such settlement areas are contiguous;

- (d) withdraw, amend or substitute any notice issued under subsection (1);
- (e) make provision for any matter which in the opinion of the regional council requires to be regulated in consequence of any alteration, combination, inclusion, withdrawal, amendment or substitution effected in terms of this subsection, including any matter relating to the transfer of any assets, liabilities, rights or obligations which vested in any regional council in relation to a settlement area to any person.

Management and control
of settlement areas.

32. (1) Subject to the provisions of subsection (4) —

- (a) The provisions of sections 30, except paragraphs (p), (s), (t), (v), (w), (x), (y) and (z) of subsection (1), 33 to 62, 66 to 76, 78, 89, 90 and 93 of the Local Authorities Act 1992, shall apply *mutatis mutandis* in respect of the management and control of a settlement area by a regional council as if such regional council were a village council as defined in section 1 of that Act or such settlement area were the area of such village council;
- (b) the Minister shall be empowered to exercise, in relation to any power, duty or function which may be exercised or performed by a regional council in terms of paragraph (a) in respect of a settlement area, any power conferred upon him or her in terms of any provision referred to in that paragraph in respect of a local authority council or its area as if such regional council were a local authority council or such settlement area were the area of such local authority council.

(2) Notwithstanding the repeal of the Peri-Urban Development Board Ordinance, 1970 (Ordinance 19 of 1970), by the Local Authorities Act, 1992 —

- (a) any reference in any law to the Peri-Urban Development Board established by section 2 of the said Ordinance shall in relation to a settlement area be construed as a reference to the regional council by which such settlement area has been established;

- (b) but subject to the provisions of section 31(2), any regulation made under the said Ordinance and which was in force on the date immediately before the commencement of this Act shall, to the extent determined by the regional council by notice in the *Gazette* after consultation with the Minister, be deemed a regulation made by virtue of the provisions of subsection (1) in relation to settlement areas.

(3) A regional council shall as soon as practicable after the declaration of an area to be a settlement area establish a committee consisting of such number of members as may be determined from time to time by the regional council elected or designated in such manner as the Minister may generally prescribe by notice in the *Gazette* or in respect of a particular settlement area by notice in writing to the regional council in question, to advise the regional council on the exercise or performance of its powers, duties and functions referred to in subsection (1) in the settlement area in question.

(4) The Minister may for the purposes of subsection (1), by notice in the *Gazette* —

- (a) in general or in relation to a particular settlement area, suspend or limit the application of any provision referred to in that subsection or subject the exercise or performance of any power, duty or function which may be exercised or performed by a regional council by virtue of that subsection, to such conditions as may be specified in such notice;

(b) authorize a regional council to exercise or perform in respect of a particular settlement area, any power, duty or function which is conferred under —

- (i) the said Local Authorities Act, 1992, upon a municipal council or town council as defined in section 1 of that Act, as if such regional council were a municipal council or town council or such settlement area were the area of such municipal council or town council;

- (ii) any other law upon a local authority council as if such regional council were a local authority council or such settlement area were the area of such local authority council.

PART VIII
FINANCIAL MATTERS

Funds of regional councils.

33. (1) The funds of a regional council shall consist of -

- (a) moneys appropriated by law for purposes of the funds of the regional council;
- (b) the rates, charges, fees and other moneys levied and received by the regional council under any provision of this Act in respect of immovable property situated within a settlement area in its region and services rendered by it or the regulation and control of any matter in a settlement area;
- (c) any moneys borrowed by the regional council by way of loans or the issue of debentures, bills of exchange or other negotiable instruments;
- (d) any interest or dividends derived from investments made under subsection (3);
- (e) the fines imposed in respect of any contravention of, or failure to comply with, any provision of this Act or any other provision administered by the regional council by virtue of the provisions of section 31 or 32;
- (f) any moneys received by way of donation;
- (g) any moneys accruing to the funds of the regional council from any other source.

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

(3) A regional council may invest any unexpended portion of its funds with a banking institution as defined in section 1 of the Banks Act, 1965 (Act 23 of 1965), a building society as defined in section 1 of the Building Societies Act, 1986 (Act 2 of 1986), and the Post Office Savings Bank controlled and managed by the Namibia Post Limited established by section 2 of the Posts and Telecommunications Companies Establishment Act, 1992, or such other financial institution as may be approved by the Minister.

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

Accounting officers of regional councils.

34. The regional officer shall be the accounting officer of the regional council and shall as such be charged with the responsibility of accounting for all the moneys received, and for all the payments made, by the regional council.

Financial year of regional councils.

35. The financial year of a regional council shall end on 31 March in each year.

Estimates of revenue and expenditure of regional councils.

36. (1) The management committee -

- (a) shall in each financial year prepare and compile a statement of its estimated income and expenditure during the following financial year;
- (b) may in any financial year at any time prepare and compile supplementary statements of its estimated expenditure for that financial year,

and shall submit such statement and supplementary statements to the regional council for its approval.

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

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

(3) (a) A regional council may, until it has granted its approval under subsection (1) and, if required, until the authorization under section 37(4) has been granted, but for a period not exceeding three months after the commencement of the financial

year in question, authorize in respect of that financial year the application of amounts in relation to any matter in respect of which there was such an approval and such authorization in the immediately preceding financial year.

- (b) The total amount which a regional council may authorize under paragraph (a) shall not at any time exceed an amount equal to 25 per cent of the total amount appropriated for the immediately preceding financial year.
- (c) Any expenditure on services incurred under an authorization under paragraph (a) shall be deemed to be expenditure incurred under the approval contemplated in that paragraph.

Application of funds of regional councils.

37. (1) Subject to the provisions of this section, a regional council shall not apply its money otherwise than in accordance with an approval granted under section 36(1) and, if required, the authorization granted under subsection (4).

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

(3) For the purpose of obtaining the authorization referred to in subsection (2), a regional council shall submit the statement or supplementary statement referred to in section 36(1) to the Minister, together with such other statement, document or information as he or she may require.

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

- (5) (a) A regional council may, with the approval of the Minister, apply an amount for a purpose for which no provision was made in a statement or supplementary statement referred to in section 36(1) or for the purpose of a programme or project for which insufficient provision was made in such a statement or supplementary statement.
- (b) An amount referred to in paragraph (a) shall be appropriated by the regional council concerned before the end of the financial year in which its application has been approved.
- (c) A regional council may, unless the Minister directs otherwise under subsection (4), apply any saving under —
- (i) any particular programme on a statement or supplementary statement referred to in section 36(1) for the purposes of any other programme on such statement or supplementary statement;
- (ii) any particular project in a programme on such a statement or supplementary statement for the purpose of any other project in the same programme.
- (6) The Minister may at any time, after consultation with the regional council in question, withdraw or suspend for any particular period any authorization granted under subsection (4) for the expenditure of any particular amount in so far as that amount has not yet been expended.

Auditing of accounting records of regional councils.

38. The accounting records of a regional council referred to in section 39 and its financial statements referred to in section 40 shall be audited by the Auditor-General.

Accounting records of regional councils.

39. (1) The accounting officer of a regional council -

- (a) shall keep such accounting records as are necessary to reflect the transactions and financial state of affairs of the regional council;
- (b) shall keep in the accounting records contemplated in paragraph (a) a revenue account which

shall be credited with all moneys which accrue to and are received by the regional council and be debited with all expenses of the regional council.

(2) The accounting officer of a regional council shall deposit all the money received by him or her on behalf of a regional council in an account held in terms of section 28(1)(f).

(3) The accounting records contemplated in subsection (1) shall be kept at a place determined by the regional council and shall not without the consent of the regional council be removed from that place.

(4) The Minister may, after consultation with the Auditor-General, issue instructions to an accounting officer in connection with the system of bookkeeping (including internal auditing) and accounting to be followed by that accounting officer in the performance of his or her functions in terms of this section and section 40.

Financial statements and
audit reports.

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

(2) The financial statements referred to in subsection (1) shall consist of -

- (a) a balance sheet showing the assets and liabilities of the regional council at the end of that financial year;
- (b) a statement of income and expenditure of the regional council for that financial year; and
- (c) such other statements as may from time to time be required by the Auditor-General.

(3) The chairperson shall after he or she has received a report from the Auditor-General submit such report to the next succeeding ordinary meeting of the regional council for consideration and to decide which rectifying steps are to be taken should the report reveal any irregularities.

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

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

PART IX GENERAL PROVISIONS

Public meetings for purposes of discussion of matters of public interest.

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

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

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

Meetings of regional councils for purposes of discussion of matters of mutual interest.

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

Service of documents.

43. (1) Any document, notice or other communication required or authorized under the provisions of this Act to be served, given or delivered to any person by the Minister, a regional council, the regional officer or any other officer or employee shall be deemed to have been served, given or delivered —

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

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

Offences relating to regional councils.

44. Any person who -

- (a) threatens or obstructs a member of a regional council proceeding to or from a meeting thereof or on account of his or her conduct therein, or endeavours by force or menace to compel a member of a regional council to declare himself or herself in favour of or against any proposition or matter pending or expected to be brought before the regional council;
- (b) while a regional council is sitting, creates or joins in any disturbance therein or in the vicinity thereof, whereby the proceedings of such regional council are or are likely to be interrupted,

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

Repeal and amendment of laws.

45. (1) Section 2 of the Special Advisers and Regional Representatives Appointment Act, 1990 (Act 6 of 1990), is hereby repealed.

(2) The First Schedule to Proclamation 6 of 1992 is hereby amended by the substitution in the said Schedule for the word "Liambezi" in the heading of region No. 7, of the word "Caprivi".

Short title and commencement.

46. (1) This Act shall be called the Regional Councils Act, 1992, and shall come into operation on a date fixed by the Minister by notice in the *Gazette*.

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

(3) A reference in this Act to the date of its commencement shall be construed as a reference to the applicable date fixed under subsection (2).

REGIONAL COUNCILS ACT, 1992

SCHEDULE 1
REGIONS IN RESPECT OF WHICH
REGIONAL COUNCILS HAVE BEEN
ESTABLISHED AND SEATS OF
REGIONAL COUNCILS
(Sections 2 and 3)

Column 1	Column 2	Column 3
No.	Name of region	Seat of regional council
1.	Kunene	Opuwo
2.	Omusati	Uutapi
3.	Oshana	Oshakati
4.	Ohangwena	Eenhana
5.	Oshikoto	Tsumeb
6.	Okavango	Rundu
7.	Caprivi	Katima Mulilo
8.	Erongo	Swakopmund
9.	Otjozondjupa	Otjiwarongo
10.	Omaheke	Gobabis
11.	Khomas	Windhoek
12.	Hardap	Mariental
13.	Karas	Keetmanshoop

SCHEDULE 2
NUMBER OF MEMBERS OF REGIONAL
COUNCILS AND CONSTITUENCIES OF
REGIONAL COUNCILS
(Section 4)

Column 1	Column 2	Column 3	Column 4
No.	Region	Number of members of regional council	Names of constituencies
1.	Kunene	6	1. Ruacana 2. Opuwo 3. Sesfontein 4. Khorixas 5. Kamanjab 6. Outjo
2.	Omusati	9	1. Onesi 2. Tsandi 3. Uutapi 4. Anamulenge

			5. Ogongo 6. Okalongo 7. Oshikuku 8. Elim 9. Okahao
3.	Oshana	9	1. Oshakati 2. Ongwediva 3. Okaku 4. Okatana 5. Ondangwa 6. Ompundja 7. Uukwiyu 8. Okatjali 9. Uuvudhiya
4.	Ohangwena	10	1. Ongenga 2. Engela 3. Oshikango 4. Ondobe 5. Eenhana 6. Omundau- ngilo 7. Okongo 8. Ohangwena 9. Endola 10. Epembe
5.	Oshikoto	10	1. Oniipa 2. Onayena 3. Olukonda 4. Omuntele 5. Okatope 6. Okankolo 7. Omuthiya- gwiipundi 8. Engodi 9. Guinas 10. Oshikoto
6.	Okavango	6	1. Mpungu 2. Kahenge 3. Kapako 4. Rundu 5. Mashari 6. Ndiyona
7.	Caprivi	6	1. Mukwe 2. Kongola 3. Linyandi 4. Sibinda 5. Katima Mulilo 6. Kabe
8.	Erongo	6	1. Omaruru 2. Karibib 3. Brandberg 4. Arandis 5. Swakopmund 6. Walvis Bay

REGIONAL COUNCILS ACT, 1992

9.	Otjozondjupa	6	<ol style="list-style-type: none"> 1. Grootfontein 2. Otavi 3. Okakarara 4. Otjiwarongo 5. Okahandja 6. Omatako
10.	Omaheke	6	<ol style="list-style-type: none"> 1. Otjinene 2. Otjozondjou 3. Steinhausen 4. Gobabis 5. Buitepos 6. Aminuis
11.	Khomas	9	<ol style="list-style-type: none"> 1. Wanaheda 2. Hakahana 3. Katutura East 4. Katutura Central 5. Soweto 6. Khomasdal North 7. Windhoek West 8. Windhoek East 9. Windhoek Rural
12.	Hardap	6	<ol style="list-style-type: none"> 1. Rehoboth West Urban 2. Rehoboth East Urban 3. Rehoboth Rural 4. Mariental Rural 5. Mariental Urban 6. Gibeon
13.	Karas	6	<ol style="list-style-type: none"> 1. Keetmans- hoop Urban 2. Berseba 3. Lüderitz 4. Oranjemund 5. Karasburg 6. Keetmans- hoop Rural