

**Legal Notice No. 37 of 1966**

**TOWNSHIPS PROCLAMATION (CAP. 120)  
TOWN COUNCIL REGULATIONS, 1966**

In exercise of the powers vested in him by section 2 of the Townships Proclamation (Cap. 120) His Excellency Her Majesty's Commissioner hereby makes the following regulations —

**TOWN COUNCIL REGULATIONS, 1966  
Arrangement of Regulations**

**PART I**

**Regulation Preliminary**

1. Short Title and Commencement.
2. Interpretation.
3. Application.
4. Establishment of Councils.
5. Town Councils to be Bodies Corporate.
6. Constitution of Councils.
7. Qualification for Membership of Councils.

**PART II**

**Establishment and Constitution of Councils**

8. Establishment of Councils.
9. Vacation of Seats.
10. Pecuniary Interest of Members.
11. Mayor of Council.
12. Deputy Mayor of Council.
13. Filling Vacancies.
14. Elections.
15. Qualifications of Voters.

**PART III**

**Proceedings of Councils**

16. Chairmanship of Meetings.
17. Quorum.
18. Voting at Meetings.
19. Meetings of Councils.
20. Meetings to be Public.
21. Minutes to be kept.
22. When Minutes Confirmed, Regularity Deemed.
23. Minutes Open for Examination.
24. Committees.
25. Joint Committees of Two or More Councils.

**PART IV**

**Staff**

26. Appointment of Employees.
27. Local Government Service Commission.
28. Staff Rules.

## **PART V**

### **Regulation Powers and Duties of Councils**

29. Functions and General Powers of Councils.
30. General Duties of Councils.
31. Power to Make Bye-Laws.
32. Bye-Laws to be Submitted to Minister.
33. Miscellaneous Provisions Regarding Bye-Laws.
34. Penalties in Bye-Laws.
35. Bye-Laws not to Override other Laws.
36. Minister May Make Model Bye-Laws.
37. Her Majesty's Commissioner May Suspend Bye-Law.
38. Her Majesty's Commissioner May Make or Amend Bye-Laws.
39. Tenders to be Called for.
40. Standing Orders and Financial Rules.

## **PART VI**

### **Valuation and Rating**

41. Appointment of Valuation Officer.
42. Valuation Officer's Powers of Entry.
43. Valuation Officer May Obtain Information.
44. Establishment and Constitution of Valuation Courts.
45. Terms of Office of Members of Valuation Courts.
46. Meetings, Decisions and Procedure of Valuation Courts.
47. Member of Valuation Court May not sit in Any Matter in Which he is Personally Interested.
48. Clerk of Valuation Court.
49. Date and Place of Sitzings of Valuation Court.
50. Rateable Property.
51. Listing of Non-Rateable Property.
52. Valuation of Property for Rating Purposes.
53. Interim Valuations.
54. Interim Valuations May be Objected to at Next Valuation Court.
55. Refund of Excess Rates Paid.
56. Basis of Valuation.
57. Particulars to be Inserted in the Valuation Roll.
58. Objections to Valuation Roll.
59. Appearance Before Court.
60. Power of Valuation Court.
61. Decisions of Valuation Court to be Final
62. Appeal on a Point of Law.
63. Appeal to Court of Appeal.
64. Record of Proceedings of Valuation Court.
65. Chairman to Certify Valuation Roll.
66. Advertisement of Valuation Roll.
67. Correction of Valuation Roll.
68. Pending Appeal Not to Interfere with Decision of Valuation Court.
69. Valuation Roll May Not be Set Aside.
70. Annual Assessment and Levy of Rates.
71. Special Rates.
72. When Rates are Due and Payable.

### **Regulation**

- 73. To Whom Rates to be Paid.
- 74. Rate Recoverable by Action in Subordinate Court.
- 75. Evidence of Rate.
- 76. When Owner Liable to Pay Portion Only of Rate.
- 77. Payment of Rate by Occupier.
- 78. Refusal by Occupier to disclose the name of the Owner.
- 79. Interest on Unpaid Rates.
- 80. Transfer of Ownership of Property.
- 81. Abatement of Rates.
- 82. Council Empowered to Write Off Rates.
- 83. Council May Grant Leases of Unoccupied Property.
- 84. Term and Rent.
- 85. Condition Precedent.
- 86. Resumption of Possession by Owner.
- 87. Application of Moneys Received under Leases by the Council.

### **PART VII**

#### **Revenues of Councils, Accounts and Audit**

- 88. Revenues of Councils.
- 89. General Funds.
- 90. Bank Account and Investments.
- 91. Borrowing Powers.
- 92. Accounts and Audit.
- 93. Copies of Statement and Report to be Supplied.
- 94. Disallowance and Surcharge.
- 95. Financial Year.
- 96. Annual Estimates.

### **PART VIII**

#### **Dissolution of Councils**

- 97. Her Majesty's Commissioner May Dissolve a Council.
- 98. Suspension of a Member of a Council.

### **PART IX**

#### **Miscellaneous**

- 99. Power of Entry.
- 100. Authentication of Orders.
- 101. Service of Notice.
- 102. Penalty for Obstruction.
- 103. Recovery of Government Expenditure.
- 104. Revocation.

### **FIRST SCHEDULE**

### **SECOND SCHEDULE**

## THE TOWN COUNCIL REGULATIONS, 1966

### PART I

#### PRELIMINARY

##### Short Title and Commencement.

1. (1) These regulations may be cited as the Town Council Regulations, 1966, and, except as otherwise provided in sub-regulation (2) shall come into operation on the 1st July, 1966.

(2) Regulations 1 – 7 (inclusive) and 13 – 15 (inclusive) shall come into operation on publication of these regulations in the Gazette.

##### Interpretation.

2. In these Regulations unless the context otherwise requires —

“appointed member” means a member of a council appointed by the Minister ;

“auditor” means a person appointed by the Minister to perform the duties of auditor in terms of Part VII ;

“council” means a town council established in pursuance of the provisions of regulation 4 ;

“council area” means the area for which the council has been established in pursuance of regulation 4 ;

“Constitution” means the Constitution of Bechuanaland ;

“district council” means a district council duly established under the Local Government (District Councils) Law, 1965 ;

“elected member” means a member of a council elected in pursuance of the provisions of regulation 6 ;

“Government” means the Government of Bechuanaland ;

“Local Government Service Commission” means the Local Government Service Commission established in pursuance of the provisions of the Local Government (District Councils) Law, 1965 ;

“Member of council” means an appointed member or an elected member and includes a Mayor or deputy Mayor ;

“Minister” means the Minister of Local Government ;

“owner” in relation to land, includes —

(a) the person receiving the rent or profits of any land from the occupier thereof on his own account or as agent for any person entitled thereto ;

(b) any person who lawfully occupies or holds land in accordance with an agreement whereunder he is entitled to obtain transfer of such land on the fulfilment by him of the conditions prescribed by such agreement ;

“person” includes any company or association or body of persons whether corporate or unincorporate ;

"The person appointed" means the person appointed as such in pursuance of regulation 26;

"The valuation court" means a valuation court established in pursuance of the provisions of regulation 44;

"The valuation officer" means a valuation officer appointed as such in pursuance of the provisions of regulation 41;

#### Application.

3. The provisions of these Regulations shall apply to all council areas established in pursuance of the provisions of regulation 4.

#### Establishment of Councils.

1. Her Majesty's Commissioner may by order published in the Gazette establish councils in respect of such areas as he may think fit.

2. In any order made in pursuance of sub-regulation (1) or in any other order Her Majesty's Commissioner may —

(a) dissolve any existing township authority;

(b) provide for the transfer of assets and liabilities of an existing township authority so dissolved to any council established in pursuance thereof and for the vesting of such assets in such council;

(c) Any order referred to in sub-regulation (2) may provide for the continuance of the duties and functions of any existing township authority by that township authority until a specified date.

3. Subject to the provisions of sub-regulation (3) upon dissolution in pursuance of any order referred to in sub-regulation (2) all members holding office in an existing township authority shall cease to hold office.

4. For the purposes of this regulation "existing township authority" means a township authority established under the provisions of regulations made in pursuance of the Townships Proclamation (Cap. 135).

#### How Councils to be Bodies Corporate.

5. A council shall be a body corporate having the name by which it is established and capable of suing and of being sued under the said name.

#### Constitution of Councils.

6. (1) A council shall be constituted in such manner and shall consist of such number of elected members or appointed members as may be provided by the order establishing it.

(2) Her Majesty's Commissioner may by subsequent order or orders published in the Gazette vary an order establishing a council.

#### **Qualification for Membership of Councils.**

7. A person shall be qualified to become a member of a council if and shall not be so qualified unless he is qualified, in terms of regulation 15, to vote in any election for members of the council and does not possess the disqualifications for membership of the Legislative Assembly referred to in section 49 of the Constitution:

Provided that the order establishing a council may provide that for the purposes of this section no person shall be deemed to possess those disqualifications merely because he has applied for or has been granted a passport issued by or under the authority of the Government of any country prescribed for such purpose in the order.

### **PART II**

#### **ESTABLISHMENT AND CONSTITUTION OF COUNCILS**

##### **Establishment of Councils.**

8. (1) The elected members of the council shall hold office for a period of three years, and thereafter in every subsequent year one third of the members shall retire from office.

(2) The elected members to retire in every year shall be those who have been longest in office since their last election, but as between members who become members on the same day those to retire shall (unless they otherwise agree among themselves) be determined by lot.

(3) A retiring member shall be eligible for re-election.

(4) (4) The appointed members of the council shall hold office at the pleasure of the Minister.

##### **Vacation of Seats.**

9. The seat of a member of a council shall become vacant —

(a) upon his death; or

(b) if, without having obtained leave from the chairman, he absents himself from three consecutive ordinary meetings of the council; or

(c) if he is appointed to, or to act in any office or office or place of profit in the gift or disposal of the council; or

(d) he has been declared insolvent or adjudged or otherwise declared bankrupt under the law in force in any part of the Commonwealth and has not been discharged, or has made a composition with his creditors and has not paid his debts in full; or

(e) (i) if he is sentenced by a court in any part of the Commonwealth to death or to imprisonment for a term exceeding six months, or, having been under suspended sentence for such a term imposed by such a court is ordered by the court to serve that sentence:

Provided that the Minister may at the request of the member from time to time extend for a period of thirty days

his vacation of office under this paragraph to enable the member to pursue any appeal in respect of his conviction or sentence, so however that extensions of time shall not exceed ninety days in the aggregate ;

(ii) if at any time before the member vacates his seat he is granted a free pardon or his conviction is set aside or his sentence is reduced to a term of imprisonment of less than six months, or some lesser punishment is instituted for such imprisonment, his seat shall not become vacant under the provisions of this paragraph ; or

(f) if he ceases to hold the qualifications required by regulation 7 ; or

(g) if he ceases to reside in the area in respect of which the council has been established ; or

(h) if he resigns by giving written notice to the Town Clerk.

#### **Pecuniary Interest of Members.**

10. If a member of a council —

(a) has a pecuniary interest, direct or indirect, in a contract or proposed contract or any other matter ; and

(b) is present at a meeting of a council at which such contract or other matter is the subject of consideration ;

he shall at such meeting disclose such interest and, subject to the provisions of any standing order made under regulation 40 shall not take part in the consideration or discussion of, or vote on, any question relating to such contract or other matter, unless after such disclosure the council by a majority of the members present gives such member leave to take part or to vote.

(2) 2/11/69 SI 41/69

#### **Mayor of Council.**

11. (1) There shall be a Mayor of each council who shall be elected annually by the council from among the members of the council.

(2) The Mayor shall, unless he resigns or ceases to be qualified or becomes disqualified, continue in office until his successor is elected and assumes office.

(3) During his term of office, the Mayor shall continue to be a member of the council notwithstanding the provisions of regulation 8.

(4) A retiring Mayor may be re-elected to the office which he is vacating.

(5) The Mayor shall be elected by the members of the council present, by secret ballot, and such election shall be the first business transacted at the first meeting of the council, and thereafter annually.

(6) On the election of the Mayor the outgoing Mayor shall preside :

Provided that at the first meeting of the council after its constitution, and subsequently if the office of the outgoing Mayor is vacated from any cause, or if the outgoing Mayor is a candidate for re-

election as Mayor, or if the Mayor is for any reason unable to attend, the members of the council present shall elect a Chairman from among themselves (other than a candidate for the office of Mayor) who shall preside for the purposes of such election.

(7) The person presiding at the election of the Mayor shall have a deliberative vote only, and, in the case of equality of votes for two or more candidates, the election shall be determined by lot between those candidates.

(8) Notwithstanding sub-regulation (1) no person who is a candidate for election to the office of Mayor shall be entitled to speak or vote in the election.

(9) In the event of the office of Mayor becoming vacant from any cause whatsoever during the term of office of such Mayor, a successor shall, at the next meeting of the council after such vacancy occurs, be elected by the members of the council from amongst themselves by secret ballot, and the person so elected shall forthwith enter upon his office and shall serve as Mayor for the remainder of the period for which the Mayor whose office became vacant, has been elected.

(10) A person who has been elected Mayor shall within 7 days after the day of election and before he acts in such office make before and deliver to the Town Clerk a declaration of acceptance of office. If the declaration of acceptance of office is not made as aforesaid the office of Mayor shall thereupon become vacant.

(11) A council may vote out of the revenues of the council as a personal allowance to the Mayor such sum, not exceeding such maximum as the Minister may determine, as it thinks reasonable. The amount of such allowance shall be fixed at the commencement of the Mayor's term of office and shall not be altered during the said term.

(12) Whenever the duties of the office of Mayor are performed, for any continuous period not being less than one month, by the deputy Mayor the allowance under this regulation shall be paid for such period to the deputy Mayor.

#### **Deputy Mayor of Council.**

12. (1) There shall be a deputy Mayor of each Council who, immediately after the election of the Mayor in terms of regulation 11, shall be elected by the members of the council present at the meeting, by secret ballot.

(2) The deputy Mayor shall, unless he resigns or ceases to be qualified or becomes disqualified, continue in office until his successor is elected and assumes office.

(3) During his term of office, the deputy Mayor shall continue to be a member of the council notwithstanding the provisions of regulation 8.

(4) A retiring deputy Mayor may be re-elected to the office which he is vacating.

(5) On the election of the deputy Mayor the newly elected Mayor or, in his absence, a member of the council elected as chairman by the members of the council present, shall preside, but he shall have a

deliberative vote only, and in the case of equality of votes for two or more candidates the election shall be determined by lot between those candidates.

(6) Notwithstanding sub-regulation (1) no person who is a candidate for election to the office of deputy Mayor shall be entitled to speak or vote in the election.

(7) In the event of the office of the deputy Mayor becoming vacant from any cause whatsoever during the terms of office of such deputy Mayor, a successor shall, at the next meeting of the town council after such vacancy occurs, be elected by the members of the council from amongst themselves by secret ballot, and the person so elected shall forthwith enter upon office and shall serve as deputy Mayor for the remainder of the period for which the deputy Mayor whose office became vacant, had been elected.

(8) The deputy Mayor shall, whenever it shall be necessary owing to the death, resignation, absence, illness or incapacity of the Mayor have authority to exercise all the powers and discharge all the duties vested in and imposed upon the Mayor under and by virtue of these regulations.

(9) A person who has been elected deputy Mayor shall, within 7 days after the day of election and before he acts in such office make before and deliver to the Town Clerk a declaration of acceptance of office. If the declaration of acceptance of office is not made as aforesaid the office of deputy Mayor shall thereupon become vacant.

#### **Filling Vacancies.**

13. If the seat of a member of a council becomes vacant by virtue of any provision of these regulations, the vacancy thus caused shall be filled in such manner as may be prescribed by Her Majesty's Commissioner in the order establishing the council; and a person who becomes a member of the council by virtue of the provisions of this regulation shall have all the rights and privileges of, and be under the same obligations and liabilities as, the member whom he replaces.

#### **Elections.**

14. The manner of election of members of a council shall be as prescribed in the order establishing the council, or any later order varying or amending that order.

#### **Qualifications of Voters.**

*Substituted SI 15/69*

15. Any person enrolled on an election roll pursuant of the provisions of regulation 6 of the Local Councils (Election Rolls) Regulations, 1966 shall be entitled to ~~vote~~ in any election for members of a council.

## **PART III**

### **PROCEEDINGS OF COUNCILS**

#### **Chairmanship of Meetings.**

16. The Mayor or in his absence the deputy Mayor of a council shall preside at any meeting of the council. If both the Mayor and the deputy Mayor are absent from, or during, any meeting, the members of the council present shall elect one of themselves as temporary chairman during the absence of the Mayor and deputy Mayor.

#### **Quorum.**

17. The presence of more than half of the members of a council shall constitute a quorum.

#### **Voting at Meetings.**

18. (1) All matters shall be determined by a majority of the votes of the members present at any meeting.

(2) The member presiding at any meeting shall have an original vote as a member of the council, and a casting vote.

#### **Meetings of Councils.**

19. (1) A council shall hold ordinary meetings at intervals of not more than three months, at such place and time as the council may from time to time determine.

(2) The Mayor may at any time, and shall at the request in writing of not less than one-third of the members of the council, call a special meeting. The notice of a special meeting shall specify the objects of such meeting, and no other business may be discussed at such meeting.

(3) The mayor may adjourn any meeting of the council for any period not exceeding fourteen days, and any business of such council conducted after the meeting has been so adjourned shall be of no effect.

#### **Meetings to be Public.**

20. Every meeting of a council, other than a meeting of a committee appointed by a council, or a committee of the whole council, shall be open to the press and the public :

provided that the council may by a majority of members present order that the press or the public, or any member of the press or the public, shall withdraw.

#### **Minutes to be kept.**

21. (1) Minutes of the proceedings of every meeting of a council and of every committee thereof shall be kept in English, and shall be regularly entered in a book kept for that purpose and shall be confirmed at the next ordinary meeting.

(2) Such minutes shall record the names of the members, including persons co-opted, present at the meeting, and when signed by the chairman shall unless the contrary be proved be deemed to be a correct record of the proceedings of the meeting of which they purport to be the minutes.

**When Minutes Confirmed, Regularity Deemed.**

22. When the minutes of the proceedings of any meeting of a council, or a committee thereof, have been confirmed, such meeting shall, until the contrary is proved be deemed to have been duly convened and held, and all the members present at such meeting shall be deemed to have been duly qualified and, where the proceedings so recorded are those of a committee, the committee shall, until the contrary be proved, be deemed to have been duly constituted, and to have had power to deal with the matters referred to in the minutes.

**Minutes Open for Examination.**

23. The minutes of the proceedings of a council shall be at all reasonable times open for examination by any member of the public, and any such person may obtain a copy thereof, or an extract therefrom, on payment of such fee as may be prescribed by the council.

**Committees.**

24. (1) Every council shall appoint a Finance Committee and an Education Committee, and may from time to time appoint such other committees, either of a general or special nature, consisting of such number of members as the council may think fit, for the purpose of transacting such business or performing any act or duty which in the judgment of the council would more conveniently be performed by means of a committee, and may delegate to any such committee such powers, save the power to make bye-laws and any power to raise money by rate or otherwise as it may think fit. Unless in appointing any such committee the council has appointed one of the members as Chairman thereof the committee shall elect one of the members as Chairman thereof.

(2) A council may revoke or amend any delegation made under the provisions of sub-regulation (1) and may attach conditions to such delegation, including general or particular directions, as to the manner in which any delegated power is to be exercised.

(3) A committee other than a Finance Committee, may co-opt persons other than members of the committee, and such co-opted persons may take part in the proceedings of the committee, but shall not have the right to vote thereat.

**Joint Committees of Two or More Councils.**

25. A council may concur with any one or more other councils or with a district council in appointing from among their respective members a joint committee of such town or district councils for any purposes in which they are jointly interested, and may delegate to such joint committees, with or without restriction or conditions, any powers or functions of such councils relating to the purpose for which such joint committee

was formed, except the power to make bye-laws or the power to raise money by rate or otherwise.

#### **PART IV**

##### **Staff**

###### **Appointment of Employees.**

26. (1) A council shall appoint —
- (a) a Town Clerk and a Treasurer, or one person to be both Town Clerk and Treasurer;
  - (b) such other employees as it may deem necessary.
- (2) A council shall pay to its employees such emoluments as it may determine.
- (3) The powers conferred upon the Council by sub-regulations (1) and (2) shall be exercised subject to the general or specific approval of the Minister and in conformity with any rules made under regulation 28.

###### **Local Government Service Commission.**

27. The provisions of section 27 of the Local Government (District Councils) Law, 1965 shall apply, *mutatis mutandis*, to the staff of councils.

###### **Staff Rules.**

28. The Minister may, whether on the advice of the Local Government Service Commission or not, publish in the Gazette such rules as to him may seem proper governing the matters referred to in regulation 27 and all councils shall give effect to any such regulations.

#### **PART V**

##### **POWERS AND DUTIES OF COUNCILS**

###### **Functions and General Powers of Councils.**

29. (1) Her Majesty's Commissioner may in the order establishing a council, and subject to such limitations and conditions as he may deem fit, provide that a council either shall be required to perform or may perform any of the functions set out in the First Schedule.

(2) Subject to the provisions of these regulations, a council shall have power to do anything and enter into any transaction not unlawful which in its opinion is calculated to facilitate the proper discharge of any functions conferred or imposed upon it by or under these regulations or any other law, or which is incidental or conducive thereto.

#### **General Duties of Councils.**

30. It shall be the duty of a council to perform the functions it is required to perform and otherwise exercise its powers so as to secure and promote the health, order and good government of the area for which it has been established.

#### **Power to Make Bye-Laws.**

31. (1) A council may make bye-laws for the area in respect of which it has been established or any part thereof, in respect of all such matters as it considers necessary or desirable for the maintenance of the health, safety and well-being of the inhabitants of such area or such part; and, without prejudice to the generality of the foregoing, may make bye-laws for all or any of the purposes set out in the ~~First~~ <sup>second</sup> Schedule. 5272/67

(2) Such bye-laws may prescribe what licences or permits may lay down the fees to be paid therefor, and may also prescribe the fees to be paid for any services to be rendered by the council. 3.161.

(3) Any bye-law may require acts or things to be performed or done to the satisfaction of a prescribed person, and may empower a prescribed person to issue directions to any other person requiring acts or things to be done, imposing conditions and prescribing periods within or before which such acts or things shall be performed or done or such conditions shall be fulfilled.

#### **Bye-Laws to be Submitted to Minister.**

32. All bye-laws made by a council shall be submitted to the Minister for his approval and no bye-laws shall be of any force or effect until until the Minister has approved them and caused them to be published in the Gazette. R+R  
3.5/67

#### **Miscellaneous Provisions Regarding Bye-Laws.**

33. (1) The substance and effect of all bye-laws which are to be submitted to the Minister for approval shall, not less than four weeks before such submission, be communicated to the inhabitants of the council area affected by posting notices on notice boards in the council area, and by publication thereof at such public meetings as the council may determine. 35/67

(2) A copy of all bye-laws shall be kept by the council which made them in such manner as the Minister may prescribe, and any member of the public shall be entitled to a copy of such bye-laws upon payment of such fee as the council may determine.

(3) If any bye-law provides for the issue of any licence or permit, a refusal to issue such licence or permit, shall be subject to an appeal to the Minister, in the manner prescribed by the Minister whose decision shall be final.

#### **Penalties in Bye-Laws.**

34. (1) Bye-laws may prescribe a penalty for any contravention thereof which shall not exceed a fine of two hundred rand or imprison-

ment for six months, or both such fine and imprisonment: and may prescribe different fines and different terms of imprisonment for successive or continuous contraventions; and may authorise any court on conviction of any person for contravention of bye-laws to suspend or cancel any licence or permit issued to such person under such bye-laws.

(2) Bye-laws may provide that where a court convicts any person for any contravention thereof, or for failure to comply therewith, such court may, in addition to imposing any penalty prescribed therefor, order that any expense incurred by the council in consequence of the breach thereof, or caused by the failure of the offender to execute any work which he is directed thereby to execute, shall be paid by the convicted offender.

**Bye-Laws not to Override other Laws.**

35. Nothing in this Law contained shall be deemed to empower a council to make any bye-law overriding or derogating from the provisions of any other written law in force in Bechuanaland.

**Minister May Make Model Bye-Laws. Repealed SE 41/69**

36. (1) The Minister may cause to be made and published in the Gazette model bye-laws on any of the subjects on which a council is empowered to make bye-laws.

(2) Any council may adopt any such model bye-laws on any subject on which it is authorised to make bye-laws, either in whole or in part, or with such variations as may seem to the council appropriate to the circumstances obtaining in the area in respect of which it is established.

(3) The adoption of model bye-laws by a council in pursuance of sub-regulation (2) shall not require the approval of the Minister under regulation 32 and the provisions of regulation 33(1) shall have effect with the substitution for references to the submission of such bye-laws for publication.

**Her Majesty's Commissioner May Suspend Bye-Laws.**

37. If at any time in the opinion of Her Majesty's Commissioner it is in the interest of good local government or the maintenance of good order and security of the Council area or part thereof for which a council has been established or of Bechuanaland, that the operation of any bye-law made by a council shall be suspended, Her Majesty's Commissioner may by order published in the Gazette suspend such bye-law for a period not exceeding sixty days and for the like period may transfer the powers of the council relating to such bye-law to any person.

**Her Majesty's Commissioner May Make or Amend Bye-Laws.**

38. Her Majesty's Commissioner may by order published in the Gazette make any bye-laws which a council could make, and amend or revoke any bye-laws made by a council, if he considers the matter to be of importance and in the public interest, provided that he has requested the council in writing to make such a bye-law or amendment or revoca-

tion, and the council has not complied with such request at its first meeting after such request has been received.

**Tenders to be Called for.**

*instituted SI 41/69*

39. A council shall not enter into any contract —

- (a) for the supply of any goods or materials; or
- (b) for the execution of any works or provision of any services, other than professional services, for or to the council, if, in either case, the liability of the council under such contract is to exceed one thousand rand, except after calling for tenders in the prescribed manner.

*Regs 39A - F inserted SI 41/69*

**Standing Orders and Financial Rules.**

40. (1) A council shall make such standing orders as may be necessary for the conduct of its business: and, without prejudice to the generality of the foregoing, shall make standing orders for the following purposes —

- (a) the regulation of the business and procedure of the council;
- (b) to ensure the punctuality of the attendance of the members at meetings, and to prevent meetings being held without adequate notice to members;
- (c) to maintain order and method in the despatch of business and in the conduct of meetings.

(2) A council shall make such financial rules as may be necessary for the general conduct of financial affairs.

**Part VI Valuation & Rating**  
**Appointment of Valuation Officer.**

41. (1) Every council shall appoint one or more Valuation Officers approved by the Minister to make any valuation and valuation rolls provided for in this Part.

(2) No Valuation Officer shall make a valuation of any land in which he is personally interested, directly or indirectly, or in which his wife, partner or relative within the first degree of consanguinity or affinity is interested, directly or indirectly without disclosing the nature and extent of such interest.

(3) Every Valuation Officer shall submit to the Mayor a list of land in which he is so interested, setting out fully the nature and extent of his interest, and the Mayor shall transmit such list to the valuation court.

**Valuation Officer's Powers of Entry.**

41. (1) Every Valuation Officer provided with written authority signed by the Mayor shall have power to enter in the daytime into and upon any property within the council area for the purpose of carrying out his duty under this Part, provided that, before so entering into and upon any property the Valuation Officer shall give the owner or occupier at least twenty-four hours notice of his intention to visit and enter upon the property.

(2) Any person who obstructs or hinders a Valuation Officer in the exercise of his duties under the preceding sub-regulation shall be guilty of an offence and liable on conviction to a fine not exceeding one hundred rand, or in default of payment thereof to imprisonment not exceeding three months.

**Valuation Officer May Obtain Information.**

43. (1) A Valuation Officer may require the owner or occupier or person in charge of any land in the council area to furnish him with written particulars and any information upon such matters as may be necessary to enable him correctly to value such land, including the names of the owner and occupier thereof and any other necessary particulars.

(2) If any person refuses or wilfully omits to give any such written particulars or information or wilfully makes any false statement or wilfully does anything which could reasonably lead to an undervaluation of any land, he shall be guilty of an offence and liable on conviction to a fine not exceeding one hundred rand, or in default of payment thereof to imprisonment not exceeding three months.

(3) No person convicted of an offence under this regulation shall thereby become exempt from liability to permit the entry of the Valuation Officer, or to supply the written particulars or information required.

**Establishment and Constitution of Valuation Courts.**

44. (1) There shall be established for the council a valuation court which shall have the jurisdiction, powers and authorities conferred upon it by these regulations.

(2) The members of the valuation court shall be —

(a) a person appointed by the Minister who holds or has held or is qualified to hold judicial office in terms of the Subordinate Courts Proclamation (Cap. 5) or any law hereafter substituted for the same, who shall be Chairman of the valuation court; and

(b) two assessors to be nominated by the council and approved and appointed by the Minister, who need not be members of the council.

(3) The names of the persons so appointed shall be shown on the front of the valuation roll.

**Terms of Office of Members of Valuation Courts.**

45. (1) The members of a valuation court shall hold office at the Minister's pleasure.

(2) When a member's office is for any reason vacated or a member is prevented by illness, absence or for any other cause from exercising his functions on the valuation court the Minister shall appoint a person to fill the vacancy or to act temporarily for the member during his absence or period of incapacity.

(3) The Chairman and other members of the valuation court shall, except in the case of a member who is a member of the public service

of the Territory, be paid out of funds of the Council such remuneration and allowance as the Minister, after consultation with the Council, may from time to time determine.

#### **Meetings, Decisions and Procedure of Valuation Courts.**

46. (1) The members of the valuation Court appointed as assessors in terms of regulation 44 (2) (b) shall give, either in open Court or otherwise, such assistance and advice as the Chairman may require, but the decision shall be vested exclusively in the Chairman. The agreement or disagreement of such assessors with the decision of the Chairman shall be noted on the record.

(2) The Minister may make rules to regulate the procedure of all valuation courts. If no rules are made or in any case not covered by the rules, the valuation court shall act in such manner and on such principles as it deems best fitted to do substantial justice and to effect and carry out the objects and provisions of this Part.

#### **Member of Valuation Court May not sit in Any Matter in Which he is Personally Interested.**

47. No person shall sit as a member of a valuation court at the hearing of any matter in which he is personally interested, directly or indirectly, or in which his wife, partner or relative within the first degree of consanguinity or affinity is directly or indirectly interested, or in which any company of which he is an officer or a shareholder is directly or indirectly interested.

#### **Clerk of Valuation Court.**

48. The Council shall appoint a clerk to its valuation court and shall determine the remuneration, if any, and allowances to be paid to such clerk from its funds:

provided however that if a member of the staff of the Council is appointed clerk he shall receive no additional remuneration for this function.

#### **Date and Place of Sittings of Valuation Court.**

49. (1) The valuation court shall sit at such times and places as it may decide upon so as to complete its work in the shortest possible time compatible with effective adjudication.

(2) The clerk of the valuation court shall cause a notice showing the time and place of every meeting of such court to be exhibited on the notice board of the District Commissioner and at such other places as he may determine.

(3) At least six weeks notice shall be given of every meeting of such court.

#### **Rateable Property.**

50. (1) Subject to the provisions of this regulation, rateable land within the meaning of this Part means land within the Council area except land that is —

- (a) vested in Government;
- (b) vested in the council;
- (c) set aside under the provisions of the Tati Concessions Land Proclamation (Cap. 112) or any law hereafter substituted for the same;
- (d) occupied for purposes of the provision of public services, provided that this exemption shall apply only with the Ministers' special consent.
- (e) subject to provisions of sub-regulation 70(3), used for any of the following purposes in so far as such land is used for such purposes only —
  - (i) a public library or public museum of natural history or fine arts;
  - (ii) public religious worship or public religious purposes;
  - (iii) a government aided school or school hostel;
  - (iv) a public hospital or public institution for mentally disordered persons;
  - (v) an orphanage or a charitable institution supported entirely by voluntary contributions or payments made by the inmates towards their maintenance;
  - (vi) a public cemetery or crematorium;
  - (vii) recreation or sport other than horse racing or any sport for which an admission charge is made;
  - (viii) agricultural show purposes.
- (f) owned by Rhodesia Railways other than land occupied by railway employees for residential purposes.

(2) If land is used for any or the purposes specified in sub-regulation (1) (e) and for some other purpose, at the same time or at different times during any year, such land may be regarded as rateable in part and non-rateable in another part or as rateable during a portion of the year, as the case may be, and accordingly the council may apportion the valuation or rates or both valuation and rates.

(3) Nothing in this regulation shall be taken to exempt an owner of land from the payment of rates on land from which he derives a rent or income used for any of the purposes specified in sub-regulation(1)(e).

(4) It shall be lawful for Her Majesty's Commissioner in his discretion to make a grant to the revenue of the council in lieu of an owner's rate, on property vested in the Government or set aside in the in the circumstances described in sub-regulation (1) (a) and (c) not exceeding the amount which would have been payable except for the provisions of sub-regulation (1) (a) and (c).

#### **Listing of Non-Rateable Property.**

51. (1) The owner of any land who claims that such land is not rateable shall forward such claim to the council and submit to it such

particulars concerning the said land as the council may require to enable it to determine whether such land is rateable or not.

(2) If the council determines on the particulars supplied that such land is not rateable, the owner shall be notified in writing accordingly and thereafter such land shall be listed as non-rateable until such time as the council determines otherwise or until such time as a change takes place in the use of such land.

(3) If any change in the use of land listed as non-rateable takes place, the owner shall forthwith notify the council thereof, and thereupon the council shall again determine whether such land is rateable or not and notify the owner as provided in sub-regulation (2).

(4) The council may at any time demand from the owner such particulars of any land listed as non-rateable as it may require to determine whether such land is properly listed as non-rateable.

(5) If any owner as aforesaid fails or neglects to make a claim and to submit particulars in terms of sub-regulation (1) and (4), the said land shall be deemed to be rateable until such time as the said owner complies with the provisions of sub-regulation (1) or (4), as the case may be.

(6) If any owner of land which is listed as non-rateable, or which he claims should be listed as non-rateable, fails or neglects to notify the council of any change as required by sub-regulation (3), or submits particulars in terms of sub-regulation (1) or (4) which are incorrect and the Council by reason of such failure or neglect or submission of incorrect particulars does not remove such land from the list of non-rateable property, then such land shall be rateable and the owner thereof shall be liable to pay rates in respect thereof as from the date of such failure or neglect or submission of incorrect particulars.

(7) Any owner who wilfully submits false particulars in any claim in terms of sub-regulation (1) or any notification in terms of sub-regulation (3), or any particulars demanded in terms of sub-regulation (4) shall be guilty of an offence and liable on conviction to a fine not exceeding one hundred rand or in default of payment thereof to imprisonment not exceeding three months.

(8) Nothing in this regulation contained shall affect —

(a) the auditor's right to question the correctness in law of a council's action in placing any such land on the list of non-rateable land; or

(b) the owner's right to test in a competent court of law a council's refusal to place any such land on the list of non-rateable land.

(9) Nothing in this regulation contained shall be deemed to impose any duties on the Government in respect of rateable land which is its property, and the provisions of this regulation shall not apply to any such land.

#### **Valuation of Property for Rating Purposes.**

52. The council shall as soon as possible after it has been established and thereafter from time to time but not less than once in every

73/67. <sup>Just</sup> ~~three~~ years cause to be made a general valuation and valuation roll of all land within the council area.

**Interim Valuations.**

53. (1) The council may, and if called upon to do so by an owner of land shall, cause an interim valuation to be made of

- (a) any land which has become rateable since the completion of the current valuation roll;
- (b) land, the value of which has been materially depreciated by flood or other disaster;
- (c) land discovered to have been omitted from the current valuation roll;
- (d) land materially improved or depreciated in value by reason of the operation of any town planning scheme;
- (e) land which has been subdivided into lots for building or other purposes;

Provided that where land valued as a whole has been divided amongst two or more owners the valuation of the said land shall, until the council resolves at any time to cause an interim valuation to be made of such land or until the next general valuation, be divided amongst the owners of the subdivided portions or, where a portion is retained by the original owner, be divided amongst the original owner and person or persons to whom he has transferred portions of the land in such proportions as may be agreed upon between the persons concerned; and, failing agreement, the valuation officer shall cause an apportionment to be made at the expense of the persons who have failed to agree, which apportionment shall be final until the making of the said interim or general valuation; or

- (f) land materially increased or decreased in value from any cause peculiar to such land.

(2) Any such interim valuation shall be based on what the value of the land would have been at the last general valuation and any general increase or decrease in the value of land between the date of the last general valuation and such interim valuation shall be ignored.

(3) Upon the making of any interim valuation the same procedure shall be observed as is set forth in these regulations with regard to general valuations, ~~save that in the option of the council the prescribed notice may be served in writing upon the owner of any land affected instead of being published as hereinafter provided.~~

*delete*  
SI 41/69

(4) Any interim valuation made in terms of this regulation shall be forthwith added to the valuation roll.

(5) Wherever any valuation is made in terms of this regulation, the council

- (a) may, in the case of land which has become rateable, since the completion of the current valuation roll, cause the current rate to be collected in respect thereof and also any rates which

would have been payable in respect thereof since the completion of the said valuation roll, had the valuation been made at the date such land became rateable ;

(b) may, in the case of land which is discovered to have been omitted from the current valuation roll, cause the current rate to be collected in respect thereof and also any rates which would have been payable in respect thereof since the completion of the said valuation roll, had the omission not been made ;

(c) shall, in the case of land materially improved or depreciated, in whole or in part, only be entitled to collect rates on the valuation of the land as determined under this regulation as from the date of such occurrence :

Provided that, where any land valued in terms of this regulation has been transferred to a new owner prior to such valuation being made, such new owner shall not be liable for any rates levied in respect of the period before the date upon which such land was transferred to him, but the owner at the date from which such rate is payable shall be liable for the proportion of such rate up to the date upon which such land was transferred ;

(d) may, in the case of land sub-divided, cause the current rate to be collected in respect of the sub-divisions and also any rates which would have been payable in respect thereof since the date of transfer of the sub-divisions, had the valuation thereof been made at that date :

Provided that the council shall refund any rates paid on the whole land in respect of the period for which rates on the sub-divisions are paid.

(6) Save as is provided in sub-regulation (5), the current rate shall be payable only with effect from the date on which the interim valuation comes into force.

#### **Interim Valuations May be Objected to at Next Valuation Court**

54. (1) Every such interim valuation shall be subject to any objection made thereto at the next valuation court.

(2) The same right of appeal as is provided in regulation 62 shall apply to any interim valuation made in terms of these regulations.

#### **Refund of Excess Rates Paid.**

55. In the case of any land which is added to the valuation roll or the valuation of which is increased under the provisions of regulation 53, if at the next succeeding valuation court the value of the said land be fixed at a sum less than that on which the last preceeding rate has been levied the owner shall be entitled to a refund of any rate paid by him in excess of that which would have been paid if the rate had been levied on the value as fixed by the said valuation court.

#### **Basis of Valuation.**

56. (1) Subject to the provisions of regulation 53 (2) where a general or interim valuation is made, the basis of valuation of any land shall

be the capital sum which that land might be expected to realise if offered for sale at the time of the valuation on such reasonable terms and conditions as a *bona fide* seller would require, due regard being had not only to such particular rateable land, but to other rateable land of a similar class, character, value or position, and the land shall be considered subject to any restrictions imposed on it by the council under its bye laws or by any town planning scheme which may either increase or decrease the value of such land:

Provided that any exceptional circumstances of a temporary nature which is likely to cause an abnormal price to be paid, shall be disregarded in arriving at the estimated price.

#### **Particulars to be Inserted in the Valuation Roll.**

57. The Valuation Officer shall frame any valuation roll in such manner as to show —

- (a) the situation of the land;
- (b) the full name of the owner, and his address
- (c) the description of the land;
- (d) the value of the land

#### **Objections to Valuation Roll.**

<sup>A 51 4/69</sup>  
58. (1) As soon as a valuation roll has been completed by the Valuation Officer a copy thereof shall lie at the office of the Town Clerk for inspection by every ~~owner or occupier of land~~ included in such roll or his duly authorised representative who may at all reasonable times inspect such roll and make copies thereof

(2) The council shall by notice in the *Gazette* and on such notice boards as it may determine call upon ~~owners of land~~ to lodge in writing with the Town Clerk and the clerk of the valuation court any objections they may have against the valuation of any land ~~owned by them~~ or in respect of any error or omission in relation to such land within twenty-one days from the first publication in the *Gazette* of such notice.

(3) No objections to the valuation roll shall be considered by the valuation court unless made within the time prescribed and in the manner aforesaid.

#### **Appearance Before Court.**

<sup>A SE 4/69</sup>  
59. (1) Every objection lodged by or on behalf of any ~~owner~~ shall be brought before the valuation court by such ~~owner~~ personally or by counsel, attorney or any other person duly authorised thereto by such ~~owner~~ in writing.

(2) The council may appear before the valuation court at any of its sittings for the purpose of making any representations or objections on its behalf and shall be represented before the valuation court by such person or persons as the council may appoint.

(3) The representative of the council and the objector or his

representative may call evidence and cross-examine any witness giving evidence before the valuation court.

(4) If the council objects to any valuation appearing in the valuation roll, it shall give written notice thereof to the owner of the land concerned and to the clerk of the valuation court at least twenty-eight days before the day upon which the valuation court will sit to consider the valuation roll.

#### **Power of Valuation Court.**

60. (1) The valuation court shall at each sitting proceed to consider the valuation roll and any objections made and may confirm any valuation or make such alterations or amendments in the valuation roll, whether objected to or not either by way of reduction, increase, addition or alteration as it may deem just and expedient.

(2) No alteration or amendment shall be made to the valuation of any land to which no objections has been lodged until the owner of the land affected and the council have received twenty-eight days' notice in writing from the clerk of the valuation court of the meeting of the valuation court at which any such alteration or amendment will be considered and of the nature and extent of the proposed alteration or amendment. The owner so affected and the council may make such representations to the valuation court as they may think fit.

(3) The valuation court shall not reduce or increase the valuation of land in the whole or any portion of the council area by a percentage.

(4) The valuation court may for the proper adjudication of all matters before it call witnesses and hear and receive and examine witnesses under oath or affirmation which shall be administered by the Chairman, and may by notice under the hand of the Chairman call upon any person who in its opinion is able to give material information concerning the valuation under investigation or who it suspects or believes has in his possession or custody or under his control any book, document or thing which has bearing on the said investigation to appear before it at a time and place specified in the notice to be interrogated under oath or to produce such book, document or thing.

(5) The Valuation Officer by whom any valuations under consideration shall have been made shall attend such valuation court and answer on oath or affirmation all questions which may be put to him or through the court in regard thereto.

(6) Any person who after being called upon to appear before the valuation court to be interrogated or to produce any book, document or thing as aforesaid fails without sufficient excuse to attend at the time and place specified in the notice, shall be guilty of an offence and liable on conviction to a fine not exceeding fifty rands in respect of each offence.

(7) Any such person who fails to remain in attendance until excused by the valuation court or refuses to be sworn or affirmed as a witness or fails to answer fully and satisfactorily to the best of his knowledge and belief all questions lawfully put to him or knowingly

makes a false answer to any question put to him or fails to produce any book, document or thing in his possession or custody or under his control when lawfully required to do so, shall be guilty of an offence and liable on conviction to a fine not exceeding fifty rand in respect of each offence.

**Decisions of Valuation Court to be Final.**

*Repealed s2 41/09*  
61. Any decision of the valuation court shall, subject to the provisions of regulation 62 be final and without appeal.

**Appeal on a Point of Law.**

62. (1) On the determination by the valuation court of any matter under this Part any party who is dissatisfied —

*Amended  
s2 41/09*

- (a) with a determination as being erroneous in point of law;
- (b) with any decision of the Chairman of the valuation court as to whether a matter for decision is a matter of fact or a matter of law;

may appeal to the High Court, within one month. The Chairman of the valuation court shall within twenty-eight days of the appeal being lodged set out the legal point in dispute in a specially case for the determination of the High Court.

(2) Upon hearing of the appeal the High Court may —

- (a) confirm, vary or reverse the determination appealed from;
- (b) remit the matter to the valuation court with instructions in regard to the taking of further evidence or the setting out of further information;
- (c) order the parties or any of them to produce at some convenient time before the High Court such further proof as shall to it seem necessary or desirable;
- (d) take any other course which may lead to the just, speedy and, as much as may be, inexpensive settlement of the matter; and
- (e) make such order as to costs as it may deem just.

(3) The Chief Justice may make rules for regulating appeals to the High Court under this regulation and for the procedure on such appeals:

Provided that until rules are so made the rules of subordinate courts governing appeals in civil case from subordinate courts to the High Court shall, subject to any necessary modifications, apply and be followed.

(4) The valuation court shall amend the valuation roll in accordance with the decision or directions of the High Court and such amendment shall form part of the valuation roll in force with effect from the commencement of the valuation roll.

#### **Appeal to Court of Appeal**

63. On any question of law decided by the High Court on any appeal under regulation 54 or 62 an appeal shall lie to the Court of Appeal.

*Repealed 5/2 41/69*

#### **Record of Proceedings of Valuation Court.**

64. (1) The valuation court shall keep a record of its proceedings and a note of the assessment, objection and finding in respect to each objection and shall notify the persons concerned of such finding; and such court shall cause any deposition taken before it to be taken down in writing and signed by the deponent, and shall authenticate it by the signature of the Chairman as having been taken before such court.

(2) An objector or his authorised agent shall have the right to examine, without charge, the record of the valuation court proceedings relating to the land to the valuation of which he has objected.

(3) The valuation officer and the council shall at all times have access to the record.

#### **Chairman to Certify Valuation Roll.**

65. When the valuation court has completed its consideration of the valuation roll and has made such alterations and amendments therein as it may deem necessary, the Chairman of the valuation court shall sign and certify the same and the clerk of the valuation court shall thereupon transmit to the council a certified copy of the same showing the original valuation and all alterations made by the valuation court. Such valuation roll will become the valuation roll in force in the council area and shall supersede any previous valuation roll or assessment in force in the council area:

Provided that notwithstanding the provisions of regulation 60 it shall not be necessary for the valuation court to consider any valuation roll to which no objections have been lodged and any such roll shall be signed and certified by the Mayor.

#### **Advertisement of Valuation Roll.**

66. The council shall cause a notice to be inserted in the *Gazette* informing all persons that the valuation roll has been completed and certified in terms of regulation 65 and that such valuation roll will become finally fixed and binding upon all persons concerned who do not before a date fixed in such notice, not being less than one month from the date of such notice, give notice of appeal from the decision of the valuation court in terms of this part.

#### **Correction of Valuation Roll.**

67. (1) Subject to the provisions of sub-regulation (2), the council may at any time after the valuation roll has been finally completed and certified by the Chairman of the valuation court or signed and certified by the Mayor in terms of the proviso to regulation 65 cause any error on such roll to be corrected and may authorise any such amendments to such roll as may be consequential on the change of ownership of any land.

(2) Before causing any error to be corrected the council shall notify the owner of the land of the proposed corrections. Such owner may within seven days of such notification inform the council of his objection to the proposed corrections, in which event the objection shall be referred to the valuation court for determination. If no such objection is made the proposed corrections may be made, and the current rate may be collected in respect of the land.

**Pending Appeal Not to Interfere with Decision of Valuation Court.**

68. The fact that an appeal is pending shall not in the meantime interfere with or affect the decision of the valuation court which forms the subject matter of the appeal and rates may be made, levied and recovered on the valuation fixed by such decision in like manner as if no appeal were pending ;

Provided that in the event of the valuation being altered on appeal a due adjustment shall be made and amounts paid in excess shall be refunded by the council to the ratepayer and the amount short-paid shall be recoverable by the council from the ratepayer.

**Valuation Roll May Not be Set Aside.**

69. No valuation contained in any valuation roll framed and certified under these regulations and no rate based thereon shall be rendered void or be affected by reason of any mistake or variance amounting to a slight deviation not affecting the substance or calculated to mislead in the description of any rateable land or in the name of any owner thereof.

**Annual Assessment and Levy of Rates.**

A SE 41/69

70. (1) Subject to the provisions of this regulation a council may not more than once in every financial year assess, raise and levy <sup>by bye-law</sup> a rate upon all rateable land within the council area, and such rate may be collected by the council in <sup>which</sup> amounts, and at such intervals during the year as the council may determine.

(2) If the Minister so directs, lower rates or no rates shall be levied under sub-regulation (1) for different classes of rateable land. In classifying such rateable land, regard shall be had to —

- (a) the situation of the land;
- (b) the area of the land;
- (c) the use of which the land is put;
- (d) the services of the council made available to such land;
- (e) any other factors warranting a lower rate.

(3) Notwithstanding anything to the contrary contained in this regulation, where the council levies rates under the provisions of sub-regulation (1) which are declared by such council by resolution to include the cost of defraying in whole or in part the expenses incurred in providing, undertaking, executing, maintaining, and extending any scheme of sewerage or drainage and in providing sewerage,

sanitary or rubbish removal services, the owner of any land referred to in regulation 50 (1) (e) shall pay to the council for such services a proportion of the rates levied, and such proportion shall be calculated on such portion of the land as the council may determine.

(4) If in any financial year a council is required to meet any unforeseen expenditure or any expenditure which is of an unusual nature, and if such expenditure cannot reasonably be met by rates imposed in terms of sub-regulation (1), the council may and in addition to any such rates, assess, raise, levy and collect a supplementary rate upon all rateable land within the council area. *by bye-law*  
*provided...*

#### **Special Rates.**

*A sc 41/69*  
71. Subject to the provisions of this Part a council may, for the purposes of recovering in whole or in part the expenses incurred by it in executing any works, make and levy a special rate upon the owners of rateable land in that portion of the council area which derives special benefit from such works and make and levy different special rates in respect of different classes of rateable land in that portion of the council area. In determining such different special rates, the council shall have regard to the factors mentioned in regulation 70(2). *by bye-law*

#### **When Rates are Due and Payable.**

72. Every rate assessed by a council shall become due and payable by the owner upon a day to be fixed by the council, of which day and the amount of such rate, a council shall give at least thirty days' notice by publication in the *Gazette* and in such other manner as the council by resolution directs.

#### **To Whom Rates to be Paid.**

73. Whenever the council has given such notice as provided in regulation 72 of the day on which any rate will become due and payable, it shall be the duty of the persons liable for such rate to pay the amount thereof to the Town Clerk or any collector duly authorised by the council to collect and receive the same, failing which defaulters shall be liable to legal proceedings for the recovery of the amounts due by them :

provided that the council may accept payment of any rate by installments in such equal or varying amounts as may be determined by it and on such conditions as it may specify.

#### **Rate Recoverable by Action in Subordinate Court.**

74. (1) Any rates assessed as aforesaid and unpaid after the expiration of such notice as aforesaid shall be recoverable at the suit of the council area is situated, whether the person liable for the same is resident within the jurisdiction of such court or not.

(2) If the person proceeded against is not resident within the jurisdiction of the subordinate court for the district in which the council area is situate the summons directed to him may be served upon him

by a messenger of the subordinate court of the district in which he is found or upon the person, if any, receiving any rents or profits of the rateable land in regard to which the rate alleged to be due is claimed, or who would receive the same if such rateable land were let or occupied.

**Evidence of Rate.**

75. In any proceeding to levy or recover rates or consequent on the levying or recovering of any rates under the provisions of these regulations, the valuation rolls and records of the council, and all entries purporting to be made therein in manner by these regulations required, extracts or certified copies thereof signed by the Town Clerk, shall, upon the production thereof, be *prima facie* evidence of such rate and the contents thereof without any evidence that the notices required by or other requirements of these regulations have been complied with:

provided that it shall be competent for any person proceeded against to offer evidence to prove the contrary.

**When Owner Liable to Pay Portion Only of Rate.**

76. When the owner who is liable to pay any rate ceases to be the owner of the land in respect whereof he is rated before the end of the year in which such rate was made, such owner shall be liable to pay a portion only of the rate payable proportionate to the time during which he continued to be the owner, and any person who is the owner of the land during the remainder of the year shall be liable to pay a portion of such rate in proportion to the time during which he is such owner, and the same shall be recovered from him in the same manner as if he had been originally rated for such land.

**Payment of Rate by Occupier.**

77. When the owner of any rateable land has been rated in respect thereof, and the rate remains unpaid for three months, the council, or its collector as aforesaid may, at any time within twelve months after imposing the rate, demand the amount of such rate or any part thereof from the occupier for the time being of such rateable land. No right of action shall lie against such occupier by the council for the amount demanded but such occupier may pay such amount. Every such occupier shall be entitled, subject to any agreement to the contrary, to deduct from any rent payable by him to any such owner, so much as was so paid by him; and the production of the receipts for such rates so paid by the occupier shall, subject as aforesaid, be a good and sufficient discharge for the amount so paid as payment of rent to the owner.

**Refusal by Occupier to disclose the Name of the Owner.**

78. If, on the request of the council or any collector of rates duly authorised as such, the occupier of any land refuses or wilfully omits to disclose, or wilfully misstates to the council or collector making such request, the name and address of the owner of such land, or of the person receiving or authorised to receive the rents of the same, he shall be guilty of an offence and liable on conviction to a fine not exceeding twenty-five rand.

#### **Interest on Unpaid Rates.**

79. In case any rates made or levied under the provisions of these regulations remain unpaid after three months from the date fixed by the council for the payment thereof interest upon such rates shall be chargeable and recoverable by such council at the rate of ten per centum per annum, reckoned from the date upon which such period of three months has expired.

#### **Transfer of Ownership of Property.**

80. Whenever as a consequence of any change of ownership of any land or for any other reason, liability to pay the rate in respect of such land is transferred the person whose liability is transferred shall unless and until he notifies the Town Clerk in writing of such transfer, continue to be liable for the rate as if such transfer had not occurred :

provided that nothing in this regulation shall affect the liability of any transferee to pay the rate due after such transfer as aforesaid.

#### **Abatement of Rates.**

*A. S.C. 41/64*

81. Whenever the council assesses the rate to become due and payable upon a day to be fixed by the council, it shall be lawful for such council by ~~resolution duly passed~~ *bye-law duly made* of such rate such abatement of the amount thereof as it deems fit : provided that —

- (i) such abatement shall apply *pari passu* to all persons liable for such rate ;
- (ii) ~~notwithstanding such resolution~~ *such bye-law shall direct that* no such abatement shall be allowed in whole or in part to any person who does not pay the the rate as assessed at the office of the council on or before the date fixed as aforesaid for the payment thereof ; and
- (iii) the council may refuse an abatement of rates in respect of any land liable for arrear rates.

#### **Council Empowered To Write Off Rates.**

82. It shall be lawful for the council to write off any rates which have been in arrear and which are deemed by the council to be irrecoverable.

#### **Council May Grant Leases of Unoccupied Property.**

83. Where any rateable land in any council area is unoccupied, and the rates thereon accrued under these regulations have been unpaid for five years, the council may take possession of such land and grant leases of the same subject to the provisions of these regulations.

#### **Term and Rent.**

84. Every such lease shall be for such term, not exceeding three years, as the council may deem fit, and shall be granted for the best rent which may reasonably be had for such land and subject to such conditions as the council may determine.

**Condition Precedent.**

85. The council shall not take possession of any such land until three months after a notice in writing, setting forth the rates in respect of such land as are unpaid, and demanding payment thereof, and stating that, in default of payment the council will take possession of such land under the provisions of these regulations, has been served upon the owner of such land, if he is within Bechuanaland and his name and address are known to the council, or if there is no such owner so known until such notice has been affixed to some conspicuous place on such land and published in the Gazette at least once a month during three months; and every such notice shall contain sufficient description of the land to identify the same.

**Resumption of Possession by owner.**

86. Within three months after demand by the owner of any land taken possession of by the council as aforesaid, made within thirty years after the date of taking possession, and after payment of all arrears of rates due in respect thereof and interest upon all such arrears at the rate of ten per centum per annum, such owner shall be entitled to resume possession of such land, subject to the terms of any lease theretofore lawfully granted by such council under the provisions of these regulations.

**Application of Moneys Received under Leases by the Council.**

87. All rent, and all other moneys payable under any such lease, shall, until the payment of all arrears and interest as aforesaid by the owner, or the expiration of thirty years from the date of taking possession of such land by the council, whichever first happens, be received by the council and shall be applicable —

- (a) in defraying the expenses of and incidental to the giving of the notices as aforesaid, and the execution of such lease and the collection of the rents;
- (b) in payments to the council of all arrears of rates and other payments due in respect of such land, together with interest on all arrears of rates at the rate of ten per centum per annum, from the time when interest upon such rates accrues respectively, and in payment of all rates and other payments becoming due thereon;

and the residue of such money shall belong to such person as would have been entitled to receive the rents or profits of such land if these regulations had not been brought into operation.

**PART VII**

**REVENUES OF COUNCILS, ACCOUNTS AND AUDIT**

**Revenues of Councils.**

88. The revenues of a council shall consist of —

- (a) such Local Government tax as the council is authorised by law to collect from the inhabitants of the Council area;
- (b) such rates as the council is authorised by law to impose;
- (c) rents from property owned or administered by the council;
- (d) all moneys derived from licences or permits issued by the council and all taxes, dues and fees imposed under lawful authority by the council;
- (e) interest or investments;
- (f) such royalties as may by law be payable to or receivable by the council;
- (g) donations, contributions and endowments;
- (h) reimbursements;
- (i) such grants as the Government may make to the council;
- (j) any other moneys which may by law be paid to or received by the council.

**General Funds.**

89. (1) Every council shall establish and maintain a general fund and all moneys received by the council by way of revenue shall be paid into such fund, and all expenses incurred by the council in the execution of the powers and duties conferred upon it by or under the provisions of these regulations shall be defrayed out of such fund.

(2) The Minister acting in accordance with the advice of the Minister of Finance may from time to time issue instructions with regard to the general management, supervision and control of general funds established under the provisions of sub-section (1).

**Bank Account and Investments.**

90. (1) Every council shall open and maintain an account at a bank, and shall operate such account in such manner as may be prescribed. A council may obtain overdraft facilities from its bank, provided that no overdraft shall at any one time exceed in all an amount equal to one-third of the revenue (excluding grants) received by the council during the preceding financial year, save with the written approval of the Minister acting in accordance with the advice of the Minister of Finance.

(2) A council may invest all or any part of its moneys in such manner as the Minister acting in accordance with the advice of the Minister of Finance may approve.

**Borrowing Powers.**

91. (1) A council may raise loans of such amounts, in such manner, for such purposes, and upon such conditions as the Minister acting in accordance with the advice of the Minister of Finance may in each case approve.

(2) Such loans shall be secured on the revenue and assets of

the council.

(3) The interest for the time being payable in respect of any moneys borrowed by the council shall be a first charge on the revenue and assets comprising the security for such moneys.

#### **Accounts and Audit.**

92. (1) Every council shall cause true accounts to be kept in accordance with such instructions as may from time to time be issued by the Minister.

(2) Within such period as may be prescribed by the Minister from the end of each financial year, every council shall cause its accounts for the preceding financial year to be balanced, and an annual statement or abstract of such accounts to be prepared.

(3) Such accounts, with all books, vouchers and papers relating thereto, with a copy of such annual statement or abstract shall be audited by an auditor appointed by the Minister.

(4) (a) When such accounts, annual statement or abstract are laid before an auditor, such auditor shall make and sign a report in duplicate on such accounts and annual statement or abstract, and shall send one copy to the council, and the duplicate copy, together with a copy of such annual statement or abstract to the Minister.

(b) Every council shall, for a period of not less than one month prior to the audit of its accounts, and at such places as may be prescribed by the Minister, deposit for inspection the annual statement or abstract, and any person interested may without payment inspect such documents.

(c) Such documents shall be further deposited for inspection within six months after the close of the financial year to which the accounts relate, or within two months of the receipt of the auditor's report whichever may be the earlier.

(d) A notice giving information of the dates when such documents will be available for inspection shall be posted at such places as the Minister may direct.

Every council shall permit the auditor to check any cash, and verify the existence of any investments or other assets in its possession and to have access to all its accounts and all books, vouchers and papers relating thereto.

#### **Copies of Statement and Report to be Supplied.**

93. A copy of such annual statement or abstract and of the auditor's report shall be furnished to any inhabitant of the area upon payment of such fee, if any, not exceeding .20c as may be fixed by resolution of the council.

#### **Disallowance and Surcharge.**

94. (1) The auditor may make objection in writing to any item of expenditure, and shall report such objection to the Minister.

(2) The auditor shall disallow any such item of expenditure or any part of such item on the ground that the expenditure is wrongful or unreasonable or on any other ground, and the auditor may by order in writing surcharge any person as the person responsible for the payment of any such item having been made.

(3) If it shall appear to the auditor that any failure to collect money due, or any loss of money or damage to the property of a council has occurred through the wilful or negligent or wrongful act of any member or employee of the council he shall by order in writing surcharge the amount thereof on any member or employee who, in the opinion of the auditor, is so responsible.

(4) On ordering such surcharge, the auditor shall forthwith report in writing to the Minister the details thereof, and the Minister may confirm the surcharge or remit all or any portion thereof as he may deem fit.

(5) Any sum so surcharged on any person shall be deemed to be a debt due to the council.

#### **Financial Year.**

95. The financial year of every council shall be from the first day of April to the thirty-first day of March in every year.

#### **Annual Estimates.**

96. (1) Every council shall, after considering a report from its Finance Committee, at least three months before the beginning of any financial year prepare and approve by resolution detailed estimates of its revenue and expenditure for the forthcoming financial year, and shall submit such estimates together with a copy of such resolution for the approval of the Minister, who may either approve the estimates as submitted, or disallow such estimates in whole or in part, or refer such estimates back to the council for further consideration.

(2) A council may in any financial year prepare and approve by resolution supplementary estimates of revenue and expenditure. If the supplementary estimates include expenditure in excess of ten per cent of an approved head under the annual estimates, or includes expenditure not contained in the annual estimates or expenditure which cannot be met from revenue available to the council, the supplementary estimates together with a copy of the resolution, approving them shall be submitted for the approval of the Minister, who may approve or disallow the supplementary estimates either wholly or in part.

(3) A council shall not, except with the approval of the Minister first had and obtained, incur any expenditure which has not been included in the estimates or supplementary estimates of the council, duly approved where necessary by the Minister, but may, after considering a report of its finance committee, and with the approval of the Minister, make reallocations of any sum contained in such approved estimates:

Provided that any person designated for the purpose in writing by the Minister, may, within such limits as the Minister may direct, approve reallocations without reference to the Minister.

## **PART VII**

### **DISSOLUTION OF COUNCILS**

#### **Her Majesty's Commissioner May Dissolve a Council.**

97. Notwithstanding anything in these regulations contained, Her Majesty's Commissioner may by order published in the *Gazette* dissolve any council, and thereupon all members thereof shall cease to hold office; and Her Majesty's Commissioner may thereupon by further order published in the *Gazette* appoint other persons to form a Commission, and every such Commission shall have the status of the council which has been dissolved and may exercise all the powers and authorities vested in such council :

Provided that, before exercising the powers conferred by this section, Her Majesty's Commissioner may direct such enquiry to be held as he may think necessary, and at any such enquiry the council in question or any employee of such council, or any member of the public who has been assessed for Local Government tax within the area of the council, or held liable to pay rates to the council shall be entitled to be heard.

#### **Suspension of a Member of a Council.**

98. Notwithstanding any other provision contained in these regulations, the Minister may by order published in the *Gazette* suspend any member of any council, and thereupon such member shall, during such suspension, cease to hold office; and the Minister may also declare the seat of any such member to be vacant.

## **PART IX**

### **MISCELLANEOUS**

#### **Power of Entry.**

99. Any employee of a council, duly authorised for the purpose by the council in writing, may at all reasonable times enter into or upon land or premises within the council area or part thereof for the purpose of carrying out any duty imposed by this Law and specified in such authorisation.

#### **Authentication of Orders.**

100. Every order, notice or other document requiring authentication by the council may be sufficiently authenticated if signed by the Town Clerk and countersigned by the Mayor or any other person duly authorised by the Mayor.

### **Service of Notice.**

101. Any notice or order under these regulations or under any bye-law made hereunder may be wholly or in part in printing or in writing, or both, and where any notice or order is required to be given to the owner or occupier of any land or premises such notice or order, addressed to the owner or occupier thereof, as the case may require, may be served on the occupier of such land or premises, or left with some inmate of his abode, or if there is no occupier, may be put on some conspicuous part of such land or premises, and it shall not be necessary in any such order or notice to name the occupier or owner of such land or premises :

Provided that when the owner of any such land or premises and his residence are known to the council it shall be the duty of the council to cause every notice or order required to be given to the owner to be served on such owner, or to send every such notice or order by registered post, addressed to the residence or postal address of such owner.

### **Penalty for Obstruction.**

102. Every person who at any time obstructs the council or the Town Clerk or any person employed by the council or acting under the directions of the council in the performance of anything which they are respectively empowered or required to do by these regulations or by any bye-laws made hereunder or any other law shall be guilty of an offence and liable on conviction to a fine not exceeding one hundred rand or in default of payment thereof to imprisonment not exceeding one hundred rand or in default of payment thereof to imprisonment not exceeding three months.

### **Recovery of Government Expenditure.**

103. (1) If the Government of Bechuanaland has expended public funds or incurred any liability as a result of a resolution of a council under which the council has undertaken to pay the Government of Bechuanaland a capital or recurrent contribution from its funds, Her Majesty's Commissioner may, if the council fails to make due payment in accordance with the provisions of such resolution order that such payment be made from the funds of the council, and that any rate or tax necessary to produce the sum required shall be imposed upon and collected from the rateable or taxable inhabitants of the council area, or the part thereof concerned.

(2) If Her Majesty's Commissioner is satisfied that a judgment for the payment of money has been given by a competent Court against a council, or that for good and sufficient reason money is due from and payable by a council, and the council fails to make due payment, he may order that such payment be made from the funds of the council and that any rate or tax necessary to produce the sum required shall be imposed upon and collected from the rateable or taxable inhabitants of the council area or the part thereof concerned.

### **Revocation.**

104. The regulations named in the **Second** Schedule are hereby revoked.

*This is 57 72/67*

*4 2 2  
2 2 2  
6/66*

**FIRST SCHEDULE**  
*regulation 24 SI 72/67*  
**(regulations 29 and 31)**

**FUNCTIONS WHICH MAY BE CONFERRED ON COUNCILS**

**Education.**

1. To provide primary school and other educational services in relation to primary education.

**Health and Education.**

2. (1) To provide sanitary services for the removal and destruction of, or for otherwise dealing with, night soil and refuse.

(2) To take steps in addition to those taken by any other authority to safeguard and promote public health and prevent the occurrence of or to deal with any outbreak or prevalence of any disease.

(3) To provide public lavatories.

(4) to prevent the breeding of disease carrying animals and insects.

**Communications.**

3. To make, alter and maintain public roads and streets other than those the maintenance of which has been undertaken by the Government, and to name all roads and streets within the council area

**Water Supplies.**

4. To provide public water supplies outside any area for which a Water Authority has been appointed by law.

**General Administration.**

*Repealed SI 72/67*

5. ~~(1) to provide for the protection of common property.~~

~~(2) To control and protect common lands and pastures.~~

~~(3) To establish, maintain and control common markets.~~

~~(4) To establish, maintain and control recreation grounds.~~

~~parks and other public places and to provide for the planting and protection of plants and shrubs.~~

~~(5) To establish, maintain and control stockyards, pens and dipping tanks.~~

~~(6) To collect and dispose of stray livestock or other domestic animals.~~

~~(7) To establish, maintain and control cemeteries and burial grounds.~~

~~(8) To control or prevent advertising, dangerous trades, nuisances, noises and street collections.~~

~~(9) To regulate, control and license laundries.~~

~~(10) To regulate the keeping of domestic or wild animals or bees, poultry or pigeons; to fix a minimum size of the stand lot, premises or areas upon which such animals may be kept and to prohibit the use of any stable, cowshed, pen or sty which in the opinion of the council is unfit, undesirable or objectionable by reason of its locality, condition or manner of use.~~

~~(11) To provide services or assist in the provision of services giving relief from or attempting to avert any natural calamity.~~

~~(12) To assist associations existing for the promotion of recreation and sport, art and crafts or for the welfare of children or young persons or for the relief and support of blind, infirm, indigent, aged or destitute persons.~~

**Commercial.**

6. To enter into contracts or concessions for the sale of land or premises or of any interest therein.

**Implementation of Bye-Laws.**

7. To carry into effect any bye-laws made by the council.

**Council and Staff.**

8. To secure the proper working of the council (and any committees thereof) and the welfare of its employees.

*Items q v re added SI 72/67*

*→ Item 12 SI 41/69*

*Second Schedule amended SI 72/67*

*Third SI 72/67*

**SECOND SCHEDULE**

*Repealed by LN 61/86*

(regulation 104)

Tatitown Township Regulations, 1962 (G.N. No. 64 of 1962).

Francistown Township Regulations, 1962 (G.N. No. 65 of 1962).

Gaberones Township Regulations, 1964 (G.N. No. 101 of 1964).

**G. WINSTANLEY,**

for Secretary to the Cabinet

Cabinet Office,  
GABERONES.