

Statutory Instrument No. 41 of 1969

THE TOWNSHIPS PROCLAMATION (CHAPTER 120)

**THE TOWN COUNCIL (AMENDMENT NO. 2) REGULATIONS
1969**

(Published on 21st March, 1969)

In the exercise of the powers vested in him by section 2 of the Townships Proclamation (Chapter 120) His Excellency the President makes the following Regulations —

Citation

1. These Regulations may be cited as the Town Council (Amendment No. 2) Regulations, 1969.

Amendment of Regulation 10 in Legal Notice No. 37 of 1966

2. Regulation 10 of the Town Council Regulations, 1966 (hereinafter referred to as the principal regulations) is amended by the addition of the following subregulation, the present regulation becoming subregulation (1) —

“(2) Any member of the Council who contravenes this regulation by failing to disclose his interest or by participating without due leave in the consideration of or decision upon a contract, proposed contract or other matter shall be guilty of an offence and liable on conviction to a fine of R200 or, in default of payment, to imprisonment for not more than six months or to both such fine and such imprisonment, and the Court before which he is convicted may order that he shall account to the Council for any profits which may accrue or have accrued to him in respect of such contract or other matter, and that he shall vacate his seat, and his seat shall thereupon become vacant:

Provided that if it be proved by such member that his omission to disclose or his participation was not due to any want of good faith, he shall be deemed not to have contravened this regulation.”

Repeal of Regulation 36 in Legal Notice No. 37 of 1966

3. Regulation 36 of the principal regulations is repealed. repealed.

Substitution of Regulation 39 in Legal Notice No. 37 of 1966

4. Regulation 39 of the principal regulations is deleted and the following substituted —

“Contracts for more than R100

39. (1) If the liability of a Council under any contract for the supply of any goods or materials or the execution of any works or the provision of any services, other than professional services, for or to the Council is to exceed R100 but not R1,000, the contract shall be in writing and the Council shall not enter into it without inviting at least three quotations.

(2) This regulation, and regulation 39A, shall not apply to any contract for the purchase by a Council of perishable goods bought on a public market or any purchase entered into by a Council as the result of bidding at a public auction.”.

Insertion of Regulations 39A – J inclusive into Legal Notice No. 37 of 1966

5. The principal regulations are amended by the insertion of the following regulations after regulation 39 as substituted —

“Contracts for more than R1,000

39A. If the liability of a Council under any contract for the supply of any goods or materials or the execution of any works on the provision of any services, other than professional services, for or to the Council is to exceed R1,000 the contract shall be embodied in a formal document approved by the Council and the Council shall not enter into it without inviting tenders.

Three Quotations or Tenders to be Considered

39B. Where under the provisions of these regulations or any other law a Council may not enter into a contract without inviting quotations or tenders, as the case may be, it shall not be competent for the Council to enter into such a contract except after consideration of at least three quotations or at least three tenders, as the case may be, unless for good and sufficient reasons recorded in the Council's Minutes three quotations or cannot be obtained.

Notice calling for Tenders to be Published and Posted

39C. (1) Whenever a Council is required to invite tenders in terms of regulation 39A it shall, in addition to any individual invitation it may issue, call for tenders by notice published in the *Gazette* and in a newspaper circulating in Botswana, which notice shall also be posted at the Council's offices on a notice board prominently open to public inspection.

(2) Such publication and posting shall be effected twenty-eight clear days before tenders are to be considered on behalf of the Council.

Contents of Notice and Delivery of Tenders

39D. (1) Any notice published and posted as in regulation 39C required, and any individual invitation for tenders, shall call for tenders to be delivered to the Town Clerk by a specified time and a specified date, not being less than fourteen days after the date when the notice is last published or posted, in plain sealed envelopes marked “Tender for”.

(2) All tenders shall be delivered by the time specified to the Town Clerk in plain sealed envelopes marked as aforesaid.

Particulars of Contract to be Supplied

39E. The Council shall not enter into any contract to which regulation 39A applies unless full and identical particulars have been supplied to every person who, not later than three days after the notice calling for tenders was last published or posted applies to the Council therefor; such particulars shall be supplied to the applicants by the Council within seven days after the said notice as last published or posted.

Opening of Tenders

39F. (1) All tenders for any one contract shall be opened at one time in the presence of the Council, or a committee thereof duly appointed by the Council, and the Town Clerk.

(2) Notwithstanding anything in regulation 20, any meeting of the Council, or a committee thereof duly appointed by the Council, at which tenders are opened shall be open to the members of the public.

(3) No later than seven days before any such meeting is held, written notice thereof shall be posted by the Town Clerk to every person who has informed the Council in writing of his wish to receive such notice.

Quotations and Tenders to be Considered by Council or Committee

39G. (1) Whenever a Council is required to invite quotations or tenders, those which have been received shall be placed before the Council, or a committee thereof duly appointed by the Council, and be by it considered.

(2) For the purpose of considering quotations or tenders the Council or a Committee as aforementioned, shall have power to obtain professional or technical advice.

Matters to be taken into Account

39H. (1) In considering quotations or tenders a Council shall take into account the contractual reliability of the tenderers or the persons submitting quotations as well as the need to achieve economy, efficiency and the development of Botswana industries.

(2) A Council is not obliged to accept the lowest or any tender or quotation but in any case where the lowest quotation is not accepted the reasons why it is not accepted shall be recorded in the Council's Minutes, and where the lowest tender is not accepted, the Council shall report the reasons why it is not accepted to the Minister.

Signature of Contracts

39I. Contracts required by these regulations to be in writing or to be embodied in a formal document shall be signed on behalf of a Council by the Chairman, or by the Chairman of the committee concerned (if any), and by the Town Clerk.

Tenderers to be Informed

39J. When the Council has decided upon the question of acceptance of tenders it shall forthwith inform the tenderers, whether successful or unsuccessful, of the result."

Amendment of Regulation 53 in Legal Notice No. 37 of 1966

6. Regulation 53 of the principal regulations is amended in subregulation (3) by the deletion of the words "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."

Amendment of Regulation 58 in Legal Notice No. 37 of 1966

7. Regulation 58 of the principal regulations is amended —

- (a) in subregulation (1) by the deletion of the words "owner or occupier of land included in such roll" and the substitution of "ratepayer";
- (b) in subregulation (2) by the deletion of the words "owners of land" and the substitution of "ratepayers", and by the deletion of the words "owned by them".

Amendment of Regulation 59 in Legal Notice No. 37 of 1966

8. Regulation 59 of the principal regulations is amended by the deletion in sub-regulation (1) of the word "owner" wherever it occurs and the substitution of the word "ratepayer".

Repeal of Regulation 61 in Legal Notice No. 37 of 1966

9. Regulation 61 of the principal regulations is repealed.

Amendment of Regulation 62 in Legal Notice No. 37 of 1966

10. Regulation 62 of the principal regulations is amended by the repeal of sub-regulation (1) and the substitution of the following —

" (1) On the determination by the Valuation Court of any matter under this part any party who is dissatisfied may within one month appeal to the High Court whose decision shall be final and without appeal."

Repeal of Regulation 63 in Legal Notice No. 37 of 1966

11. Regulation 63 of the principal regulations is repealed.

Amendment of Regulation 70 in Legal Notice No. 37 of 1966

12. Regulation 70 of the principal regulations is amended —

(a) in subregulation (1) —

(i) by the insertion after the word "levy" of the words "by bye-law";

(ii) by the insertion after the words "Council area" of the words "which shall not in any one year exceed two per cent of the value of the land excluding improvements, or one per cent of the value of the land including improvements";

(iii) by the deletion of "in which amount" and the substitution of "in such amounts";

(b) in subregulation (4) —

(i) by the insertion after the word "levy" of the words "by bye-law";

(ii) by the addition of the following proviso —

" Provided that the limits on the annual rate specified in subregulation (1) shall in no case be exceeded."

Amendment of Regulation 71 in Legal Notice No. 37 of 1966

13. Regulation 71 of the principal regulations is amended —

(a) by the insertion after the words "this Part" of the words —

"and provided that the limits on the annual rate specified in subregulation (1) of regulation 70 shall in no case be exceeded"; and

(b) by the insertion after the word "levy" wherever it occurs of the words "by bye-law".

Amendment of Regulation 81 in Legal Notice No. 37 of 1966

14. Regulation 81 of the principal regulations is amended —

(a) by the deletion of the words "resolution duly passed" and the substitution therefor of the words "bye-law duly made"; and

(b) by the deletion in proviso (ii) of the words "notwithstanding such resolution" and the substitution therefor of the words "such bye-law shall direct that".

Amendment of Second Schedule to Legal Notice No. 37 of 1966

15. The Second Schedule to the principal regulations is amended by the addition of the following item —

" 12. To fix and levy rates upon land, which may include different rates upon different classes of land, for municipal purposes."

A.M. MOGWE,
Permanent Secretary.

Office of the President,
GABERONES.
11th March, 1969.
L2/7/99