

INDEPENDENT STATE OF PAPUA NEW GUINEA.

CHAPTER NO. 57.

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INDEPENDENT STATE OF PAPUA NEW GUINEA.

CHAPTER NO. 57.

Local Government Act.

Being an Act relating to Local Government.

PART I.—PRELIMINARY.

1. Interpretation.

(1) In this Act, unless the contrary intention appears—

“Adviser”—

- (a) in relation to a Council—means an Adviser appointed for the Council under Section 6; and
- (b) in relation to a Local Government Authority—means an Adviser appointed for the Authority under Section 6 as applied to and in relation to Local Government Authorities by Section 131;

“agreement worker” means an agreement worker as defined in the *Native Employment Act 1958* (Adopted);

“associate member”, in relation to a Ward Committee, means a person elected as an associate member of the Committee under Division V.4;

“auditor”—

- (a) in relation to a Council—means the auditor appointed for the Council under Section 104; and
- (b) in relation to a Local Government Authority—means the auditor appointed for the Authority under Section 104 as applied to and in relation to Local Government Authorities by Section 131;

“Board of Management”, in relation to a Council, means the Board of Management appointed for the Council under Section 107;

“the Commissioner” means the Commissioner for Local Government appointed under Section 3;

“the constituent proclamation”—

- (a) in relation to a Council—means the proclamation or proclamations made under Part IV. relating to the Council, as affected by—
 - (i) any proclamation made under or in accordance with Part IX; or
 - (ii) any regulations made in accordance with Part IX; and
- (b) in relation to a Local Government Authority—means the proclamation or proclamations made under Part IX. relating to the Authority, as affected by any regulations made in accordance with that Part;

“Council” means a Local Government Council;

“Council area”, in relation to a Council, means the area in and for which the Council is established;

“Council Clerk”, in relation to a Council, means the Council Clerk, Town Clerk or Executive Officer appointed for the Council;

"Council officer", in relation to a Council, means—

- (a) a member of the Local Government Service employed by the Council under Section 25 of the *Local Government Service Act*; or
- (b) a person appointed for the Council under Section 117; or
- (c) a person employed by the Council who is declared under Section 118(2) to be a Council officer for the purposes of this Act; or
- (d) an officer of the Public Service seconded to the Council under Section 119;

"Deputy Commissioner" means a Deputy Commissioner for Local Government appointed under Section 4;

"election" means an election of a Councillor or Councillors;

"fiscal year" means the period of 12 months commencing on each 1 January;
(Amended by No. 7 of 1978, s. 1.)

"home", in relation to a person, means—

- (a) all areas of customary land on which he may, by custom, build or occupy a house or garden, whether in his own right or in right of his wife or a relative; or
- (b) all areas of customary land owned by a linguistic or cultural group with which he or his wife has customary affiliations involving usage rights in land; or
- (c) all areas of land leased or held in freehold by him or his wife under any law; or
- (d) while he is under the lawful control of a person—any residence of that person; or
- (e) in any particular case where Paragraph (a), (b), (c) or (d) is not appropriate—any other place with which he or his wife has connexions such that it should reasonably be regarded as his home;

"liquidator"—

- (a) in relation to a Council—means the liquidator of the Council appointed under Section 109; and
- (b) in relation to a Local Government Authority—means the liquidator of the Authority appointed under Section 109 as applied to and in relation to Local Government Authorities by Section 131;

"the *Local Government Gazette*" means the *Papua New Guinea Local Government Gazette*;

"Manager"—

- (a) in relation to a Council—means the Manager for the Council appointed under Section 107; and
- (b) in relation to a Local Government Authority—means the Manager appointed for the Authority under Section 107 as applied to and in relation to Local Government Authorities by Section 131;

"officer", in relation to a Local Government Authority, means—

- (a) a member of the Local Government Service employed by the Authority under Section 25 of the *Local Government Service Act*; or

- (b) a person appointed for the Authority under Section 117 as applied to and in relation to Local Government Authorities by Section 131; or
- (c) a person employed by the Authority who is declared under Section 118(2), as so applied, to be an officer for the purposes of this Act; or
- (d) an officer of the Public Service seconded to the Authority under Section 119, as so applied;

"ordinarily resident" means resident for more than six months in the preceding 12 months;

"owner", in relation to land the subject of a granted application for a State lease, means the person entitled to the issue of a lease;

"registered building" means a structure in a Council area that is used or capable of being used—

- (a) for human habitation; or
- (b) for a commercial purpose,

and that is registered in accordance with the rules of the Council for taxing purposes;

"registered occupier" in relation to a registered building, means the person who is registered in accordance with the rules of the Council as the occupier of a registered building;

"the regulations" means any regulations made under this Act;

"the Secretary", in relation to a Local Government Authority, means the Secretary appointed for the Authority under Section 117 as applied to and in relation to Local Government Authorities by Section 131;

"this Act" includes the regulations;

"unimproved value" has the same meaning as in the *Valuation Act*;

"urban area" means an area declared to be an urban area under Section 74;

"Ward Committee" means a Ward Committee established under Section 39.

(2) For the purposes of this Act, a person employed as an agreement worker under the *Native Employment Act 1958* (Adopted) shall be deemed to continue to reside and to be ordinarily resident in the Council area in which his home is situated during the continuance of the employment and of any continuing agreement within the meaning of that Act.

PART II.—EVOLUTION OF COUNCIL AUTHORITY.

2. Lifting of controls.

(1) Where, by or under this Act, the Head of State, the Minister or the Commissioner, an Adviser or any other officer has power to intervene in the affairs of a Council whether by virtue of a requirement of his approval of, or his certifying to, an act, matter or thing or otherwise, the Head of State, acting on advice, may, at the request of a Council or otherwise, by proclamation withdraw, suspend or restrict the exercise of that power—

- (a) absolutely or conditionally; or
- (b) generally,

in relation to a particular Council or to a particular act, matter or thing or a class of acts, matters or things.

(2) Subsection (1) does not abrogate the powers, functions or authority of an auditor, liquidator or Manager.

PART III.—ADMINISTRATION.

3. The Commissioner.

There shall be a Commissioner for Local Government, who shall be appointed by the Head of State, acting on advice, by notice in the National Gazette.

4. Deputy Commissioners.

(1) The Minister may, by notice in the National Gazette, appoint officers to be Deputy Commissioners for Local Government.

(2) A Deputy Commissioner is not eligible to hold any other office under this Act in relation to a Council.

5. Delegation.

The Commissioner may, by instrument under his hand, delegate to a Deputy Commissioner all or any of his powers and functions under this Act (except this power of delegation).

6. Advisers.

(1) The Minister may, of his own motion or at the request of the Council, by notice in the National Gazette—

(a) appoint for a Council—

(i) a Local Government Adviser; and

(ii) a Legal Adviser; and

(iii) such Specialist Advisers as he thinks necessary; and

(b) define the subject-matter of each Adviser.

(2) An Adviser shall—

(a) advise and assist the Council in matters relating to his subject-matter; and

(b) perform such other duties and functions in relation to the Council as are prescribed or as the Minister directs.

(3) An Adviser is entitled to attend meetings of the Council or of Committees of the Council and to take part in debate, but is not entitled to vote and shall not be counted towards a quorum.

(4) An Adviser shall present to the Minister, at least once in every year at such time as is directed by the Minister, a report reviewing the operations of the Council during the period since the last such report (if any).

7. Inspection, etc.

The Minister or an officer authorized by him for the purpose may at any time—

(a) inspect and take extracts from any books, accounts or records kept or held by a Council, other than books, accounts or records kept or held under any other Act; and

(b) enter on and inspect any land, building, premises, or machinery or thing owned or controlled by the Council or in which the Council has an interest.

8. Appeals.

(1) A person (including a Council) aggrieved by a decision of the Minister under Section 22 may appeal to a Judge, whose decision is final¹.

(2) A person (including a Council) aggrieved by a decision of the Commissioner under this Act may appeal to the Minister, whose decision is final¹.

9. Annual reports.

(1) The Minister shall present to the Parliament, on or before 31 May in each year, a report reviewing the operation of this Act and of the Local Government system, and drawing attention to any measures that are, in his opinion, desirable for achieving the purposes of this Act and for improving the operation of that system.

(2) Each Council shall, on or before 31 March in each year, present to the Minister, for presentation to the Parliament, a report reviewing the operations of the Council during the previous fiscal year.

(Amended by No. 7 of 1978, s. 2.)

PART IV.—ESTABLISHMENT, ETC., OF COUNCILS.

Division 1.—General.

10. Establishment, etc., of Councils.

The Head of State, acting on advice, may, by proclamation, establish a Local Government Council in and for the area described in the proclamation.

11. Constitution of Councils.

(1) In the proclamation establishing a Council or by a subsequent proclamation, the Head of State, acting on advice, may make provision for—

- (a) the manner in which the Council is to be constituted; and
- (b) the wards into which the Council area is divided; and
- (c) the manner of election to the Council.

(2) This Act does not prevent—

- (a) the whole of a Council area being proclaimed a single ward; or
- (b) a ward being constituted by two or more other wards.

12. Incorporation of Councils.

A Council—

- (a) is a corporation; and
- (b) has perpetual succession; and
- (c) shall have a seal; and
- (d) subject to this Act, has power—
 - (i) to acquire, hold, dispose of, mortgage or pledge property; and
 - (ii) to enter into contracts; and
 - (iii) to borrow money; and
 - (iv) to invest funds; and
 - (v) to institute and defend actions, suits and other legal proceedings; and

¹But see Constitution, Section 155.

- (vi) to do all other things necessary for the purposes of its functions and duties.

13. General authority of Councils.

(1) Subject to Subsection (2), a Council has and may exercise such powers and authority as are provided by or under this Act and any other law.

(2) The Head of State, acting on advice, may, in the proclamation establishing a Council or by a subsequent proclamation, limit or restrict the powers, functions or authority of a Council.

Division 2.—Variation, Subdivision and Amalgamation.

14. Variation, etc.

(1) After consultation by the National Executive Council with the Council or Councils concerned, the Head of State, acting on advice, may, by proclamation—

- (a) vary the area in and for which a Council is established; or
- (b) divide a Council area, in whole or in part, between two or more Councils; or
- (c) amalgamate, in whole or in part, two or more Councils.

(2) Notwithstanding Subsection (1), after consultation by the National Executive Council with the Council concerned the Minister may, by proclamation—

- (a) change the name of a Council; or
- (b) vary the constitution of a Council; or
- (c) extend the term of office of all or any Councillors; or
- (d) vary the wards into which the Council area is divided.

(3) In a proclamation under Subsection (1) or (2) or by a subsequent proclamation, the Head of State, acting on advice, or the Minister, as the case may be, may make provision for—

- (a) the continuance in office of all or any Councillors, but not beyond the end of one year after the end of their current term of office; and
- (b) the reduction of the terms of office of all or any Councillors; and
- (c) the appointment or election and the first term of office of new Councillors; and
- (d) the taking over by the State or by another Council of the whole or part of the assets and liabilities of a Council; and
- (e) the continuance, extension or amendment of all or any rules made by a Council; and
- (f) effectuating generally the variation, amendment, division or amalgamation.

(4) Failure by the National Executive Council or the Minister, as the case may be, to consult with the Council or Councils concerned, as required by Subsections (1) and (2), does not invalidate a proclamation under this section.

PART V.—ENROLMENT, ELECTIONS, ETC.

Division 1.—Enrolment.

15. Electors.

(1) In this section, "person" means a natural person.

(2) Subject to Subsection (3), a person who—

(a) is not less than 18 years of age; and

(b) is a resident of, and has been ordinarily resident in, a Council area,

is entitled to be enrolled, in the prescribed manner, as an elector for the Council in respect of the address at which he resides.

(3) Subsection (2) does not apply to an agreement worker residing in a Council area unless—

(a) he was born in the Council area; or

(b) before entering into the agreement he had his home in the Council area.

(4) A person who—

(a) is not less than 18 years of age; and

(b) is liable under Subdivision VI.4.B to pay—

(i) rates on or in respect of land situated in the Council area; or

(ii) tax on or in respect of a registered building,

is entitled, on application in the prescribed manner, to be enrolled as an elector for a Council in respect of the address of the situation of the land or the building, as the case may be.

(5) A person is not entitled to be enrolled as an elector—

(a) in respect of more addresses in an electorate than one; or

(b) where the Council area is divided into wards, in respect of more wards than one,

and if, apart from the operation of this subsection, he would be entitled to be enrolled in respect of more addresses than one, or for more wards in an electorate than one, he shall be enrolled for such one of those addresses or wards—

(c) as he elects in the prescribed manner; or

(d) in the absence of such an election, as is determined in the prescribed manner.

16. Disqualifications from enrolment.¹

A person who—

(a) has been convicted and is under sentence of imprisonment, or is subject to be sentenced (other than a person who has been released on recognizance to appear and receive judgement when called on), for an offence punishable by imprisonment for one year or longer; or

(b) is of unsound mind as that expression is used in the *Public Health Act*,

is disqualified from voting at an election.

¹ See, also, *Criminal Code*, Section 104.

17. Rolls of electors.

A roll of electors shall be compiled and maintained for each Council in such form and manner as are determined by the Electoral Commissioner.

Division 2.—Elections.

18. Qualifications for membership of Councils.

(1) Subject to Subsection (2), a person who is entitled to be enrolled under Section 15(2) and is enrolled as an elector for a Council is qualified to nominate for the Council and to be a Councillor.

(2) A person is not qualified to nominate for a Council or to be a Councillor if—

- (a) he is an officer or employee of a Council; or
- (b) he is an undischarged bankrupt or insolvent; or
- (c) he has been convicted of an offence punishable under a law of Papua New Guinea or of Australia or a State or Territory of Australia, by death or imprisonment for one year or longer and, as a result of the conviction, is under sentence of death or is undergoing imprisonment; or
- (d) except as authorized by this Act or by the Council, he directly or indirectly takes or agrees to take a fee or honorarium for services rendered in the Council.

(3) Where an election is for a Councillor to represent a ward, a person is not qualified to nominate for the Council in respect of the ward unless he is enrolled as an elector in respect of the ward.

19. Elections.

(1) Subject to this Act and to the constituent proclamation, Councillors shall be elected by secret ballot.

(2) The electors in an election are the persons whose names are entered in the roll of electors at the date of closing the roll.

(3) The regulations may make provision for closing a roll for the purposes of an election and for the correction of errors, omissions and mis-descriptions in the roll.

(4) Notwithstanding Subsections (2) and (3), the regulations may provide that for the purposes of the first election to a Council any person who would be entitled to have his name on a roll if the roll had not been closed shall be deemed to be an elector.

(5) Subject to this Act and to the constituent proclamation, an election shall commence on a date to be fixed by the Minister by notice in the *Local Government Gazette*.

(6) The election period shall extend for, and not beyond, 21 days.

(7) An election shall not take place on a Sunday or public holiday declared by or under the *Public Holidays Act*, and a Sunday or public holiday occurring in an election period shall not be taken into consideration in computing the length of the period.

(8) Subject to this Act and to the constituent proclamation, an election shall be conducted in such manner as is prescribed, and under the supervision of the Electoral Commissioner.

(9) Subject to this Act, the method of and the procedure to be followed at an election are as prescribed, and the regulations may make provision for and in relation to—

- (a) the establishment of Courts of Disputed Returns before which elections and returns can be disputed; and
- (b) the functions, powers and procedures of such courts.

(10) For the purposes of this Act, the date on which an election is completed is the date on which it is completed in accordance with the procedure prescribed under Subsection (8).

(11) The result of an election shall be published by the Electoral Commissioner in the *Local Government Gazette*.

(12) Before proceeding to perform the duties or exercise the powers of a Councillor, a Councillor who is elected or appointed to a Council shall take an oath or make an affirmation in the form in Schedule 2.

20. Tenure of office.

Subject to this Act and to the constituent proclamation, the tenure of office of Councillors is three calendar years from and including the day on which the previous election was completed, and such further time (if any) as is necessary to complete the next election.

21. Vacation of office.

(1) A Councillor may resign his office by notice to the Council, and he shall be deemed to have vacated his office from that date.

(2) On receipt of a notice under Subsection (1), the Council shall promptly notify the Minister and suggest a suitable date for a by-election.

(3) The Council may, by resolution, remove from office a Councillor who is absent from three consecutive ordinary meetings of the Council without leave of absence in accordance with the Standing Orders of the Council, and the Councillor shall be deemed to have vacated his office as from the date on which the resolution is received by the Minister.

22. Removal of Councillors from office.

(1) Notwithstanding anything in this Act, where the Minister is satisfied that a Councillor or an associate member of a Ward Committee has abused his powers or is incapable of exercising them justly or is, for any other reason, not a fit and proper person to continue to hold that office, he may, after due inquiry and consultation, in such manner as he thinks proper, with the Council, suspend him or remove him from office.

(2) The suspension or removal from office of a Councillor or an associate member of a Ward Committee takes effect on being notified to the Council.

(3) The Minister shall not remove a Councillor or an associate member of a Ward Committee from office under this section unless the Councillor or member has been given a reasonable opportunity to answer the allegations made against him.

23. Casual vacancies.

(1) Where a casual vacancy occurs, whether by reason of death, resignation or otherwise, in an office of Councillor—

- (a) if the vacancy occurs more than six months before the date on which the tenure of office of the former Councillor expires under Section 20—the vacancy shall be filled in accordance with Section 19; or

- (b) in any other case—the Minister may appoint a person who is qualified to be a Councillor to hold the vacant office.

(2) For the purposes of Subsection (1), in calculating the tenure of office of a Councillor no account shall be taken of the time allowed under Section 20 for the completion of an election.

(3) Subject to this Act, a Councillor elected or appointed in accordance with this section holds office for the balance of the tenure of office of the former Councillor.

Division 3.—Meetings of Councils and Committees.

24. Standing Orders of Councils.

(1) Subject to this Act, a Council shall make Standing Orders, approved by the Minister, for—

- (a) the calling, regulating and conducting of the meetings of the Council and of Committees of the Council; and
- (b) the authentication of all documents required to be sealed with the seal of the Council; and
- (c) such other matters as are necessary or convenient for the purposes of this Act or as are directed by the Minister.

(2) A Council shall cause a copy, certified under the hands of the President and the Council Clerk, of the Standing Orders of the Council and of all amendments to the Standing Orders to be forwarded to the Minister.

(3) With the approval of the Minister, a Council may amend its Standing Orders.

(4) The Minister may publish in the *Local Government Gazette* model Standing Orders, which may be adopted with or without modification, by a Council.

25. Meetings of Councils.

(1) Unless the approval of the Minister is first obtained for less frequent meetings, a Council shall meet not less frequently than once every two months for the transaction of general business, at such time and place as is determined by the Council or by the President or, in the case of the first meeting of a Council after a general election, by the Minister.

(2) Subject to Subsection (3), a meeting of a Council is open to the public and to representatives of the press, unless the Council for any special reason otherwise resolves at the meeting.

(3) The person presiding at a meeting of a Council may—

- (a) exclude from the meeting a person who, in his opinion, is behaving in a disorderly manner, or require such a person to withdraw from the meeting; and
- (b) call on a member of the Police Force or a Council officer to eject any such person refusing to withdraw from the meeting or any other person who is present in contravention of a resolution under Subsection (2).

(4) A meeting of a Committee of a Council is not open to the public or to representatives of the press unless the Council otherwise directs.

26. President.

- (1) There shall be a President of each Council.
- (2) The President—
 - (a) shall be elected from time to time, as determined by the Council, by vote of the Councillors from amongst their own number; and
 - (b) may be removed from office in the same manner.

27. Chairman of meeting for election of President.

Notwithstanding this Act, where at a meeting of a Council the election of a President forms the whole or part of the business to be presented—

- (a) the Council Clerk; or
- (b) if there is no Council Clerk, a person other than a Councillor appointed by the Councillors,

shall preside until the President is elected.

28. Vice-presidents.

- (1) There shall be such number of Vice-presidents of each Council as is determined by the Council.
- (2) The Vice-presidents—
 - (a) shall be elected from time to time, as determined by the Council, by vote of the Councillors from amongst their own number; and
 - (b) may be removed from office in the same manner.
- (3) Where there are more Vice-presidents than one, they rank in such order of seniority as the Council determines.
- (4) If for any reason the President is unable to act, or the office of President is vacant, the Vice-president (or if there are more Vice-presidents than one the senior Vice-president) available, has all the powers, functions, duties and responsibilities of the President.

29. Chairman at meetings of Council.

In the absence of the President and of all Vice-presidents, the Councillors present at a meeting of a Council shall elect one of their number to preside for the purpose of that meeting.

30. Duties of President.

It is the duty of the President—

- (a) subject to this Act, to preside, unless prevented by reasonable cause, at all meetings of the Council and, subject to the regulations and Standing Orders, to regulate the conduct of business at meetings; and
- (b) to perform such executive functions as are allotted to him by or under this Act.

31. Special powers of President in emergency.

- (1) Subject to Subsection (2), in the case of emergency, the President may direct—
 - (a) the execution or stoppage of any work, or the doing of any act that requires the sanction of the Council and the immediate execution, stoppage or doing of which is in his opinion necessary for the service or safety of the public; and

- (b) that the expense of executing the work or doing the act be paid from the funds of the Council,

but the expenditure incurred shall not in any particular case exceed 10% of the recurrent revenues of the Council during the previous financial year of the Council or K1 000.00, whichever is the less.

(2) Notwithstanding Subsection (1), the President—

- (a) shall not act in contravention of a resolution of the Council prohibiting or restricting the exercise of his powers under that subsection; and
- (b) shall report promptly to the Council any action taken under that subsection and the reason for it.

(3) The Council shall promptly submit to the Minister revised estimates under Section 97 that take into account the expense incurred under this section.

32. Quorum and voting at meetings.

(1) Subject to Subsection (2), half of the total membership of the Council is a quorum for a meeting of a Council.

(2) Where at the expiration of a period of one hour after the time determined for the meeting a quorum is not present, the meeting stands adjourned for such time as the person presiding determines, not being less than one day or more than one week, and at the same time and place as was determined for the original meeting, the members then and there present are a quorum.

(3) Subject to Subsections (4) and (5), all questions before a meeting of Council shall be decided in accordance with a majority of the Councillors present at the meeting and entitled to vote.

(4) A resolution—

- (a) for rescinding an earlier resolution made not more than 12 months before the date on which it is proposed to make the rescinding resolution; or
- (b) by which a Council requests action to be taken under Section 14(1) in relation to the Council, may be made only by a majority of not less than three quarters of the Councillors present at the meeting and entitled to vote.

(5) The person presiding at a meeting of the Council has a deliberative and, in the event of an equality of votes on a matter, also a casting vote.

33. Effect of vacancies.

No act or proceedings of a Council or of a Committee of a Council or of any person acting as a member of a Council or of a Committee of a Council is invalid by reason of there being a vacancy in the number of Councillors at the time of the act or proceedings.

34. Minutes.

(1) Minutes of the proceedings of all meetings of a Council and of Committees of a Council, including the names of all Councillors present at any such meeting, shall be drawn up and entered in a book to be kept for the purpose, and shall be signed at the next meeting of the Council or Committee, as the case may be, by the person presiding at that meeting.

(2) Minutes purporting to be signed in accordance with Subsection (1), or an extract from the minute book purporting to be certified in writing under the hand of the Council

Clerk to be a true copy of an entry in the minute book, shall be received in evidence without further proof.

(3) Until the contrary is proved, a meeting of a Council or of a Committee, in respect of the proceedings of which minutes have been made and signed in accordance with this section, shall be deemed to have been duly convened and held, and—

- (a) all Councillors present at the meeting shall be deemed to have been duly qualified; and
- (b) in the case of proceedings of a Committee, the Committee shall be deemed—
 - (i) to have been duly constituted; and
 - (ii) to have had power to deal with the matters to which reference is made in the minutes.

35. Committees.

(1) A Council may appoint and dissolve Committees for any general or special purpose that in the opinion of the Council would be better regulated and managed by Committees, and may delegate to a Committee so appointed any power conferred on the Council under this Act or any other law, other than—

- (a) the power to make rules; or
- (b) the power to impose or levy rates, taxes, charges or fees; or
- (c) the power to borrow money; or
- (d) any other power that by this Act or any other law may not be exercised by a Committee of a Council.

(2) Subject to Section 87(6), no act of a Committee of a Council is binding on the Council until it has been submitted to and approved by the Council, except where a Council has, by resolution, authorized a Committee to manage, regulate or conclude a matter.

(3) The number of members of a Committee, the term of office of members and the part of the Council area (if any) within which the Committee may exercise authority are as fixed by the Council.

(4) The Chairman of a Committee shall be a Councillor appointed by—

- (a) the Council; or
- (b) in default of such an appointment, by the members of the Committee from amongst their own number.

(5) The members of a Committee may appoint a Deputy Chairman from amongst their own number.

(6) Subject to Subsection (7) and Section 37, a Committee may include persons who are not Councillors to a number not exceeding one-third of the membership of the Committee, and if the Council so resolves, any such person is entitled to vote at, and shall be counted towards a quorum at any meeting of the Committee.

(7) Notwithstanding Subsection (6), if the prior approval of the Minister is obtained a Committee may include persons who are not Councillors to a number exceeding one-third of the membership of the Committee.

(8) Every member of a Committee of a Council or of a joint Committee appointed under Section 58, who at the time of his appointment to the Committee is a Councillor, ceases to be a member of that Committee on ceasing to be a Councillor.

(9) The quorum at a meeting of a Committee shall be half of the total membership of the Committee.

(10) Meetings of a Committee shall be held at such times and places as the Council or the Committee determines, and shall be convened as necessary by the Chairman.

36. Finance Committees.

(1) Each Council shall appoint a Finance Committee under Section 35.

(2) The Finance Committee is charged with the duties of regulating and controlling the finances of the Council, and the preparation of draft estimates of receipts and expenditure and draft works programs for submission to the Council.

37. Disqualifications from membership of Committees.

Unless the prior approval of the Minister is obtained, a person who is not qualified to be a Councillor of a Council is not qualified to be—

- (a) a member of a Committee of the Council; or
- (b) as a representative of the Council, a member of a joint Committee appointed under Section 58.

38. Disabilities.

(1) Where a person presiding over a meeting of a Council, a Committee of a Council or a board or authority established by a Council under this Act or any other law—

- (a) has any direct or indirect pecuniary interest in any contract or proposed contract or other matter with a Council, the terms of which or a decision on which is the subject of consideration at the meeting; or
- (b) holds any office or appointment that is likely to lead to a conflict of duty or interest in the performance of his duty and functions as the person presiding,

he must immediately disclose that fact, specifying the interest, office or appointment, and must not continue to preside over the meeting.

(2) If a Councillor, or a member of a Committee of a Council or of a board or authority established by a Council—

- (a) has any direct or indirect pecuniary interest in any contract or proposed contract or any other matter with the Council; and
- (b) is present at a meeting of the Council or a Committee of the Council or of a board or authority established by the Council at which the terms of the contract or a decision on the matter is the subject of consideration,

he must disclose the interest at the meeting and, without the permission of the Council, Committee, board or authority, as the case may be, given by resolution, must not take part in any consideration or discussion of or vote on, any question relating to the contract or matter.

(3) In a case to which Subsection (2) applies, if the person presiding at the meeting so directs, the Councillor or member concerned must withdraw from the meeting during the consideration, discussion or voting.

(4) This section does not apply to a pecuniary interest that a Councillor may have as a rate-payer or tax-payer only, or as a member of the community in which he resides, and that is common to all or most other members of that community.

(5) A person who fails to comply with Subsection (1), (2) or (3) is guilty of an offence unless he establishes to the satisfaction of the court that he did not know—

- (a) that he had a pecuniary interest in the contract, proposed contract or matter; or
- (b) that the contract, proposed contract or matter was the subject of consideration at the meeting.

Penalty: A fine not exceeding K400.00.

(6) A prosecution for an offence against this section shall not be commenced except with the consent of the Minister¹.

Division 4.—Ward Committees.

39. Establishment of Ward Committees.

(1) Where a Council area is divided into wards, the Council—

- (a) may; and
- (b) shall, if the Minister, after consultation in such manner as he thinks proper with the Council, so directs,

by rule establish a Ward Committee for a ward.

(2) A Council—

- (a) may; and
- (b) shall, if the Minister after consultation in such manner as he thinks proper with the Council, so directs,

assign a proportion of its revenue to the Ward Committee for the discharge of the powers and functions delegated to it under Section 48.

40. Composition of Ward Committees.

(1) A Ward Committee shall consist of the Councillor or Councillors elected for the ward and associate members elected in accordance with this Division.

(2) The number of associate members of a Ward Committee shall be determined by the Council by rule.

(3) Any person who—

- (a) is enrolled as an elector on the Ward Electoral Roll; and
- (b) is eligible for election to the Council,

is eligible for election as an associate member of the Ward Committee for the ward.

41. Procedures, etc., of Ward Committees.

Where a Council establishes a Ward Committee, the Council shall make rules, not inconsistent with this Act, for—

- (a) the election of associate members of the Ward Committee; and
- (b) the calling, regulating and conducting of meetings of the Ward Committee; and
- (c) any other matters that are necessary or convenient for the purposes of this Act, or that are directed by the Minister.

¹ But see Constitution, Section 177.

42. Election of associate members of Ward Committees.

(1) Subject to this Act and to any rule made by the Council, the associate members of a Ward Committee shall be—

(a) elected by ballot; or

(b) with the authority of the Minister—appointed by the Council by resolution.

(2) A person enrolled as an elector for the Council in respect of an address in a ward is eligible to vote in an election for associate members of the Ward Committee for the ward.

(3) A Council shall, by rule, determine the manner and procedure of elections for its Ward Committees so that, as nearly as practicable, they are the same as the manner and procedure of elections for Councillors.

43. Terms of office of associate members.

Subject to this Act, the tenure of office of an associate member of a Ward Committee is concurrent with the tenure of office under Section 20, of the Councillor for the ward.

44. Resignation of associate member.

(1) An associate member of a Ward Committee may resign his office by written notice to the Council.

(2) The resignation of an associate member takes effect on the date on which notice is received by the Council.

45. Casual vacancies in Ward Committees.

(1) Where a casual vacancy occurs, whether by reason of death, resignation or otherwise in the membership of a Ward Committee—

(a) if the vacancy occurs more than six months before the date on which the tenure of office of the former associate member expires—the vacancy shall be filled in accordance with Section 40; or

(b) in any other case—the Council may, by resolution, appoint a person who is qualified to be an associate member of the Ward Committee to hold the vacant office.

(2) An associate member elected or appointed in accordance with this section holds office for the balance of the tenure of office of the former associate member.

46. Remuneration of associate members of Ward Committees.

Except with the prior written approval of the Minister, an associate member of a Ward Committee shall not be paid any remuneration for his services on the Ward Committee.

47. Chairman of Ward Committees.

The Chairman of a Ward Committee shall be the Councillor for the ward, or, where there are two or more Councillors, the Councillor who is chosen from time to time, in such manner as the Council, by rule, determines, by the members of the Ward Committee.

48. Delegation to Ward Committees.

(1) The Council—

(a) may; and

(b) where a Ward Committee has been established under Section 39, shall, if so directed by the Minister,
by rule delegate to a Ward Committee any power, function or duty of the Council other than—

- (c) the power to make rules; or
- (d) the power to impose or levy rates, taxes, charges or fees; or
- (e) the power to borrow money; or
- (f) any other power that by this Act or any other law may not be exercised by a Committee of the Council or a Ward Committee.

(2) An act of a Ward Committee does not bind the Council until it is approved by the Council, except when the Council has, by resolution, previously authorized the Ward Committee to do the act.

49. Advisory function of Ward Committees.

(1) A Ward Committee may advise the Councillor for the ward on matters relating to the ward.

(2) A Councillor is not bound, in his capacity as a member of the Council, to accept any advice given to him by a Ward Committee.

50. Ward Committee bank accounts.

(1) A Ward Committee shall open and maintain such bank accounts as are necessary for the exercise and performance of its powers and functions, and shall pay into the accounts all moneys received by it in or for the performance or exercise of its functions, duties and powers.

(2) A Ward Committee shall make any payment that the Ward Committee is authorized or required to make by or under this Act or any other law out of the moneys standing to the credit of the accounts referred to in Subsection (1).

51. Advances by Council.

(1) A Council may advance moneys for such of the purposes of the Ward Committee as are specified by the Council, and on such terms and conditions as are specified by the Council.

(2) Moneys advanced to a Ward Committee by a Council shall be expended by the Ward Committee only for the purposes, and subject to the terms and conditions, specified by the Council in relation to the advance.

52. Raising of funds.

With the prior authorization of the Council, a Ward Committee may, for the purposes of the exercise and performance of its powers, functions and duties, raise money by public subscription or by any project other than—

- (a) a project forbidden by law; or
- (b) a prescribed project.

53. Overdrawing accounts.

A Ward Committee shall not, except with the prior written approval of the Council, incur any expenditure in excess of the cash balance standing to the credit of the Ward Committee in its bank account.

54. Estimates.

(1) A Ward Committee shall submit to the Council, at such time in each year as the Council, by resolution, determines—

- (a) a statement of the receipts and expenditure of the Ward Committee; or
- (b) other information as to the financial position of the Ward Committee,

during the period specified by the Council in the resolution.

(2) When so required by the Council, a Ward Committee shall submit to the Council estimates for any works that it wishes to be undertaken in the ward.

55. Legal proceedings.

(1) A Ward Committee may not sue or be sued.

(2) Any legal proceedings that, but for this section, might be brought by or against a Ward Committee may be brought by or against the Council.

PART VI.—POWERS, DUTIES, ETC., OF COUNCILS.*Division 1.—General.***56. General functions, etc., of Councils.**

(1) Subject to this Act and to any other law, it is the duty of a Council to control, manage and administer the Council area and to ensure the welfare of that area and the persons in the Council area.

(2) Subject to Section 13(2), in addition to any other powers, functions and duties conferred or imposed on it by this Act or any other law a Council may perform the functions specified in Schedule 1.

(3) The Minister may direct a Council to perform a function specified in Schedule 1, and it is the duty of the Council to comply with any such direction.

(4) Subject to this Act and to any other law, for the purposes of the exercise and performance of its powers, functions and duties a Council may—

- (a) organize, finance, engage in or assist any business or enterprise; and
- (b) take such action as seems to it desirable for the improvement of standards of housing and of agricultural, pastoral, forestry, horticultural and other methods, and the economic or social betterment of the Council area or of persons in the Council area, including—
 - (i) the acquisition, by purchase, lease or otherwise (but not including acquisition by compulsory process), of land and buildings; and
 - (ii) the development or improvement of land; and
 - (iii) the construction of buildings; and
 - (iv) the provision of credit facilities, or co-operation with the Government or a bank, co-operative company¹, Savings and Loan Society or other person, body or authority in the provision of credit facilities; and
 - (v) the leasing, subleasing, sale (on cash or terms) or other disposition of land or buildings; and
- (c) carry out any works for the benefit of the Council area or of persons in that area; and

¹ See Companies Act; Division XII. 5. and footnote to that Division.

- (d) provide, or co-operate with a Department of the Government or other body in providing, any public or social service; and
- (e) determine the duties and functions of any person employed by the Council; and
- (f) do all such other matters and things as seem to it necessary or desirable for carrying out and performing its other powers, functions, duties and responsibilities, and any other ancillary or incidental matters and things.

(5) The exercise by a Council of a power or function conferred by this section is not invalid merely because—

- (a) it takes place outside, or is related to matters outside, the Council area; or
- (b) it is for the benefit of—
 - (i) some only of persons in the Council area; or
 - (ii) any such persons jointly with other persons.

57. Vesting of administrative functions of other bodies.

(1) Unless the contrary intention expressly appears, the regulations may, subject to such conditions, restrictions and limitations as are prescribed, empower a Council to have and exercise, in the Council area, all or any of the powers, authorities, functions, duties and responsibilities conferred by or under any other Act in force in the Council area on any other body, authority or officer, other than—

- (a) judicial powers, authorities, functions, duties or responsibilities; or
- (b) any powers, authorities, functions, duties or responsibilities conferred on—
 - (i) the Parliament; or
 - (ii) the Head of State; or
 - (iii) the National Executive Council; or
 - (iv) the Minister; or
 - (v) the Commissioner; or
 - (vi) a Provincial Commissioner; or
 - (vii) any other prescribed body, authority or officer; or
- (c) any prescribed power, authority, function, duty or responsibility; or
- (d) any other powers, authorities, functions, duties or responsibilities that could not be had or exercised by the Council if the other Act had not been in force in the Council area.

(2) Notwithstanding Subsection (1), a body, authority or officer on whom any powers, authorities, functions, duties or responsibilities are conferred by or under any other Act in force in a Council area may—

- (a) with the consent of the Head of State, acting on advice; and
- (b) subject to such conditions, restrictions and limitations as the Head of State, acting on advice, or the body, authority or officer, thinks proper,

delegate to a Council some or all of those powers, authorities, functions, duties or responsibilities (except a power, authority, function, duty or responsibility referred to in Subsection (1)(a), (b), (c) or (d)), to be had and exercised in the Council area.

(3) A power, authority, function, duty or responsibility conferred or imposed on a Council under this section may, subject to the regulations, be exercised by the Council by rule or in any other appropriate manner.

58. Joint exercise of powers of Councils.

(1) With the consent of the Minister, two or more Councils may enter into an agreement for the joint exercise of any of their functions within the area in respect of which the agreement applies.

(2) An agreement under Subsection (1) may provide for—

- (a) the appointment of a joint Committee; and
- (b) the delegation to the Committee of any of the powers, functions and authority of the Council concerned, other than—
 - (i) the power to make rules; or
 - (ii) the power to impose or levy rates, taxes, charges or fees; or
 - (iii) the power to borrow money; or
 - (iv) any other power that by or under this Act or any other law may not be exercised by a joint Committee; and
- (c) the appointment, powers and functions of trustees.

59. Agency functions.

A Council may—

- (a) act, on such terms and conditions as to the payment of commission or otherwise as are agreed on, as the agent of the Government, an agency or instrumentality of the Government, another Council or any other public body or institution for the collection or payment of moneys; and
- (b) perform and do such other acts, matters and things on behalf of the Government, an agency or instrumentality of the Government, another Council or any other public body or institution as are agreed on, on such terms and conditions as are agreed on.

Division 2.—Council Rules.

Subdivision A.—Rule-making Power.

60. Rules generally.

(1) Subject to this Act, a Council may make rules, not inconsistent with this or any other Act, for the purposes of the exercise and performance of its powers, functions and duties, and may fix penalties of fines not exceeding K100.00 for offences against a rule.

(2) A rule has the force of law according to its tenor throughout the Council area.

61. Authorization, etc., of certain rules.

(1) Where the Head of State, acting on advice, is satisfied that—

- (a) a rule made or proposed to be made by a Council deals with a matter that—
 - (i) is dealt with by some other law in force in the Council area made before 1 January 1965 (being the date of commencement of the pre-Independence *Local Government Act 1963*); and
 - (ii) but for that fact, is within the competence of the Council; and

- (b) the rule or the proposed rule, as the case may be, deals with the matter in a manner not inconsistent with the intention of that other law; and
- (c) it is desirable that the Council make the rule or that the rule be in force, as the case may be,

the Head of State, acting on advice, may, by regulation, approve the rule, or authorize the Council to make the proposed rule, as the case requires.

(2) A rule approved or authorized under Subsection (1) is not invalid by reason of the fact that it deals with a matter dealt with by the other law referred to in Subsection (1)(a)(i) and, to the extent of any conflict, the rule prevails.

62. Application of rules in declared areas.

(1) Notwithstanding anything in this Act or in any other law, the Head of State, acting on advice, may, in relation to a Council, by notice in the *Local Government Gazette* declare that a rule (other than a rule under Section 73, 75 or 77, or a rule imposing a rate of tax under Section 79) applies to such areas outside the Council area as are set out in the declaration.

(2) A rule declared under Subsection (1) has the force of law, according to its tenor, throughout the area set out in the declaration and is not invalid merely because it applies to areas outside the Council area.

(3) A rule declared under Subsection (1) does not apply to an area within the boundaries of another Council without the written agreement of that Council.

63. Notice of rule.

(1) Except with the consent of the Minister, a Council shall not make a rule unless reasonable notice of the intention to make the rule has been given—

- (a) to the Minister; and
- (b) to the Advisers (if any) appointed for the Council; and
- (c) as prescribed, within the Council area.

(2) Notice under Subsection (1) shall be given in the prescribed manner or as the Minister, in a particular case or in respect of a particular Council, directs.

(3) Failure to comply with this section does not invalidate a rule but, without limiting the discretion of the Minister under Section 65, it is a good ground for the Minister to disallow the rule or to return it to the Council with amendments that he recommends.

64. Form of rules.

(1) A rule made by a Council shall be in such of the prescribed forms as is appropriate to the particular case.

(2) Failure to comply with Subsection (1) does not invalidate a rule but, without limiting the discretion of the Minister under Section 65, it is a good ground for the Minister to disallow the rule or to return it to the Council with amendments that he recommends.

65. Commencement, etc., of rules.

(1) A rule made by a Council shall be—

- (a) authenticated, in accordance with the Standing Orders of the Council, under the seal of the Council; and

(b) forwarded to the Minister within one month after the date of authentication, and failure to comply with the requirements of Paragraph (a) or (b) invalidates the rule.

(2) The date on which the rule is authenticated under Subsection (1)(a) shall be deemed to be the date on which the rule is made.

(3) The Minister shall, within two months after the receipt of a rule forwarded to him under Subsection (1), publish it in the *Local Government Gazette*, unless in the meantime he—

(a) disallows the rule; or

(b) returns the rule to the Council with amendments that he recommends under Subsection (9).

(4) Failure by the Minister to publish a rule within the time prescribed by Subsection (3) does not invalidate the rule.

(5) Subject to this section, a rule published under Subsection (3) takes effect from the date of publication in the *Local Government Gazette*, or, where another date is specified in the rule, from the date so specified.

(6) A rule made and published under this section shall be laid before the Parliament as soon as practicable but not later than the end of the meeting of the Parliament after the publication of the rule, but failure to comply with this requirement does not invalidate the rule.

(7) A rule shall not be expressed to take effect from a date before the date of publication where, if it so took effect—

(a) the rights of a person (other than the Council) existing immediately before the date of publication would be affected in a manner prejudicial to him; or

(b) liabilities would be imposed on a person (other than the Council) in respect of anything done or omitted to be done before the date of publication,

and where, in a rule, a provision is made in contravention of this subsection the provision is void.

(8) A rule is subject to disallowance, in whole or in part, by the Minister within six months after its making, and a rule so disallowed ceases to have effect from the date of publication in the *Local Government Gazette* of notice of disallowance.

(9) The Minister may return a rule to the Council with amendments that he recommends.

(10) The Council shall consider any amendments to a rule recommended under Subsection (9), and the rule, with or without amendments, shall be again presented to the Minister.

(11) Where the Minister recommends amendments to a rule presented to him, the time within which he may disallow it is extended until the expiration of six months after the date of his recommendation.

(12) Where the Minister has returned a rule to a Council under Subsection (3)(b) and the Council returns the rule to him (whether or not amended as recommended), this section applies as if it were a rule forwarded to the Minister for the first time.

(13) Where the Minister disallows a rule, he shall cause a statement of the reasons for the disallowance to be immediately laid before the Parliament, and also given to the Council.

(14) The Parliament may, by resolution passed at the meeting at which a rule is laid before it or at the next meeting, disallow the rule in whole or in part, and a rule so disallowed ceases to have effect.

(15) Notice of the disallowance of a rule under Subsection (14) shall be published in the *Local Government Gazette*.

(16) Where a rule is disallowed under this section, the disallowance has the same effect as a repeal of the rule, except that if the rule amended or repealed any law in force immediately before that rule took effect the disallowance of the rule revives the previous law—

(a) in the case of disallowance by resolution of the Parliament—from the date of the resolution; or

(b) in the case of disallowance by the Minister—from the date of publication in the *Local Government Gazette* of notice of the disallowance,

as if the disallowed rule had not been made.

(17) Where a rule is disallowed under this section, no rule being the same in substance as the rule so disallowed shall be made within six months after the date of the disallowance, unless—

(a) in the case of a rule disallowed by resolution of the Parliament—the resolution has been rescinded; or

(b) in the case of a rule disallowed by the Minister—the Minister has approved.

(18) A rule made in contravention of Subsection (17) is void.

Subdivision B.—Model Rules.

66. Model rules.

Subject to this Act, the Minister may publish in the *Local Government Gazette* model rules, which may be adopted, with or without modification, by a Council.

67. Model rules as to identification.

(1) The Minister may publish in the *Local Government Gazette* model rules to provide for the method of identification and recording for the purposes of a Council, of the names and other personal particulars of persons.

(2) A model rule referred to in Subsection (1) may provide for the adoption and use for Council purposes of a surname or family, lineage or group name.

(3) A Council may adopt a model rule referred to in Subsection (1) with such modifications as are approved by the Minister.

(4) Where a Council has adopted, with or without modification, a model rule referred to in Subsection (1) in relation to persons resident in the Council area—

(a) all other Councils shall accept the method of identification and recording provided for in the rule in relation to those persons; and

(b) that method of identification and recording shall be used for all official purposes and, subject to any other law, is sufficient for all other purposes.

*Division 3.—Special Powers in relation to Custom.***68. Opinions as to custom.**

(1) A Council may, and on the request of a court shall, appoint a Committee under Section 35 to advise and report on the custom in the whole or part of the Council area, in relation to any matter, and on related matters.

(2) A Committee appointed under Subsection (1) shall consist of persons who have a knowledge of custom.

69. Recommendations as to custom.

A Council may make recommendations to the Minister concerning the enforcement, variation or abolition of any custom in the whole or part of the Council area, and on related matters.

70. Rules as to custom generally.

Where a Council makes a recommendation under Section 69 and the recommendation is accepted by the Minister, the Council may make a rule (other than a rule relating to the right to the ownership, possession or devolution of customary land) giving effect to the recommendation.

71. Rules as to customary marriages.

(1) In this section "customary marriage settlement" means anything that is passed (whether as a conditional gift or otherwise) in accordance with custom between—

- (a) the parties to a customary marriage or proposed marriage; or
- (b) other persons; or
- (c) a party to a customary marriage and another person or persons,

in connexion with the marriage or proposed marriage, but does not include anything that passes by custom regulating the devolution of property.

(2) With the consent of the Minister, a Council may make rules—

- (a) regulating the kind, manner and amount or value of customary marriage settlements or similar matters in whole or part of the Council area; and
- (b) specifying the time at which and manner in which a customary marriage in the Council area or part of the Council area becomes a complete marriage; and
- (c) providing for the recording and evidencing of the marriage for Council purposes.

72. Rules as to land use.

(1) The Minister may publish model rules in the *Local Government Gazette* to provide for the recording by a Council, in a book to be kept for the purpose, of rights by custom to—

- (a) individual occupation or use of pieces of customary land; and
- (b) individual rights to the ownership of trees and other crops on customary land.

(2) Model rules referred to in Subsection (1) shall be prepared after consultation with the Chief Commissioner appointed under the *Land Titles Commission Act 1962* (Adopted).

(3) A Council may adopt a model rule referred to in Subsection (1) with or without such modifications as are approved by the Minister, after consultation with the Chief

Commissioner appointed under the *Land Titles Commission Act 1962* (Adopted), and in so doing or in connexion with the adoption may make rules—

- (a) limiting the use of any customary land not recorded under the first-mentioned rule; and
 - (b) authorizing special assistance to be given to persons having recorded individual rights by custom in any such land.
- (4) Production of a book kept under a rule adopted or made under this section is evidence of the matter recorded in the rule.
- (5) This section does not affect—
- (a) the operation of Section 10 of the *Land Registration (Communally Owned Land) Act 1962* (Adopted); or
 - (b) subject to Subsection (4)—the operation of the *Land Titles Commission Act 1962* (Adopted) or the powers, authority, responsibilities or privileges of the Land Titles Commission.

Division 4.—Rates, Taxes and other Charges.

Subdivision A.—Personal Tax.

73. Imposition of personal tax.

(1) Subject to this Part, a Council may, with the prior approval of the Minister make rules imposing a personal tax, at a flat rate or on a graduated scale (other than a tax based on income) on—

- (a) subject to Subsection (2), natural persons not less than 18 years of age who are residents of, and have been ordinarily resident in, the Council area; and
- (b) corporations that have had their main or principal places of business in the Council area for more than six months in the preceding 12 months.

(2) Subsection (1)(a) does not apply to an agreement worker residing in a Council area unless—

- (a) he was born in the Council area; or
- (b) before entering into the agreement, he had his home in the Council area.

(3) Subsection (1)(b) does not authorize the imposition on a corporation of a personal tax under that subsection at a rate exceeding the highest rate imposed on a natural person within the Council area.

(4) Subject to Subsections (5) and (6), personal tax imposed under this section is payable on—

- (a) 1 January in the fiscal year or years for which the rule is made; or
- (b) the day on which the rule imposing the tax takes effect,

whichever is the later, or on or before such later date as is specified in the rule. (*Amended by No. 7 of 1978, s. 3.*)

(5) Nothing in Subsection (4) prevents a Council from specifying in the rule imposing a tax that the amount of tax to be paid shall be reduced, by such amount as is specified in the rule, if the tax is paid before a date specified in the rule.

(6) Where, during a fiscal year for which a rule imposing personal tax is made but after the date on which tax is otherwise payable under Subsection (4), a person—

- (a) completes a period of residence in the Council area such that he becomes; or

(b) otherwise becomes,

a person to whom the rule applies, the tax is payable on the day on which he becomes such a person.

Subdivision B.—Rates and Taxes on Certain Land and Buildings.

74. Declaration of urban areas, etc.

(1) Subject to this Part, the Minister may declare an area of land in a Council area to be an urban area for the purposes of this Subdivision.

(2) As soon as practicable after the declaration of an urban area under Subsection (1), the Valuer General shall declare—

(a) the area to be a Valuation Area under Section 52 of the *Valuation Act*; and

(b) a term not less than five years to be the periodic interval within the meaning of that Act in relation to the area,

and thereupon that Act applies accordingly.

75. Rates on land and taxes on buildings in urban areas.

(1) In this section, "Government land" means Government land within the meaning of the *Land Act*.

(2) Subject to Subsections (3) and (4) and to Section 77, a Council may, with the prior approval of the Minister, make a rule—

(a) imposing rates on land in an urban area within the Council area; and

(b) imposing taxes on the registered buildings on customary land or on Government land within the urban area that is occupied (whether or not by authority) by a person other than the State or an authority or instrumentality of the Government.

(3) Subsection (2) does not apply in relation to—

(a) customary land; or

(b) Government land; or

(c) land reserved, or deemed to be reserved, from lease or further lease under the *Land Act*; or

(d) land that is the subject of a lease under Division VI.6. of the *Land Act*.

(4) Rates imposed on land under this section shall be calculated in relation to the unimproved value of the land.

(5) Where a Council makes a rule imposing rates on land under Subsection (2)(a), the rule is invalid unless the Council in the same rule imposes a tax on registered buildings under Subsection (2)(b).

(6) A tax imposed on registered buildings under Subsection (2)(b) shall be calculated to produce approximately the same return as the land on which the buildings are situated would have yielded had it been rated under Subsection (2)(a).

(7) This Act does not prevent a Council from specifying in the rule imposing a rate or tax that the amount of the rate or tax shall be reduced, by such amount as is specified in the rule, if the rate or tax is paid before a date specified in the rule.

76. Rates on land.

(1) In this section, "rateable person", in relation to any land, means a person who is liable under Subsections (2) and (3), to pay the rates imposed on the land.

(2) Subject to the succeeding provisions of this section, rates imposed on land under Section 75(2)(a) are payable—

- (a) in the case of land that is leased or subleased from the Council—by the lessee or sublessee; and
- (b) in the case of any other land—by the owner of the land.

(3) Where the land is owned or held jointly by two or more rateable persons—

- (a) they are jointly and severally liable for the rate; and
- (b) as between themselves they are each liable only for such part of the rate as is proportionate to the value of their respective interests in the land; and
- (c) if any of them pays to the Council more than his proportionate part, he may recover the excess by way of contribution from the other or others; and
- (d) payment of the whole of the rate by one or more of the persons liable to pay it is a reasonable excuse under Section 135(3) for a failure to pay the rate by any other person liable to pay the rate under this section.

(4) A Council that imposes a rate on land shall cause a rate notice in a form approved by the Minister to be served on the rateable persons, and where the name of a rateable person is not known to the Council it is sufficient to rate him by the designation of "owner" without stating his name.

(5) Service of a rate notice under Subsection (4) shall be effected by serving the rateable person with the notice, personally or by prepaid post, at his last-known address, or if he or his address cannot with reasonable diligence be found or ascertained, by the notice being displayed in some conspicuous place on the land the subject of the notice.

(6) Unless otherwise provided in this Act or in the rule imposing the rate, the rate is due and payable to and recoverable by the Council on the expiration of one month after the service of the rate notice.

(7) Where the rateable person—

- (a) is absent from the country; or
- (b) is unknown to the Council; or
- (c) has not after reasonable efforts by or on behalf of the Council to effect the service been served in any legal proceedings for the recovery of the rate; or
- (d) is an undischarged bankrupt or insolvent; or
- (e) dies; or
- (f) has had a verdict or judgement given against him for the amount of the rate,

the Council may serve on any person in occupation of the land a notice of the amount of the rate or of the verdict or judgement.

(8) Where a person in occupation of the land is served with a notice under Subsection (7) and fails within one month after service of the notice to pay the amount of the rate owing, the Council may recover the amount of the demand, or any outstanding portion of that amount, from him as a debt.

(9) This section does not apply to a person who is in occupation for or on behalf of, or as the servant of, the State, or the Council.

(10) A rate imposed on land is a charge on the land, in priority to all sales, conveyances, transfers, mortgages, charges (other than the other charges referred to in Subsection (12)), liens and encumbrances.

(11) A charge imposed by Subsection (10) is of no effect as against a bona fide purchaser for value who at the time of purchase made due inquiry but had no notice of the liability.

(12) The charge ranks equally with other charges under any other Act.

(13) A purchaser shall be deemed to have made due inquiry for the purposes of Subsection (11) if he has obtained a certificate, in the form approved by the Minister, from the Council or Council Clerk.

(14) When rateable land in an urban area is transferred, the transferor must, within one month after the date of transfer, notify the Council of the prescribed particulars of the transfer.

Penalty: A fine not exceeding K100.00.

77. Taxes on buildings.

(1) A tax imposed on a registered building under Section 75(2)(b) is payable by the registered occupier of the building.

(2) Where a registered building is occupied by two or more registered occupiers—

- (a) they are jointly and severally liable to the Council for the tax; and
- (b) as between themselves they are each liable only for such part of the tax as is proportionate to their respective interest in the building; and
- (c) if any of them pays to the Council more than his proportionate part, he may recover the excess by way of contribution from the other or others; and
- (d) payment of the whole of the tax by one or more of the persons liable to pay it is a reasonable excuse under Section 135(4) for a failure to pay the tax by any other person liable to pay the tax under this section.

(3) A Council that imposes a tax on a registered building shall cause a notice, in a form approved by the Minister, to be served on the registered occupier of the building.

(4) Service of a notice under Subsection (3) shall be effected by serving the registered occupier personally or by leaving it with a person apparently over the age of 14 years at the registered building the subject of the notice, or, if no person is present at the registered building, by attaching it to some conspicuous place on the building.

(5) Where a registered occupier is served with a notice under Subsection (3), the tax specified in the notice is payable to and recoverable by the Council on the expiration of one month after the service of the notice.

(6) This section does not give the registered occupier of a registered building on which a tax is imposed under this Subdivision any interest in the building or in the land on which the building is situated which he does not otherwise possess.

(7) This section does not apply to a person who is in occupation for or on behalf of, or as the servant of, the State or the Council.

Subdivision C.—Other Rates, Taxes, Charges and Fees.

78. Fees, etc.

(1) A Council may, by rule or otherwise, impose or charge fees in respect of goods and services supplied or rendered, or to be supplied or rendered, by or on behalf of the Council or by Council officers.

(2) With the prior approval of the Minister, a Council may make rules imposing fees—

- (a) for the registration of dogs, pigs or other prescribed animals; or
- (b) for the registration of bicycles or other prescribed vehicles that are on, or are used on, public roads in the Council area.

79. Other rates, etc.

With the prior approval of the Minister, a Council may make rules imposing rates, taxes, charges and fees (other than those provided for by the preceding provisions of this Division) of a type approved by the Head of State, acting on advice, and subject to such conditions as the Head of State, acting on advice, thinks proper.

Subdivision D.—Miscellaneous.

80. Maximum levels of taxes, etc.

The Minister may by notice in the *Local Government Gazette* declare, in relation to a Council, a maximum or maxima for a rate, tax, charge or fee imposed under this Division by the Council, subject to such conditions as the Minister thinks proper.

81. Discriminatory taxes, etc.

Where, in the opinion of the Minister, a rate, tax, charge or fee imposed by a Council under this Division is, taking into consideration (amongst other things) any other rates, taxes, charges and fees imposed by the Council, unduly harsh or discriminatory, whether in law or in practice, in its incidence on any particular section of persons subject to the jurisdiction of the Council, the Minister may, within two months after the date of the rule imposing the rate, tax, charge or fee, disallow the rule imposing it, or any part of the rule, on such terms and conditions as to the repayment of moneys collected under the rule, or otherwise, as he thinks just.

82. Double taxation.

(1) A person who was personally liable to pay and has paid to a Council—

- (a) personal tax; and
- (b) a rate on land or a tax on a registered building,

imposed under this Division in respect of a fiscal year is not liable to pay to any other Council, in respect of that year, personal tax, or a further such rate on the land or tax on the building, as the case may be.

(2) A person who was personally liable to pay and has paid to a Council a tax, charge or fee (other than personal tax, a rate on land or a tax on a registered building) imposed under this Division in respect of any period is not liable to pay to any other Council or to the State a further similar tax, charge or fee in respect of the same subject-matter and of the same period except to the extent that the last-mentioned tax, charge or fee is in excess of the first-mentioned tax, charge or fee.

(3) A person who was liable to pay and has paid to the State a tax, charge or fee in respect of any period is not liable to pay to a Council any further similar tax, charge or fee in respect of the same subject-matter and the same period, except to the extent that the last-mentioned tax, charge or fee is in excess of that first-mentioned tax, charge or fee.

83. Rates, etc., to be annual.

(1) Subject to this Part, a personal tax, rate, other tax or registration fee under this Division shall be imposed in respect of a fiscal year.

(2) The validity of a rule imposing a personal tax, rate, other tax or registration fee in respect of a fiscal year is not affected by reason of the fact that the rule is made during the fiscal year, but no such rule takes effect to impose a retrospective liability for payment.

(3) This section does not prevent the imposition of a personal tax, rate, other tax or registration fee in respect of a number of fiscal years, or in respect of a fiscal year and, until otherwise provided by law, each subsequent fiscal year.

84. Exemptions.

(1) A rule imposing any rate, tax, charge or fee under this Division may provide for the exemption, in whole or in part of any person or body, or class of person or bodies, from the payment of the rate, tax, charge or fee.

(2) The following are exempt from any rate, tax, charge or fee under this Division—

- (a) school buildings and ancillary facilities owned or conducted by voluntary education agencies within the meaning of the *Education Act*; and
- (b) churches and other places of religious worship; and
- (c) halls and other buildings owned or conducted by prescribed non-profit youth organizations where no charges are paid for their use; and
- (d) a reasonable curtilage of land surrounding any such building, facility or place.

85. Recovery of taxes, etc.

Rates, taxes, charges or fees due to a Council under this Division may be recovered by the Council as a debt.

Subdivision E.—Tax Review Committees, etc.

86. Interpretation of Subdivision E.

In this Subdivision, "rates or taxes" means rates or taxes imposed under Section 73 or 75.

87. Tax Review Committees.

(1) There shall be such Tax Review Committees for each Council as the Council decides are necessary for the convenience of tax payers.

(2) Each Tax Review Committee shall consist of such number, not exceeding five, of Councillors or associate members of Ward Committees as are appointed by the Council.

(3) Persons engaged in the collection of rates or taxes shall not be members of a Tax Review Committee.

(4) A Tax Review Committee may, on the ground of hardship or lack of sufficient means, grant an exemption, in whole or in part, from the payment of any rate or tax payable by a person under this Act.

(5) An application for relief under Subsection (4) shall not, unless the Tax Review Committee otherwise for any special reason determines, be made after the expiration of a period of three months after—

- (a) the date on which the rule imposing the tax or rate was made; or
- (b) the date on which the tax or rate became payable,

whichever is the later.

(6) Section 35(2) does not apply to or in relation to a decision of a Tax Review Committee under this section.

88. Council Tax Appeal Tribunals.

(1) There shall be a Council Tax Appeal Tribunal or Council Tax Appeal Tribunals.

(2) Each Council Tax Appeal Tribunal shall consist of a magistrate of a District Court appointed by the Minister by notice in the National Gazette.

(3) A person aggrieved by a decision of a Tax Review Committee under Section 87, including the refusal of an application under Section 87(5) may, within the prescribed time, appeal to the Council Tax Appeal Tribunal.

(4) On an appeal under this section, a Council Tax Appeal Tribunal may confirm, annul or vary the decision appealed against.

(5) A decision of a Council Tax Appeal Tribunal under this section is final¹.

89. Evidence.

In the investigation and determination under Section 87 of an application for exemption from, or the reduction of the amount of, rates or taxes, and in the hearing of an appeal under Section 88, a Tax Review Committee or Council Tax Appeal Tribunal is not bound to observe strict legal procedure or to apply technical rules of evidence, but shall admit and consider such relevant evidence as is available, including hearsay.

Division 5.—Finance Generally.

90. Bank accounts.

(1) A Council shall open and maintain such bank accounts as are necessary for the exercise and performance of its powers and functions, and shall pay into those accounts—

- (a) all moneys received from the Government for the purposes of this Act; and
- (b) all moneys appropriated by Act for the purposes of carrying out or giving effect to this Act; and
- (c) rates, taxes, charges and fees imposed, levied or made by the Council; and
- (d) all other moneys received by the Council in or for the performance or exercise of its functions, duties or powers.

(2) Out of the moneys standing to the credit of the accounts referred to in Subsection (1), a Council shall pay—

- (a) all moneys payable by the Council in repayment of advances under this Act, and as interest on such advances; and
- (b) the costs, charges and expenses incurred by the Council in the performance of its functions under this Act; and

¹But see Constitution, Section 155.

- (c) the remuneration and allowances of the Councillors and of Council officers and employees; and
- (d) any amount that the Council, by resolution, determines to pay to any Local Government Authority in its area that has had vested in it a function, power, responsibility or duty formerly vested in the Council, by way of assistance to the Authority to exercise or carry out the function, power, responsibility or duty; and
- (e) any other payment that the Council is authorized or required to make by or under this Act or any other law.

91. Discretionary grants.

In addition to any other moneys that may be paid or advanced to or on behalf of a Council, the Minister¹ may grant to a Council, on such terms and conditions as he thinks fit, any moneys appropriated by Act for the purpose.

92. Advances.

A Council may accept an offer by the Minister² to advance moneys for the purposes of the Council on such terms as are agreed on between the Council and that Minister.

93. Repayment of advances.

A Council shall repay, in accordance with the terms under which it is made, such portion of an advance as is repayable under those terms.

94. Borrowing.

(1) With the consent of the Minister, a Council may borrow for the purposes of the Council, by way of mortgage, bank overdraft or otherwise, any sum that, together with any other sum borrowed under this section, does not exceed 50% of the recurrent revenues of the Council during the previous fiscal year as certified by the auditor.

(2) For the purposes of the first fiscal year of the operation of a Council, the limit for the purposes of Subsection (1) is such limit as is fixed by the Minister.

(3) Section 95 does not affect the capacity of a Council to borrow up to the limit allowed by this section.

95. Additional borrowing powers.

In addition to the powers conferred by the preceding sections of this Division, a Council has power to borrow, with the consent of the Minister², money for any of the purposes of this Act by way of mortgage, bank overdraft or otherwise, subject to such conditions as to security or otherwise as are approved by that Minister².

96. Hire-purchase agreements.

A Council shall not without the prior written approval of the Minister, enter into a hire-purchase agreement within the meaning of the *Hire-purchase Act*.

97. Estimates.

(1) A Council shall, not later than 1 October in each year, submit to the Minister estimates of its receipts and expenditure for the next fiscal year, and may submit supplementary or revised estimates. (*Amended by No. 7 of 1978, s. 4.*)

¹This reference is to all Ministers.

²This reference is to the Minister for Finance.

(2) Where a Council fails to submit estimates of its receipts and expenditure in accordance with Subsection (1), the Minister may, by written notice to the Council, require it to submit its estimates, and until the Council complies with the notice Subsection (8) applies to, and in respect of, the Council as if the Minister had withheld certification of the Council's estimates.

(3) Where the Minister is satisfied that the proposals contained in any estimates, supplementary estimates or revised estimates—

- (a) are not unreasonable; and
- (b) are within the authorized powers and duties of the Council under this Act; and
- (c) are likely to be capable of being met from the finances available, or to become available for the purpose,

the Minister shall certify the estimates to the Council.

(4) Where the Minister is not satisfied as to the matters referred to in Subsection (3), he may, by notice to the Council, refuse certification in whole or in part, and shall immediately advise the Council of his reasons.

(5) Where a Council has provided in its estimates of receipts for the receipt of, or has received, a grant or advance of moneys from the Government and it has not made adequate provision in the estimates of expenditure for its expenditure for the purpose for which it is to be, or has been, made, the Minister may refuse certification in whole or in part.

(6) The Minister shall cause notice of a certification or withholding of certification under Subsection (3), (4) or (5) to be published in the *Local Government Gazette*.

(7) If the Minister has not caused a notice to be published in the *Local Government Gazette* under Subsection (6) within three months after the receipt by him of any estimates, he shall be deemed to have certified the estimates.

(8) Where the Minister has withheld certification, in whole or part, of any estimates, the Council shall not without the consent of the Minister incur expenditure, collect revenue or commence or carry on works in respect of the whole or the part, as the case may be, of the estimates of which certification has been withheld.

98. Reserve Funds.

(1) Subject to this section, unless otherwise authorized by the Minister a Council shall set aside during each fiscal year an amount equal to not less than 10% of its recurrent revenue for that year as a Reserve Fund.

(2) With the approval of the Minister and subject to such conditions as he imposes, a Council may use moneys in the Reserve Fund for a special purpose approved by the Minister.

99. Power to invest.

A Council may invest any moneys in the Reserve Fund or standing to the credit of an account referred to in Section 90—

- (a) in any securities of, or guaranteed by, the State, or by the Government of Australia or a State or Territory of Australia; or
- (b) on deposit or in a bank; or
- (c) in the securities of any money market towards which the Central Bank acts as lender of last resort; or

- (d) in any other securities authorized by the Minister by notice in the *Local Government Gazette*.

100. Accounts.

A Council, and a Ward Committee of a Council, shall—

- (a) keep proper accounts and records in accordance with such instructions as are issued by the Minister under Section 102; and
- (b) do all things necessary to ensure that—
 - (i) all payments out of its funds are correctly made and properly authorized; and
 - (ii) adequate control is maintained over the assets of the Council and the incurring of liabilities by the Council.

101. Failure to repay loans, etc.

Where interest or a payment of capital due on an advance, overdraft or other money owing by a Council remains unpaid for three months after a written demand is served on the Council by the person entitled to the money, the Minister may, by notice in the *Local Government Gazette*—

- (a) order that rates or taxes necessary to produce the sum due be imposed on and collected from the persons subject to the jurisdiction of the Council, immediately or within such period as the Minister orders; or
- (b) order the sale of any property on which the advance, overdraft or money is secured.

102. Financial Memoranda.

(1) The Minister may issue written instructions (to be called Financial Memoranda), not inconsistent with this Act, for the better control and management of the finance of Councils and of Ward Committees.

(2) Financial Memoranda may be issued—

- (a) generally or with respect to—
 - (i) a particular Council; or
 - (ii) a particular Ward Committee; or
 - (iii) the Councils or Ward Committees in a particular part of the country; or
- (b) in relation to—
 - (i) a specified matter or matters; or
 - (ii) a specified class or classes of matters.

(3) The Financial Memoranda shall be observed and obeyed by Councils, Council officers and Ward Committees.

103. Writing-off of irrecoverable amounts, etc.

A Council may, in such manner and subject to such conditions as are prescribed, write off—

- (a) losses or deficiencies from its funds; and
- (b) irrecoverable amounts of revenue; and

- (c) irrecoverable debts or overpayments; and
- (d) the value of lost, deficient, condemned, unserviceable or obsolete stores.

104. Audit.

- (1) A Council shall—
 - (a) appoint a qualified person, approved by the Minister, to be the auditor; or
 - (b) make other arrangements, to the satisfaction of the Minister, for auditing the accounts and records of the Council and of the Ward Committees of the Council.
- (2) An auditor shall, from time to time, inspect and audit the accounts and records of financial transactions of the Council and of all Ward Committees of the Council, and shall without delay draw the attention of the Council and the Minister to any irregularity revealed by the inspection and audit that, in the opinion of the auditor, is of sufficient importance to justify his so doing.
- (3) At least once in each year, the auditor shall report to the Council and the Minister the results of the inspection and audit carried out under Subsection (2), and in particular on the impact, or likely impact, of any future, contingent or other liabilities imposed on, or accepted by, the Council and the Ward Committees of the Council.
- (4) An auditor is entitled at all reasonable times to full and free access to all accounts, records, documents and papers of the Council and the Ward Committees of the Council relating directly or indirectly to—
 - (a) the receipt or payment of moneys by the Council and the Ward Committees of the Council; or
 - (b) the acquisition, receipt, custody or disposal of assets of the Council and the Ward Committees of the Council.
- (5) An auditor may make copies of or take extracts from accounts, records, documents or papers referred to in Subsection (4).
- (6) An auditor may require the Council or a Ward Committee, or a Councillor, associate member of a Ward Committee or Council officer or employee, to furnish him with such information in its or his possession as the auditor thinks necessary for the purposes of an inspection or audit under this section.
- (7) A Council, Ward Committee, Councillor, associate member or Council officer or employee who fails to comply with a requirement under Subsection (6) is guilty of an offence.

Penalty: A fine not exceeding K200.00.

Default penalty: A fine not exceeding K2.00.

PART VII.—SUSPENSION AND DISSOLUTION OF COUNCILS.

105. Suspension.

- (1) Where, in the opinion of the Minister—
 - (a) the business of a Council—
 - (i) is being negligently, inefficiently or badly conducted; or
 - (ii) is being so conducted as not to be for the welfare of the Council area or of persons in the area; or

- (b) a Council is not properly carrying out the duties imposed on it by or under this Act or any other law,

the Minister may, by written order to the President of the Council, suspend all or any of the powers and functions of the Council.

(2) Unless a suspension under Subsection (1) is previously confirmed, varied or revoked by the Head of State, acting on advice, it lapses at the end of one month.

106. Effect of suspension.

(1) Subject to Subsection (2), a suspension under Section 105 deprives the Council of the suspended powers or functions during the period of suspension.

(2) The suspension of a power or function under Section 105 does not affect—

- (a) any right, privilege, obligation or liability acquired, accrued or incurred under or in respect of the suspended power or function; or
- (b) any investigation, legal proceeding or remedy in respect of the suspended power or function; or
- (c) any investigation, legal proceeding or remedy in respect of any such right, privilege, obligation or liability,

and any such right, privilege, obligation or liability may, subject to this Act, be carried on or enforced as if the suspension had not taken place.

107. Appointment of Manager.

(1) Where powers or functions of a Council are suspended under this Division, the Minister may appoint—

- (a) a person to be the Manager for the Council; or
- (b) not less than three or more than five persons to be the Board of Management for the Council.

(2) Where the Minister has appointed a Board of Management under Subsection (1) he may, at the same time or subsequently, appoint a person to be the deputy of a member.

(3) In the event of the absence of a member from a meeting of the Board of Management or his inability to act in relation to a matter, his deputy has all his powers and functions for the purposes of the meeting or in relation to the matter.

(4) Subject to any directions given by the Head of State, acting on advice, a Manager or a Board of Management, as the case may be—

- (a) has and may exercise on behalf of the Council such of the suspended powers and functions as are specified by the Minister by instrument; and
- (b) has such other powers, functions, duties and responsibilities as are prescribed.

(5) Notwithstanding Subsection (4), but subject to any directions given by the Head of State, acting on advice, the Minister may, on behalf of the Council, exercise during a suspension under this Division all or any of the suspended powers or functions.

108. Period of suspension.

Subject to Section 105(2), a suspension under this Division operates until—

- (a) the end of such period as is fixed by the Head of State, acting on advice; or
- (b) such time as the suspension order is revoked by the Head of State, acting on advice; or

(c) the Council is abolished under Section 114,
whichever first occurs.

109. Winding-up.

- (1) The Head of State, acting on advice, may—
 - (a) during a period of suspension under this Part; or
 - (b) at the request of the Council for the voluntary winding-up of the affairs of the Council; or
 - (c) of his own motion,

order that the affairs of a Council be wound up and appoint a person to be the liquidator of the Council.

(2) The Head of State, acting on advice, may, at any time before the completion of the winding-up, order that the winding-up be stayed.

- (3) Where a liquidator—
 - (a) dies; or
 - (b) is unable to continue in office; or
 - (c) desires to be relieved of his office,

the Head of State, acting on advice, may appoint a person to act as liquidator in his place.

(4) Subsection (3) does not relieve a liquidator who has been replaced under that subsection of any liability for an act, default or omission made in his capacity as liquidator.

(5) A liquidator, other than a liquidator who is an officer of the Public Service, is entitled to recover from the Council such fees as the Minister determines, and any such fees are a first charge on the assets of the Council. (*Amended by No. 25 of 1976, Schedule 17.*)

(6) Where a liquidator is an officer of the Public Service, the State is entitled to receive from the Council such fees as the Minister determines, and any such fees are a first charge on the assets of the Council. (*Amended by No. 25 of 1976, Schedule 17.*)

110. Duties of liquidator.

(1) As soon as practicable after his appointment, the liquidator shall cause a notice to be published in the National Gazette calling on all persons—

- (a) to whom the Council is liable; or
- (b) who are liable to the Council,

to give notice to him of the amount, description and details of the liability within a period specified in the notice.

(2) In addition to publication of the notice under Subsection (1), the liquidator shall take such steps as seem to him to be reasonably necessary to bring the notice to the attention of persons likely to be affected by it.

(3) Unless otherwise directed by the Minister, a liquidator shall not take into account, in the winding-up of a Council, any liability of the Council of which he has not received notice under Subsection (1).

(4) As soon as practicable after the expiration of the period referred to in Subsection (1), the liquidator shall prepare a preliminary statement showing the assets of the Council and its liabilities, and shall lodge the statement with the Minister.

(5) Not earlier than one month after the lodging of a preliminary statement under Subsection (4), the liquidator shall proceed with the winding-up of the affairs of the Council.

111. General powers, etc., of liquidators.

(1) For the purpose of the exercise and performance of his powers and functions under this Part, a liquidator has—

- (a) such of the powers and functions of the Council; and
- (b) such other powers and functions,

as are vested in him, by order, by the Head of State, acting on advice.

(2) For the purposes of the winding-up, the liquidator may, if he considers it in the interests of the creditors of the Council, carry on for a period of not more than six months, or such further period as is fixed by the Head of State, acting on advice, any business in which the Council was engaged.

(3) A liquidator is subject to the directions of the Head of State, acting on advice.

112. Disposition of assets.

(1) The liquidator shall dispose of assets of the Council in such manner as is directed by the Head of State, acting on advice.

(2) For the purpose of Subsection (1), the Head of State, acting on advice, may direct that—

- (a) all or some of the assets be sold; or
- (b) all or some of the assets be vested in a Trust to be established by the Minister for the purpose; or
- (c) all or some of the assets be transferred to the State; or
- (d) all or some of the assets be transferred to another Council, person or group of persons; or
- (e) the proceeds from the sale of any assets be disposed of in any of the ways set out in Paragraph (b), (c) or (d).

113. Final statement of liquidator.

As soon as practicable after the conclusion of the winding-up, the liquidator shall forward to the Minister a final report showing the disposition of the assets of the Council.

114. Dissolution of Council.

At any time after the receipt of the report under Section 113, the Head of State, acting on advice, may, by proclamation, abolish the Council, and on publication of the proclamation in the *Local Government Gazette*, or on such later date as is specified in the proclamation, the powers and functions of the Council cease.

115. Re-establishment of Council.

This Part does not affect the power of the Head of State, acting on advice, to establish or re-establish, under this Act, a Council for the whole or any part of the area of the Council that has been abolished.

PART VIII.—COUNCIL STAFF.

116. Application of Local Government Service Act.

The provisions of this Part shall be read subject to the *Local Government Service Act*.

117. Council Clerks, etc.

(1) For each Council there shall be a Council Clerk, a Town Clerk or an Executive Officer and such number of other officers as are necessary for the efficient performance of the functions and duties of the Council.

(2) The method of appointment and the terms and conditions of employment of Council Clerks, Town Clerks, Executive Officers and other Council officers are as prescribed by or under this or any other Act.

118. Temporary employees.

(1) In addition to officers appointed in accordance with Section 117, a Council may employ persons—

(a) to render temporary or casual service to the Council, on such terms and conditions as are determined by the Council; and

(b) under the *Native Employment Act 1958* (Adopted) or any other law relating to employment.

(2) The Minister may, by notice in the *Local Government Gazette*, declare a person employed under Subsection (1)(a) to be a Council officer for the purposes of this Act notwithstanding that he is employed on a temporary or casual basis.

119. Secondment of officers of Public Service.

(1) A Council may arrange with the Government for the secondment to the Council of officers of the Public Service.

(2) For the purpose of Section 104 of the *Public Service Act* in relation to an officer seconded to a Council under Subsection (1), an office under a Council shall be deemed to be an office provided under an Act other than that Act.

(3) For the purposes of this Act, an officer of the Public Service seconded to a Council under this section shall be deemed to be an officer of the Council.

PART IX.—LOCAL GOVERNMENT AUTHORITIES.

120. Establishment of Authorities.

The Head of State, acting on advice may, by proclamation, establish—

(a) an Area Authority; or

(b) a Special Purposes Authority,

in and for an area, and for purposes described in the proclamation.

121. Incorporation of Authorities.

A Local Government Authority—

(a) is a corporation; and

(b) has perpetual succession; and

(c) shall have a seal; and

(d) subject to this Act, has power—

- (i) to acquire, hold, dispose of, mortgage or pledge property; and
- (ii) to enter into contracts; and
- (iii) to borrow money; and
- (iv) to invest funds; and
- (v) to institute and defend actions, suits and other legal proceedings; and
- (vi) to do all other things necessary for the effective exercise and performance of its powers and functions.

122. Constitution, etc., of Authorities.

(1) In the proclamation establishing a Local Government Authority or by a subsequent proclamation, the Head of State, acting on advice, may make provision for the membership of the Authority and the manner in which the Authority is to be constituted.

(2) Subject to Subsection (3), the members of a Local Government Authority shall be Councillors of Councils in the area of the Authority appointed or elected as prescribed by the constituent proclamation.

(3) Where in the opinion of the Head of State, acting on advice, the nature or functions of a Local Government Authority, or the area in and for which it is constituted, make it expedient that the membership include persons other than Councillors referred to in Subsection (2), the constituent proclamation may provide for the appointment of such persons as members of the Authority, but so that not more than one-third of the total membership is made up of such persons.

(4) The Minister shall cause the names of persons appointed or elected to be members of a Local Government Authority to be published in the *Local Government Gazette*.

(5) A Provincial Commissioner within whose province a Local Government Authority is established, and any other person authorized by the Authority, is entitled to attend meetings of the Authority or of Committees of the Authority and to take part in debate, but is not entitled to vote and shall not be counted towards a quorum.

(6) For the purposes of Subsection (5), a member of the Parliament whose electorate or part of whose electorate is in the area of a Local Government Authority shall be deemed to be a person authorized by the Authority to attend meetings of the Authority and of Committees of the Authority.

(7) For each Local Government Authority there shall be—

(a) a President; and

(b) such number of Vice-presidents as is determined by the Authority,

who shall be elected, from time to time as determined by the Authority, by vote of the members of the Authority from amongst their own number and may, in the same manner, be removed from office.

(8) The President of a Local Government Authority is the senior member of the Authority and the Vice-presidents rank in such order of seniority as the Authority determines, but no other member shall have precedence over any other member.

123. Disqualifications from membership.

A person is not entitled to be a member of a Local Government Authority if—

- (a) he is an officer or employee of the Authority; or
- (b) he is an undischarged bankrupt or insolvent; or

- (c) he has been convicted of an offence punishable under a law of Papua New Guinea, or of Australia or a State or Territory of Australia, by death or imprisonment for one year or longer and, as a result of the conviction, is under sentence of death or is undergoing imprisonment.

124. Variation, etc.

(1) The Head of State, acting on advice, may, by proclamation—

- (a) vary the area in and for which a Local Government Authority is established; or
- (b) vary, add to or take away some or all of the purposes for which a Local Government Authority is established; or
- (c) divide the area in and for which a Local Government Authority is established in whole or in part between two or more Local Government Authorities; or
- (d) amalgamate, in whole or in part, two or more Local Government Authorities; or
- (e) change the name of a Local Government Authority; or
- (f) vary the constitution or membership of a Local Government Authority; or
- (g) extend the term of office of all or any members of a Local Government Authority, but not beyond the end of one year after their respective current terms of office.

(2) In a proclamation under Subsection (1) or by a subsequent proclamation, the Head of State, acting on advice, may make provision for—

- (a) the continuance in office of all or any members of the Authority, but not beyond the end of one year after their respective current terms of office; and
- (b) the appointment or election and the first term of office of new members; and
- (c) the taking over by the State, by another Authority or by a Council of the whole or part of the assets and liabilities of an Authority; and
- (d) the continuance, extension or amendment of all or any rules made by an Authority; and
- (e) effectuating generally the variation, amendment, division or amalgamation.

125. Consultation with Councils.

(1) Before advising the Head of State to establish a Local Government Authority or to take action under Section 122 or 124 in relation to a Local Government Authority, the National Executive Council shall consult with any Council or Councils in the area in and for which the Authority is proposed to be established or is established, as the case may be, and with any other Councils that, in its opinion, are or may be affected.

(2) Failure by the National Executive Council to comply with Subsection (1) does not invalidate a proclamation.

126. Oath, etc., of office of members of Authorities.

Before proceeding to perform the duties or exercise the powers of a member, a member of a Local Government Authority shall take an oath or make an affirmation in the form in Schedule 2.

127. Functions of Authorities.

(1) Subject to Subsections (2) and (8), the Head of State, acting on advice, may, by proclamation, vest in a Local Government Authority any of the powers, functions, duties or responsibilities of a Council.

(2) No power or function may be vested in a Local Government Authority if it would have the effect under Section 129(1) of divesting a Council of the power or function except in accordance with an agreement between the Authority and the Council and on such terms and conditions as are so agreed on.

(3) The regulations may vest in a Local Government Authority all or any of the powers, authorities, functions, duties and responsibilities conferred or imposed by or under any other Act on any other body, authority or officer, other than—

- (a) judicial powers, authorities, functions, duties or responsibilities; or
- (b) any powers, authorities, functions, duties or responsibilities conferred or imposed on—
 - (i) the Parliament; or
 - (ii) the Head of State; or
 - (iii) the National Executive Council; or
 - (iv) the Minister; or
 - (v) the Commissioner; or
 - (vi) the Public Services Commission.

(4) Notwithstanding Subsections (1) and (3), a body, authority or officer on whom a power, authority, function, duty or responsibility is conferred or imposed by or under any other Act in force in the area in and for which the Local Government Authority is established may—

- (a) with the consent of the Head of State, acting on advice; and
- (b) subject to such conditions, restrictions and limitations as the Head of State, acting on advice, or the body or authority or officer thinks proper,

delegate, by instrument, to a Local Government Authority all or any of those powers, authorities, functions, duties and responsibilities (except a power, authority, function, duty or responsibility referred to in Subsection (3)(a) or (b) and this or any other power of delegation) to be had and exercised in the area in and for which the Authority is established.

(5) A delegation under Subsection (4) is revocable only with the consent of the Head of State, acting on advice.

(6) A Local Government Authority may, and if the Head of State, acting on advice, so directs shall, act as agent for the Government in relation to any matter within its purposes, and the State shall fully and effectively indemnify and hold safe the Authority against all claims or actions that may be made or taken against the Authority as a result of its acting as agent.

(7) The Head of State, acting on advice, may direct a Local Government Authority to exercise and perform a power, authority, function, duty or responsibility vested in it, and it is the duty of the Authority to comply with such a direction.

(8) Notwithstanding anything in this Act, a Local Government Authority has no power or function under—

- (a) Division V.4; or

- (b) Section 68; or
- (c) Section 69; or
- (d) Section 70; or
- (e) Division VI.4 (other than Sections 78, 84 and 85).

128. Advisory functions of Authorities.

A Local Government Authority may, and if so directed by the Minister shall, tender advice to the Minister, or to any officer or authority of the Government, on—

- (a) a matter falling within its purposes; or
- (b) a matter relating to the Authority referred to in Section 122 or 124; or
- (c) any other matter or class of matters referred to it by the Minister or by the officer or authority.

129. Relations with Councils, etc.

(1) Subject to Section 127(2), where a power or function of a Council is vested in a Local Government Authority under Section 127(1) all Councils in the area in and for which the Authority is established are divested of so much of the power or function in relation to the area as the Head of State, acting on advice, determines by proclamation under Section 13(2).

(2) Subsection (1) does not affect the power of a Council to make payments to a Local Government Authority under Section 90(2)(d).

(3) Where any power, authority, function, duty or responsibility of some other body, officer or authority is vested in a Local Government Authority under Section 127(3), the body, officer or authority is, unless the regulations provide otherwise, divested of the power, authority, function, duty or responsibility in relation to the area in and for which the Authority is established.

130. Standing Orders of Authorities.

(1) Subject to this Act, a Local Government Authority shall make Standing Orders, approved by the Minister, for—

- (a) calling, regulating and conducting the meetings of the Authority and of Committees of the Authority; and
- (b) the authentication of all documents required to be sealed with the seal of the Authority; and
- (c) such other matters as are necessary or convenient for the purposes of this Act or as are directed by the Minister.

(2) An Authority shall cause a copy, certified under the hands of the President and the Secretary, of the Standing Orders of the Authority and of all amendments to the Standing Orders to be forwarded to the Minister.

(3) With the approval of the Minister, an Authority may amend its Standing Orders.

(4) The Minister may publish in the *Local Government Gazette* model Standing Orders, which may be adopted, with or without modification, by an Authority.

131. Application of certain provisions to Authorities.

For the purposes of the exercise and performance of its powers and functions, the provisions of this Act set out in the first column of Schedule 3 apply to and in relation to a Local Government Authority, and to the members and officers of a Local Government

Authority, in the same way as they apply to and in relation to a Council and to Councillors and Council officers, subject to anything in the constituent proclamation and to the second column of that Schedule.

PART X.—OFFENCES.

132. Failure to enrol, etc.

(1) A person who—

(a) becomes entitled, under Section 15(2) (otherwise than solely by virtue of the operation of Section 1(2)), to be enrolled as an elector for a Council; and

(b) fails to enrol within one month and in the prescribed manner,

is guilty of an offence.

(2) A person who—

(a) is enrolled as an elector for a Council; and

(b) ceases to be entitled to be enrolled as an elector for the Council; and

(c) fails to notify the prescribed officer to that effect within one month and in the prescribed manner,

is guilty of an offence.

(3) A person who—

(a) is enrolled as an elector for a Council; and

(b) changes the address in respect of which he is enrolled; and

(c) fails to notify the prescribed officer of the change, within one month and in the prescribed manner,

is guilty of an offence.

Penalty: A fine not exceeding K20.00.

Default penalty: A fine not exceeding K1.00.

133. Failure to supply identification.

A person who, when so required by a Council officer or by a person authorized by or under this Act as a tax collector or electoral officer, refuses to state his name and place of abode or states a false name or place of abode is guilty of an offence.

Penalty: A fine not exceeding K50.00.

134. Failure to comply with rules.

(1) Subject to Subsection (2), a person who, without reasonable excuse (proof of which is on him), contravenes or fails to comply with a rule made under this Act is guilty of an offence.

Penalty: As fixed under Section 60 or, if no penalty is so fixed, a fine not exceeding K200.00 or imprisonment for a term not exceeding six months, or both.

Default penalty: A fine not exceeding K2.00.

(2) Subsection (1) does not apply to or in relation to any provision of a rule so far as it imposes a rate, tax, charge or fee.

135. Failure to pay rates, taxes, etc.

(1) Subject to Subsection (2), a person who—

- (a) is liable under Section 73 to pay personal tax in respect of a fiscal year; and
- (b) fails, without reasonable excuse, to pay the tax—
 - (i) on or before 31 January in the fiscal year or within one month after the date on which the rule imposing the tax takes effect, whichever is the later; or
 - (ii) on or before such later date as is specified in the rule,

is guilty of an offence.

Penalty: A fine not exceeding K200.00 or imprisonment for a term not exceeding six months, or both.

Default penalty: A fine not exceeding K2.00.

(Amended by No. 7 of 1978, s. 5.)

(2) A person who—

- (a) becomes liable under Section 73(6) to pay personal tax; and
- (b) fails, without reasonable excuse, to pay the tax within one month after the date on which the tax is payable under that subsection,

is guilty of an offence.

Penalty: A fine not exceeding K200.00 or imprisonment for a term not exceeding six months, or both.

Default penalty: A fine not exceeding K2.00.

(3) A person who—

- (a) is liable to pay a rate imposed under Section 75(2); and
- (b) fails, without reasonable excuse, to pay the rate on or before the date on which it is due and payable under Section 76(6),

is guilty of an offence.

Penalty: A fine not exceeding K200.00 or imprisonment for a term not exceeding six months, or both.

Default penalty: A fine not exceeding K2.00.

(4) A person who—

- (a) is liable to pay a tax imposed under Section 75(2)(b); and
- (b) fails, without reasonable excuse, to pay the tax on or before the date on which it is due and payable under Section 77(5),

is guilty of an offence.

Penalty: A fine not exceeding K200.00 or imprisonment for a term not exceeding six months, or both.

Default penalty: A fine not exceeding K2.00.

(5) A person who—

- (a) is liable to pay any other rate, tax, charge or fee imposed under this Act; and

(b) fails, without reasonable excuse, to pay that rate, charge or fee on or before the date specified in the rule by which that rate, tax, charge or fee is imposed, is guilty of an offence.

Penalty: A fine not exceeding K200.00 or imprisonment for a term not exceeding six months, or both.

Default penalty: A fine not exceeding K2.00.

(6) In a prosecution for an offence against this section, the burden of proof—

(a) of reasonable excuse within the meaning of Subsection (1), (2), (3), (4) or (5);
or

(b) that the defendant is exempt from the tax, rate, charge or fee, whether in whole or in part, or that the amount payable by him has been reduced under Subdivision VI.4.E; or

(c) of payment of the amount of the rate, tax, charge or fee for which he is liable, is on the defendant.

(7) A conviction of an offence against this section does not relieve the offender of the liability to pay the rate, tax, charge or fee.

136. Time for prosecutions.

Notwithstanding the *District Courts Act* 1963 (Adopted), and the *Local Courts Act* 1963 (Adopted), a prosecution for an offence against Section 135 may be brought in a District Court or a Local Court within three years after the date on which the offence was committed.

137. Obstruction, etc.

(1) A person who—

(a) obstructs or interferes with the lawful exercise by—

(i) a Council, a Councillor or a Council officer; or

(ii) the Head of State, the National Executive Council, or a Minister; or

(iii) the Commissioner or an officer authorized by the Minister or the Commissioner; or

(iv) an auditor, Manager, Board of Management or liquidator, of any of its or his powers or functions under this Act or any other law; or

(b) without lawful authority (proof of which is on him), purports to exercise any powers of a Council, a Councillor or Council officer, or an auditor, a Manager, Board of Management or liquidator,

is guilty of an offence.

Penalty: A fine not exceeding K200.00 or imprisonment for a term not exceeding six months, or both.

(2) Proceedings for an offence against Subsection (1)(b) shall not be instituted without the consent of the Minister¹.

138. Prejudicing Council.

(1) A person who, by force, threats, fraud, misrepresentation, undue influence or in any other manner, attempts to prejudice the free and effective exercise of the lawful power and authority of a Council, a Ward Committee, a Councillor or Council officer, an auditor, a Manager, a Board of Management or a liquidator is guilty of an offence.

Penalty: A fine not exceeding K400.00 or imprisonment for a term not exceeding six months, or both.

(2) Proceedings for an offence against Subsection (1) shall not be instituted without the consent of the Minister¹.

139. Offences by Councillors, etc.

(1) A Councillor, associate member of a Ward Committee or Council officer or employee who knowingly—

(a) purports to exercise as such a Councillor, associate member of a Ward Committee, officer or employee a power or authority that he does not possess; or

¹See, also, Constitution, Section 177.

- (b) takes part in or supports a purported exercise by the Council of a power or authority that it does not possess or that is in contravention of this Act; or
- (c) otherwise abuses his position or authority as a Councillor, associate member of a Ward Committee, officer or employee,

is guilty of an offence.

Penalty: A fine not exceeding K200.00 or imprisonment for a term not exceeding six months, or both.

(2) Proceedings for an offence against Subsection (1), shall not be instituted without the consent of the Minister¹.

140. Surcharge.

(1) Where it appears to the Minister that a Councillor, member of a Committee of a Council, associate member of a Ward Committee, Council officer or employee or Adviser is responsible for—

- (a) any expenditure, or transfer or entry in the books or accounts of a Council, that was made in contravention of any law or that is contrary to the estimates or works program as certified under Section 97; or
- (b) any deficiency or loss incurred by his negligence or misconduct; or
- (c) any deficiency or loss attributable to his failure, without reasonable excuse (proof of which is on him), to perform—
 - (i) any duty imposed on him by virtue of his office or employment, as the case may be, under—
 - (A) this Act; or
 - (B) a rule made under this Act; or
 - (C) a resolution of a Council; or
 - (ii) in the case of an officer or employee—a lawful command given by a person in authority over him; or

(d) the misapplication of any money or goods,

the Minister may, in his discretion, by written notice to the person concerned surcharge him with such an amount as in the opinion of the Minister represents the deficiency or the loss or damage sustained by the Council, or part of the deficiency, loss or damage.

(2) Before surcharging an amount under Subsection (1), the Minister shall notify the person on whom he proposes to make the surcharge of his intention to make it, requiring him to show cause, within one month after the service of the notice on him, why the surcharge should not be made.

(3) A person on whom a surcharge is made may, within one month after the making of the surcharge, apply to a court that would be competent to decide the matter in the first instance if the action were a civil action for a debt to annul the surcharge.

(4) On receipt of the application the court shall forward a copy to the Minister, together with a notice requiring him to show cause, within one month after the service of the copy on him, why the surcharge should not be annulled.

(5) The court may by order—

- (a) annul the surcharge; or

¹ See, also Constitution, Section 177.

(b) confirm the surcharge in the full amount or in a lesser amount.

(6) An order confirming a surcharge shall be deemed to be a judgement for the amount of the surcharge as confirmed, in favour of the Council in respect of which the surcharge was made.

(7) A copy of a notice served on a person under Subsection (1) and purporting to be signed by the Minister is evidence of the imposition of a surcharge under this section.

(8) The amount of a surcharge made under this section is payable to the Council and may be recovered by the Council as a debt.

141. Application of certain penalties.

(1) A fine imposed, for an offence—

(a) against a Council rule; or

(b) against this Act committed—

(i) in a Council area; or

(ii) in relation to or in respect of a Council,

(other than an offence against Section 139) shall be paid to the Council.

(2) A fine imposed in proceedings instituted by or by authority or direction of a Council, for an offence against any prescribed law shall be paid to the Council.

PART XI.—MISCELLANEOUS.

142. The Local Government Gazette.

(1) There shall be a Papua New Guinea *Local Government Gazette*.

(2) The *Local Government Gazette* shall be published at least once a month.

(3) There shall be published in the *Local Government Gazette*—

(a) all proclamations under this Act; and

(b) all rules made by Councils; and

(c) all appointments made under this Act; and

(d) all other matters and things that are required by or under this or any other Act or by a rule made under this Act, or by direction of the Minister to be so published.

143. Judicial notice.

(1) All courts, Judges and persons acting judicially shall take judicial notice of—

(a) all rules made or purporting to be made under this Act by a Council; and

(b) all acts, matters and things of which publication in the *Local Government Gazette* is directed by or under an Act, when they are so published.

(2) All courts, Judges and persons acting judicially shall take judicial notice of the seal of a Council and, if it is affixed to an instrument or thing and is authenticated or purports to be authenticated in accordance with the Standing Orders of the Council, shall presume that it was properly affixed.

(3) All courts, Judges and persons acting judicially shall take judicial notice of the signatures of the Commissioner and all Deputy Commissioners.

(4) Evidence of a rule made under this Act may be given in any court or before any Judge or person acting judicially—

- (a) by the production of a copy of the *Local Government Gazette* or a supplement to the *Local Government Gazette* purporting to contain a copy of the rule; or
- (b) by the production of a document purporting to be certified by the Commissioner to be a true copy of the rule,

and the production of such a document is evidence that—

- (c) the rule was duly made by the Council; and
- (d) all things necessary to give validity to the rule under this Act have been duly done; and
- (e) the rule is in force.

144. Evidence in certain cases.

Where—

- (a) in a prosecution for an offence against this Act; or
- (b) in any action for a debt due to a Council under this Act; or
- (c) in any case in which the right of a person to be enrolled as an elector for a Council is in issue,

a question arises as to whether a person was resident or ordinarily resident in a Council area during a certain period—

- (d) proof that he was resident in that area, or was enrolled as an elector in that area, at any time during that period is evidence that he was resident or ordinarily resident in that area for the period necessary to establish the liability or the right, as the case may be; and
- (e) the burden of proof of a fact referred to in Section 1(2) is on the person who seeks to rely on that subsection.

145. Exemption from court fees.

No fee is payable by a Council to the State for the issue or service of any summons issued in connexion with an offence—

- (a) against a Council rule; or
- (b) committed in a Council area; or
- (c) committed in relation to or in respect of a Council.

146. Compensation for death or injury to Councillors.

For the purposes of the *Workers' Compensation Act*, a Councillor shall be deemed to be a worker employed by the Council of which he is a member.

147. Service of notices and legal process.

A summons, notice, writ or other process required to be served on a Council may be served by being given personally to the President or the Council Clerk.

148. Authentication of documents.

It is sufficient authentication of—

- (a) an information, complaint or other legal process; or

- (b) an order, notice or direction issued by a Council under this Act or any other law,

that is not impressed with the seal of the Council if it is signed by—

- (c) two Councillors; or

- (d) the Council Clerk,

authorized by the Council for the purpose.

149. Proceedings in bankruptcy, etc.

If a person against whom a Council has a claim or demand takes the benefit of the *Insolvency Act*, the Council Clerk may represent the Council and act in its behalf in all proceedings under that Act in all respects as if the claim or demand had been the claim or demand of the Clerk.

150. Council may order prosecutions, etc¹.

Subject to this Act, a Council may, generally or in any particular case, order proceedings to be taken for the recovery of any debts or penalties, and for the punishment of persons offending against this Act or any rule of the Council, and may order the expenses of the prosecution or other proceedings to be paid out of the funds of the Council.

151. Proceedings in District or Local Courts.

In all proceedings in a District or Local Court—

- (a) the Council Clerk; or

- (b) a Council officer appointed by the President of the Council in writing under his hand,

may represent the Council in all respects as if he were the party concerned.

152. Reimbursement of officers.

The Council Clerk, or a Council officer appointed under Section 151, shall be reimbursed out of Council funds all damages, costs, charges and expenses to which he may be put, or with which he is chargeable, by reason of anything in or done under Section 149, 150 or 151.

153. Entry by Council officers.

(1) Subject to Subsection (2), a Council may authorize a Council officer for the purposes of this Act, at any reasonable hour in the day-time, to enter any building or land within the Council area for the purpose of executing any work or making any inspection authorized to be executed or made by it under this or any other Act, without being liable to any legal proceedings on account of the entry.

(2) Except with the consent of the occupier, a Council officer shall not make an entry on occupied premises authorized under Subsection (1) until after the expiration of 24 hours notice to the occupier.

154. Personal liability.

(1) No matter or thing done, and no contract entered into, by a Councillor in good faith for the purpose of executing the provisions of this Act, and no matter or thing so done by a Council officer makes him personally liable to any action, liability, claim or payment.

¹ See, also, Constitution, Section 177.

(2) Any expense incurred by a Councillor or Council officer in his capacity as such shall be repaid to him out of funds at the disposal of the Council.

155. Local Government Associations.

A Council may join and contribute to a Local Government Association approved by the Minister and, subject to Section 97, may incur expenditure in respect of and incidental to joining such an Association.

156. Local Government purposes a public purpose.

The purposes of Local Government and the purposes of a Council are public purposes within the meaning of all laws.

157. Validity of acts of Council, etc.

The acts of a Council, an Authority, a Committee of a Council, a Ward Committee, a Councillor or a member of an Authority, a Committee or a Ward Committee or a Council officer are valid notwithstanding any defect that is afterwards discovered in its or his constitution, appointment or qualifications.

158. Regulations.

The Head of State, acting on advice, may make regulations, not inconsistent with this Act, prescribing all matters that by this Act are required or permitted to be prescribed, or that are necessary or convenient to be prescribed, for carrying out or giving effect to this Act, and in particular for providing for—

- (a) the procedure to be followed in establishing and convening, and at meetings of, joint Committees of Councils; and
- (b) the manner in which joint Committees of Councils are to exercise their powers; and
- (c) the remuneration of Councillors; and
- (d) the regulation of the imposition and collection of rates, taxes, charges and fees by Councils; and
- (e) the accounts and records to be kept by Councils and Ward Committees; and
- (f) the imposition of penalties of fines not exceeding K100.00 or imprisonment for terms not exceeding one month, or both, for offences against the regulations.

SCHEDULES.

SCHEDULE 1.

Sec. 56(2).

GENERAL FUNCTIONS OF COUNCILS.

The undertaking, provision, construction, maintenance, management, control and regulation of any of the following :—

1. Roads, bridges, tunnels, ferries, viaducts, culverts and other means of public communication, including—

- (a) the classification of roads; and

- (b) the aligning and re-aligning of roads; and
- (c) the diversion of roads; and
- (d) the planting of trees in roads; and
- (e) pedestrian refuges in roads; and
- (f) the removal of overhanging trees, etc., from roads; and
- (g) road signs; and
- (h) the diversion of traffic; and
- (i) parking areas and traffic control.

2. Public parks, gardens, playing grounds, recreation reserves, scenic resorts and lookouts and other public places, reserves and land vested in the Council or placed under its control permanently or temporarily, including—

- (a) baths and bathing places; and
- (b) kiosks; and
- (c) pavilions; and
- (d) shelter sheds; and
- (e) public decency.

3. Health, sanitation, cleansing and scavenging, the prevention and suppression of infectious and other diseases, the abatement of nuisances and other noxious and offensive trades and the disposal of the dead, including—

- (a) aid posts, clinics, maternity and child welfare clinics; and
- (b) sewerage schemes; and
- (c) the control of chemical refuse, steam, etc.; and
- (d) the control of impregnated land; and
- (e) the control of cemeteries; and
- (f) the licensing and supervision of the conduct of bakehouses, eating houses, food preparation and hawkers of food stuffs; and
- (g) public latrines and wash places; and
- (h) the control of dairies and piggeries, slaughterhouses and meat inspection; and
- (i) ambulance services; and
- (j) the prevention of pollution of water courses; and
- (k) the control of noxious animals, vermin and rodents.

4. Buildings and the use and occupation of buildings, places of public amusement or public resort, boarding and lodging houses, tenement houses and flats, stalls and stands on roads and advertising on roads and on land adjacent to roads, including—

- (a) the approval of the construction of new buildings and of alterations of, or additions to, existing buildings; and
- (b) fixed building lines; and
- (c) the erection of hoardings during building or alterations; and
- (d) dangerous and neglected structures; and
- (e) buildings unfit for occupation; and
- (f) the use of cellars; and
- (g) the licensing of places of public amusement or public resort; and
- (h) the supervision of floating dwellings and allotment of anchorages; and
- (i) petrol and service stations and petrol and air pumps; and
- (j) the storage of inflammable or dangerous goods.

5. Markets, commercial enterprises and hawking, including—

- (a) the operation of Council markets and the fixing of maximum prices of commodities sold in such markets; and
- (b) pools of agricultural machinery for hire; and

- (c) the supply of planting material; and
 - (d) the operation of licensed premises; and
 - (e) the licensing of hawkers and itinerant vendors.
6. Town planning, including—
- (a) schemes for any defined part or all the Council area; and
 - (b) the payment of compensation; and
 - (c) zoning schemes; and
 - (d) approval of sub-division proposals.
7. Housing schemes, whether for all or particular sectors of the community, including—
- (a) housing for people with limited means; and
 - (b) housing for the old or infirm; and
 - (c) hostels for workers; and
 - (d) hostels for school children.
8. Advertising in the area, public halls, art galleries, libraries, museums, public clocks, memorials and monuments, including—
- (a) adult education schemes; and
 - (b) the publication of newspapers; and
 - (c) the supply of extension aid material; and
 - (d) the fostering of local savings groups; and
 - (e) the regulation and control of the collection of money from the public in streets and other public places; and
 - (f) equipment for recreational purposes; and
 - (g) the granting of sums of money to associations for the promotions of arts and crafts, recreation and sports, tourism or the welfare of the inhabitants; and
 - (h) the foundation, maintenance, operation and encouragement of social, recreation, cultural and community centres and clubs for sporting, social or other lawful purposes.
9. Supply of water, light and power, water conservation, flood prevention, storm-water drainage and reclamation of land, including—
- (a) entering into agreements with other Councils for such purposes; and
 - (b) the establishment of forest areas to prevent erosion; and
 - (c) the establishment and maintenance of forest plantations and natural forest reserves; and
 - (d) the regulation or prohibition of the sinking of wells; and
 - (e) the establishment of lighting in public places; and
 - (f) the regulation of the use and prevention of the misuse or waste of water or electric power.
10. Pounds and impounding, stock routes and travelling stock reserves and the licensing, control and regulation of keeping animals and livestock, including—
- (a) the prevention of spread of diseases; and
 - (b) the prevention of cruelty to animals; and
 - (c) the establishment and maintenance of fish ponds.
11. Agricultural, pastoral, horticultural and forestry industries and methods on, and the economic use of, customary land, including—
- (a) the prohibition, restriction or regulation of the cutting or destruction of trees or plants; and
 - (b) the requiring of the control or destruction of any vermin or pest; and
 - (c) the requiring of the destruction of diseased or infected vegetation and other prevention of the spread of any plant, disease or pest that is declared under any law to be a noxious plant, disease or pest; and

- (d) the requiring of the owners of customary land to cultivate it to such extent and with such crops as will ensure a sufficient supply of food for their support and the support of those dependent on them.
12. Aerodromes and landing fields.
 13. Census and statistics, including crop and other agricultural and pastoral statistics.
 14. Omnibus and transport services.
 15. Education, including—
 - (a) assistance with formal training programs; and
 - (b) the supervision of attendance in schools in areas proclaimed under the *Education Act*; and
 - (c) the establishment and operation of pre-school centres as approved by the Government.
 16. Fire prevention, including—
 - (a) fire brigade services; and
 - (b) fire prevention campaigns.

SCHEDULE 2.

PAPUA NEW GUINEA.

Sec. 19(12).

Sec. 126.

OATH AND AFFIRMATION BY COUNCILLORS, ETC.

Oath.

I, _____, do swear that I will render true and faithful service as a Councillor of the
 Local Government Council (or as a member of the _____ Authority).
 So help me God!

Affirmation.

I, _____, do solemnly and sincerely affirm and declare that I will render true and
 faithful service as a Councillor of the _____ Local Government Council (or as member of
 the _____ Authority).

SCHEDULE 3.

Sec. 131.

APPLICATION OF ACT TO LOCAL GOVERNMENT AUTHORITIES.

Provision.	Modification, etc.
Part I.	—
Part II.	—
Part III.	—
Section 21.	—
Section 22.	Applies in relation to members of an Authority only.
Division V.3.	(a) Section 24 does not apply. (b) In Section 25(1) the reference to two months shall be read as a reference to three months.

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(c) In Section 32(4) the reference to Section 14(1) shall be read as a reference to Section 124.

Section 58.

—

Division VI.2.

—

Section 61.

—

Section 78.

Applies in relation to fees in respect of goods and services only.

Section 84.

Applies in relation to fees in respect of goods and services only.

Section 85.

Applies in relation to fees in respect of goods and services only.

Division VI.5.

(a) Section 98 does not apply.

(b) Section 99 applies only to all moneys standing to the credit of an account referred to in Section 90.

Part VII.

—

Part VIII.

—

Part X.

(a) Section 132 does not apply.

(b) Section 133 applies as though the words "or by a person authorized by or under this Act as a tax collector or electoral officer" were omitted.

(c) Section 135 applies in respect of fees or goods and services only.

(d) Section 141(1)(b) (i) does not apply.

Part XI.

Section 155 does not apply.

Passim

Reference to a Council Clerk shall be read as references to a Secretary of an Authority.

INDEPENDENT STATE OF PAPUA NEW GUINEA.

CHAPTER NO. 57.

Local Government Regulation.

ARRANGEMENT OF SECTIONS.

PART I.—RULES.

1. Form of rules.
2. Notice of making of rules, etc.
3. Rule book.
4. Notice of non-disallowance of rules.

PART II.—TAXES.

5. Notices as to land rates and building tax.
6. Appeals from decisions of Tax Review Committees.
7. Appointment of tax collectors.
8. Collection of rates and taxes.
9. Public advice concerning tax collections.
10. Payment by post.
11. Tax tickets.
12. Offences by tax collectors.

PART III.—COUNCIL MANAGERS.

13. Reports by Manager.
14. Examination of papers, etc., relating to Council business.

PART IV.—JOINT COMMITTEES.

15. Appointment of joint Committees.
16. Chairman and Deputy Chairman of joint Committees.
17. Convening meetings of joint Committees.
18. Minutes of meetings.

PART V.—MISCELLANEOUS.

19. Remuneration of Councillors.
20. Payment of fees, etc.
21. Writing off losses, etc.
22. Accounts and records.
23. Prescribed laws for the purposes of Section 141.

SCHEDULE.—

- FORM 1.—Personal Tax Rule.
- FORM 2.—Land Rates/Building Tax Rule.
- FORM 3.—Pro forma Rule.
- FORM 4.—Rate Notice for the Year
- FORM 5.—Certificate as to Rates Owning.
- FORM 6.—Notice of Transfer of Rateable Land.
- FORM 7.—Notice of Imposition of Tax on Registered Building for
the Year

INDEPENDENT STATE OF PAPUA NEW GUINEA.

CHAPTER NO. 57.

Local Government Regulation.

MADE under the *Local Government Act*.

PART I.—RULES.

1. Form of rules.

- (1) A rule imposing a personal tax shall be in Form 1.
- (2) A rule imposing rates on land and taxes on registered buildings shall be in Form 2.
- (3) A rule relating to any other matter shall be in Form 3.

2. Notice of making of rules, etc.

- (1) For the purposes of Section 63 of the Act, a Council proposing to make a rule shall—
 - (a) forward to the Advisers (if any) appointed for the Council a copy of the proposed rule, together with the reasons for making the rule; and
 - (b) exhibit in a prominent position in the Council House a copy of the proposed rule, together with a statement of the reasons for making the rule; and
 - (c) notify the making of the proposed rule in the Council area in any manner in which it is customary to transmit news or orders in the area.

(2) In addition to complying with the provisions of Subsection (1), a Council shall comply with any directions given by the Minister in relation to the giving of notice of the making of a rule.

3. Rule book.

The Council Clerk shall keep a record of all rules made or adopted by the Council, and shall enter the rules in a book kept for the purpose.

4. Notice of non-disallowance of rules.

A Council shall cause to be published in the *Local Government Gazette* a notice of each rule made by the Council that has not been disallowed within the time limited by Section 65 of the Act.

PART II.—TAXES.

5. Notices as to land rates and building tax.

- (1) A rate notice for the purposes of Section 76(4) of the Act shall be in Form 4.
- (2) A certificate as to rates owing for the purposes of Section 76(13) of the Act shall be in Form 5.
- (3) A notice of transfer of rateable land in an urban area for the purposes of Section 76(14) of the Act may be in Form 6, and shall contain the particulars set out in that form.
- (4) A notice of the imposition of a tax on a registered building for the purposes of Section 77(3) of the Act shall be in Form 7.

6. Appeals from decisions of Tax Review Committees.

(1) An appeal under Section 88(3) of the Act shall be made within 28 days after the decision complained of, but the Council Tax Appeal Tribunal may extend the time for lodging the appeal if for any special reason it thinks it proper to do so.

(2) An appeal may be made orally or in writing to a Council Tax Appeal Tribunal.

7. Appointment of tax collectors.

A Council may appoint tax collectors, who shall collect Council rates and taxes.

8. Collection of rates and taxes.

(1) Subject to Section 10, Council rates and taxes shall be collected only—

(a) at such places and at such times as the Council decides; and

(b) by tax collectors appointed under Section 7.

(2) When collecting Council rates and taxes at a centre other than the Council House, an authorized tax collector shall—

(a) be provided with a metal cash box capable of being locked; and

(b) be accompanied at all times by at least one Councillor; and

(c) so far as possible, make daily remittances of Council rate and tax money to the Council House.

9. Public advice concerning tax collections.

A Council shall take all the necessary measures to make known to the electors of the Council the names of the tax collectors, the places of Council tax and rate collection and the times of collection.

10. Payment by post.

A person liable to pay Council rates and taxes under the Act may forward the rates and taxes by post to the Council Clerk.

11. Tax tickets.

(1) A tax ticket shall be issued by a tax collector to each taxpayer or ratepayer on receipt of Council rates or taxes.

(2) Each tax ticket issued shall show the name of the taxpayer or ratepayer and the amount of rates or taxes paid.

(3) Tax tickets shall be issued in a different colour for each fiscal year, and no colour shall be used for tax tickets on more than one occasion in any period of five years.

12. Offences by tax collectors.

A tax collector appointed under Section 7 who—

(a) having collected Council rates or taxes, wilfully withholds a tax ticket; or

(b) knowingly issues a tax ticket for an amount other than the amount received;
or

(c) knowingly collects Council rates or taxes from a person not liable to pay the rates or taxes; or

(d) knowingly omits to collect rates or taxes from a person liable to pay the rates or taxes; or

(e) fails to account for all Council rates and tax moneys collected by him, is guilty of an offence.

Penalty: A fine not exceeding K100.00 or imprisonment for a term not exceeding one month.

PART III.—COUNCIL MANAGERS.

13. Reports by Manager.

(1) Where a Manager is appointed for a Council, he shall, at such times as the Minister requires, report to the Minister on the business of the Council.

(2) Where some, but not all, of the powers or functions of a Council are suspended and a Manager is appointed for the Council, in addition to the reports referred to in Subsection (1) the Manager shall, at such times as the Council, with the approval of the Minister, requires, report to the Council on the business of the Council.

(3) Where the period of suspension of the powers or functions of a Council lapses or the suspension is lifted (otherwise than by the abolition of the Council), the Manager of the Council shall, as soon as practicable after the date of the lapse or lifting, make a final report to the Minister and to the Council on the business of the Council during the period of suspension.

14. Examination of papers, etc., relating to Council business.

(1) A Manager may require any person who has in his possession any books or papers that in the opinion of the Manager relate to the business of the Council, to surrender them for examination by the Manager.

(2) A person who refuses or fails to surrender books or papers in accordance with Subsection (1) is guilty of an offence.

Penalty: A fine not exceeding K10.00.

PART IV.—JOINT COMMITTEES.

15. Appointment of joint Committees¹.

Where an agreement entered into under Section 58 of the Act provides for the appointment of a joint Committee, each Council concerned shall, by resolution, appoint councillors to be members of the joint Committee.

16. Chairman and Deputy Chairman of joint Committees.

(1) Except as otherwise provided for in the agreement referred to in Section 15, the Chairman of the joint Committee shall be appointed by the members of that Committee from amongst their own number.

(2) The members of the joint Committee may appoint a Deputy Chairman from amongst their own number.

17. Convening meetings of joint Committees.

Meetings of a joint Committee shall be held at such times and places as are agreed on by the Councils concerned, and shall be convened as necessary by the Chairman.

¹ The validity of this section may be doubtful. See the *Local Government Act*, Section 58, but see also *ibid.*, Section 158(a) and (b).

18. Minutes of meetings.

(1) Minutes of the proceedings of a meeting of a joint Committee, including the names of all Councillors present at the meeting, shall be drawn up and entered in a book to be kept for the purpose, and shall be signed at the next meeting of the Committee by the person presiding at that meeting.

(2) Minutes signed in accordance with Subsection (1), or an extract from the minute book under the hand of the person presiding at the meeting, shall be forwarded to each Council concerned as soon as practicable after the minutes have been signed.

PART V.—MISCELLANEOUS.**19. Remuneration of Councillors.**

(1) Except with the written consent of the Minister, the annual appropriation by a Council for the personal remuneration of Councillors shall not exceed 15% of the total estimated recurrent revenue of the Council for the year.

(2) Subject to Subsection (1), the Council shall determine the amount of remuneration payable to a Councillor in respect of the duties carried out by the Councillor.

20. Payment of fees, etc.

(1) All fees and charges, other than Council rates or taxes, shall be paid or forwarded by post to the Council Clerk.

(2) A receipt signed by the Council Clerk or other authorized officer of the Council shall be issued for all cash, other than Council rates and taxes, received by the Council.

21. Writing off losses, etc.

(1) Before any writing-off under Section 103 of the Act, a Council shall obtain from the Finance Committee appointed under Section 36 of the Act a report showing—

- (a) the amount or value of any loss or deficiency, and how, where and when it occurred; and
- (b) whether any loss or deficiency was, or appears likely to have been, caused or necessitated by the fraud, mistake, default, neglect or error of any person, and if so of whom; and
- (c) whether the amount or value of any loss or deficiency has been made good, in whole or in part, by the person concerned, and what action (if any) has been taken to have the loss or deficiency made good; and
- (d) if there is evidence of theft or fraud, what legal action has been or is intended to be taken and, if no such action has been or is intended to be taken, the reason why.

(2) Notwithstanding Subsection (1), a Council Clerk¹ may, without the necessity for a report from the Finance Committee in accordance with that subsection, write off a loss or deficiency referred to in Section 103(a), (b), (c) or (d) of the Act, where the amount or value of the loss or deficiency does not exceed K20.00.

(3) Where a Council Clerk makes a writing-off in accordance with Subsection (2), he shall record the details in the Council records.

¹ But see the *Local Government Act*, Section 103 where the power is conferred on the Council itself.

22. Accounts and records.

The accounts and records to be kept by a Council include—

- (a) a rule book; and
- (b) a minute book relating to meetings of the Council and of Committees; and
- (c) accounts and other financial books, forms and records that it is required to keep in accordance with the Financial Memoranda issued to the Council.

23. Prescribed laws for the purposes of Section 141.

The prescribed laws for the purposes of Section 141(2) of the Act are—

Animal Act Parts II and V.

Building Act.

Cemeteries Act.

Cocoa Industries Act.

Fire Service Act.

Fisheries Act.

Gaming Act.

Licences Act (T.N.G.)

Motor Traffic Act.

Native Administration Regulation (T.N.G.)

Native Regulation (Papua).

Plant Disease and Control Act.

Poisons and Dangerous Substances Act.

Public Health Act.

Pure Food Act.

Restaurants (Licensing) Act.

Roads Maintenance Act.

Sale of Meat Act.

Second-hand Dealers Act.

Trading Act.

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Local Government

SCHEDULE.

PAPUA NEW GUINEA.

Local Government Act.

Act, Sec. 64.

Form 1.

Reg., Sec. 1.

PERSONAL TAX RULE.

Whereas the Local Government Council, on 19 , gave notice in accordance with Section 63 of the *Local Government Act*, and caused notice to be exhibited in the Council area, of its intention to pass the rule set out below:

And whereas the Minister for 19 approved the making of the rule on 19 .

Now the Council makes the following rule relating to the imposition of personal taxes for the period from 19 .

This rule shall come into operation on the date of publication in the *Local Government Gazette*, unless it is disallowed.

LOCAL GOVERNMENT COUNCIL RULE No. OF 19 .
TAX RULE 19 .

The Seal of the Local Government Council was affixed on 19 , in accordance with Resolution No. of 19 , by or in the presence of the undersigned proper officers of the Council.

(Here affix seal).

(Signature and designation of proper officers by whom or in whose presence the Council executes instruments under seal).

Date made:

Date of commencement:

Date of non-disallowance:

PAPUA NEW GUINEA.

Local Government Act.

Act, Sec. 64.

Form 2.

Reg., Sec. 1.

LAND RATES/BUILDING TAX* RULE.

Whereas the Local Government Council, on 19 , gave notice in accordance with Section 63 of the *Local Government Act*, and caused notice to be exhibited in the Council area, of its intention to pass the rule set out below:

And whereas the Minister for , on 19 , declared the area of land more particularly described in the Schedule to this rule to be an urban area for the purposes of Subdivision VI.4.B. of the *Local Government Act*.

And whereas the Minister for 19 approved the making of the rule on 19 .

Now the Council makes the following rule relating to the imposition of rates on land and taxes on registered buildings for the period from 19 .

This rule shall come into operation on the date of publication in the *Local Government Gazette*, unless it is disallowed.

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LOCAL GOVERNMENT COUNCIL RULE No. OF 19
LAND RATES AND BUILDING TAX RULE, 19

SCHEDULE.

PART I.—RATES ON LAND.

PART II.—TAXES ON REGISTERED BUILDINGS.

The Seal of the Local Government Council was affixed on
19 , in accordance with Resolution No. of 19 , by or in the presence of
the undersigned proper officers of the Council.

(Here affix Seal.)

(Signature and designation of proper officers by whom or in whose presence the Council executes instruments under seal.)

Date made:

Date of commencement:

Date of non-disallowance:

*Strike out whichever is inapplicable.

PAPUA NEW GUINEA.

Local Government Act.

Act, Sec. 64.

Form 3.

Reg., Sec. 1.

PRO FORMA RULE.

A Rule relating to

Whereas the Local Government Council on 19 , gave
notice in accordance with Section 63 of the *Local Government Act*, and caused notice to be exhibited in
the Council area, of its intention to pass the rule set out below:

And whereas the Minister for approved the making of the rule on
19 .

Now the Council makes the following rule.

This rule shall come into operation on the date on which it is published in the *Local Government Gazette*, unless it is disallowed.

RULE No. OF 19 .

RULE 19 .

The Seal of the Local Government Council has been affixed on
19 , in accordance with Resolution No. of 19 , in the
presence of the undersigned proper officers of the Council.

(Here affix Seal.)

(Signature and designation of proper officers by whom or in whose presence the Council executes instruments under seal.)

Date made:

Date of commencement:

Date of non-disallowance:

Ch. No. 57

Local Government

PAPUA NEW GUINEA.

Local Government Act.

Act, Sec. 76(4).

Form 4.

Reg., Sec. 5(1).

RATE NOTICE FOR THE YEAR

(Name of Local Government Council).

To (name of person to be served)¹, of (address of person to be served), (capacity in which to be served) of (description of land).

Take notice that the above land has been rated for the fiscal year ending 30 June 19 , by the (name of Local Government Council) as shown hereunder, and that the amount of the rate for that fiscal year is due and payable on the expiration of one month after the service of this notice.

Valuation number.	Unimproved value.	Particulars of rate.	Amount of rates due.
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If the rate is paid before (date specified in rate rule for the purpose), the amount of the rate shall be reduced by (amount specified in rate rule)².

Dated 19 .

For the Council,

Council Clerk.

(or as the case may be).

1. If the name of the person is not known, it is sufficient to describe him as "the owner".
2. Omit if no reduced tax provided for.

PAPUA NEW GUINEA.

Local Government Act.

Act, Sec. 76(13)

Form 5.

Reg., Sec. 5(2).

CERTIFICATE AS TO RATES OWING.

(Name of Local Government Council).

To (name of proposed purchaser) of (address).

No amount of rates is owing as at the date of this certificate in respect of the land described below.

or*

The amount of for rates is owing as at the date of this Certificate in respect of the land described below.

This amount is made up as follows :—

(Set out details of amount due).

(Description of land).

Dated 19 .

For the Council,

Council Clerk.

(or as the case may be).

*Strike out whichever is inapplicable.

Local Government

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PAPUA NEW GUINEA.

Local Government Act.

Act, Sec. 76(14).

Form 6.

Reg., Sec. 5(3).

NOTICE OF TRANSFER OF RATEABLE LAND.

To: The Council Clerk,

Local Government Council,

Papua New Guinea.

Notice is given under the *Local Government Act* of the SALE/TRANSFER/ASSIGNMENT* of the land described in this Notice.

DESCRIPTION OF LAND.

Region	Local Government Council
Ward	{ Freehold
	* { State Lease
	{ Granted Application No.

URBAN LAND:

Lot	Section	Street
Land Area	Town or City	

RURAL LAND:

Portion	Milinch	Volume
Land Area	Fourmil	Folio
Name of Property		

VENDOR(S): (Use Block Letters).

	{ Mr.	
Surname	* { Mrs.	Other Names
	{ Miss.	

Address

Occupation

PURCHASER(S): (Use Block Letters).

	{ Mr.	
Surname	* { Mrs.	Other Names
	{ Miss.	

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Address for service of future notices:

Occupation:

NOTE: If more than one purchaser, state whether joint tenants or tenants in common.

Purchase price or consideration:

(State full particulars and terms of sale).

Date of contract:

Date of transfer:

Date of assignment:

Apportionment of sale price—

Furniture and fittings: K

Stock and/or crops:* K

Plant: K

Land and improvements: K

Total K

Dated 19 .

(Signature(s) of Transferor(s)).

*Strike out whichever is inapplicable.

PAPUA NEW GUINEA.

Local Government Act.

Act, Sec. 77(3)

Form 7.

Reg., Sec. 5(4).

NOTICE OF IMPOSITION OF TAX ON REGISTERED BUILDING FOR THE YEAR

(Name of Local Government Council).

To (name of registered occupier of registered building), of (address).

A tax of (amount of tax) has been imposed for the fiscal year ending 30 June 19 by the (name of Local Government Council) as shown below.

The tax is due and payable on the expiration of one month after the service of this notice.

Registration number of building.	Particulars of tax.	Amount of tax.
--	------------------------	-------------------

*If the tax is paid before (date specified in tax rule for the purpose), the amount of the tax shall be reduced by (amount specified in tax rule for the purpose).

Dated 19 .

For the Council,
Council Clerk.
(or as the case may be).

*Omit if no reduced tax provided for.

INDEPENDENT STATE OF PAPUA NEW GUINEA.

CHAPTER NO. 57.

Local Government (Electoral Provisions) Regulation.

ARRANGEMENT OF SECTIONS.

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- "approved form"
- "Assistant Returning Officer"
- "ballot-box"
- "ballot-paper"
- "candidate"
- "candidate's agent"
- "the date of publication of the results"
- "election petition"
- "elector"
- "illegal practice"
- "interpreter"
- "list of electors"
- "official mark"
- "Poll Clerk"
- "polling booth"
- "polling schedule"
- "polling place"
- "Presiding Officer"
- "the Returning Officer"
- "roll"
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- "scrutiny"
- "writ".

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- 5. Presiding Officers, etc.
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14. Right to vote.
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 "Court of Disputed Returns"

 "the Court of Disputed Returns"

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INDEPENDENT STATE OF PAPUA NEW GUINEA.

CHAPTER NO. 57.

Local Government (Electoral Provisions) Regulation.

MADE under the *Local Government Act*.

PART I.—PRELIMINARY.

1. Interpretation.

In this Regulation, unless the contrary intention appears—

“absolute majority of votes” (*Repealed by No. 4 of 1978, s. 1.*)

“the Act”, in relation to a Council, includes the constituent proclamation;

“approved form” means a form approved under Section 7;

“Assistant Returning Officer” means an officer appointed under Section 4;

“ballot-box” means a box—

(a) capable of being securely fastened with a lock; and

(b) having a cleft in the cover through which the ballot-papers may be deposited in the box and provided with means for securely closing the cleft so that, when the cleft is so closed, no ballot-papers or other matters or things can be deposited or placed in the box or withdrawn from it;

“ballot-paper” means a ballot-paper in accordance with Sections 27 and 28;

“candidate” means a candidate in an election;

“candidate’s agent” means a person authorized under Section 31(1);

“the date of publication of the results” means the date of publication under Section 54;

“election petition” means a petition under Part XI.;

“elector” means a person whose name appears on a roll and who is entitled to vote at the election in question;

“illegal practice” means an illegal practice specified in Part XII., and includes an offence under the *Criminal Code Act*;

“interpreter” means a person in respect of whom approval is given under Part IX.;

“list of electors” means a certified list of electors provided under Section 34;

“official mark” means a mark authorized by the Returning Officer;

“Poll Clerk” means a Poll Clerk appointed under Section 5;

“polling booth” means a polling booth designated under Part VI.;

“polling schedule” means a polling schedule prepared under Section 29, and includes such a schedule as varied under Section 30;

“polling place” means a polling place designated under Section 29;

- "Presiding Officer" means a Presiding Officer appointed under Section 5;
"the Returning Officer", in relation to a Council, means the Returning Officer appointed for that Council under Section 3;
"roll" means a roll of electors compiled under Part III.;
"scrutineer" means a scrutineer appointed under Section 42;
"scrutiny" means a scrutiny in accordance with Part VIII.;
"writ" means a writ for an election issued under Section 16.

2. Application.

Subject to the Act, this Regulation applies to all elections.

PART II.—ADMINISTRATION.

3. Returning Officers.

The Electoral Commissioner shall, by notice in the *Local Government Gazette*, appoint a Returning Officer for each Council.

4. Assistant Returning Officers.

(1) The Returning Officer may appoint one or more persons as Assistant Returning Officers for an election.

(2) An Assistant Returning Officer may, subject to the control of the Returning Officer, exercise the powers and perform the duties of the Returning Officer.

5. Presiding Officers, etc.

(1) The Returning Officer may appoint one or more persons as Presiding Officers to assist, subject to the control of the Returning Officer, in the conduct of the polling at an election.

(2) The Presiding Officer may assist the Returning Officer in the scrutiny and counting of votes at the election.

(3) The Returning Officer may appoint one or more persons as Poll Clerks to assist, subject to the control of the Returning Officer, in the conduct of the polling.

6. General requirements.

A person appointed under this Regulation shall—

- (a) make such declarations as the Electoral Commissioner requires; and
- (b) comply with any directions given by the Electoral Commissioner under his power of supervision under Section 19 of the Act.

7. Approved forms.

The Electoral Commissioner may, by instrument, approve forms for the purposes of this Regulation.

8. Availability of forms.

A Returning Officer shall—

- (a) keep available copies of approved forms required by members of the public for the purposes of this Regulation; and

- (b) without fee, supply them as required; and
- (c) assist the public in their proper use.

PART III.—ROLLS OF ELECTORS.

9. **Compilation of roll.**

In relation to the first election held in a Council area, the Returning Officer shall compile a roll of electors for the Council and, for the purpose, may use any information that appears to him to be relevant, including—

- (a) any Register of Taxpayers kept under the Act or under a law repealed by the Act; and
- (b) any Electoral Roll kept under the *Organic Law on National Elections*; and
- (c) applications for enrolment under Section 11.

10. **Closing of roll.**

The Returning Officer—

- (a) shall fix a date for the closing of a roll for the purpose of an election; and
- (b) may, before that date, correct errors, omissions and misdescriptions in the roll.

11. **Application by person to be enrolled.**

(1) For the purposes of Section 15 of the Act, a person applying to be enrolled as an elector shall apply in the appropriate approved form.

(2) On receipt of an application under Subsection (1), if the Returning Officer is satisfied that the applicant is entitled to be enrolled as an elector he shall enter the person's name on the roll, together with the address in respect of which he is enrolled.

12. **Elector entitled to vote in respect of more than one ward, etc.**

(1) Where, but for the operation of Section 15(5) of the Act, an elector would be entitled to be enrolled in respect of more addresses than one, or for more wards than one, he shall elect in respect of which address or ward, as the case may be, he desires to be enrolled.

(2) An election under Subsection (1) shall be in the approved form.

(3) On receipt of an election under Subsection (1), if the Returning Officer is satisfied that the applicant is entitled to be enrolled as an elector in respect of the address or ward for which the election has been made he shall enter the person's name on the roll in respect of that address or ward.

13. **Decision by Returning Officer in respect of an elector.**

Where, after reasonable notice given by the Returning Officer, an elector refuses or fails to make an election under Section 12, the Returning Officer shall decide the address or ward, as the case may be, in respect of which the elector shall be enrolled, and shall enter that address or ward against the elector's name on the roll.

14. **Right to vote.**

(1) The roll in force at the time of an election is evidence of the right of a person whose name appears on the roll to vote at the election.

(2) An elector is entitled to vote only in a ward for which he is enrolled.

(3) This section does not authorize an elector to vote more than once at the same election.

15. Effect of error in roll.

(1) If, in the opinion of the Returning Officer or a Presiding Officer, an elector is sufficiently identified, then—

- (a) an omission in a roll of a part of a name; or
- (b) an entry in a roll of a wrong name, address or occupation; or
- (c) a mistake in the spelling of a name,

does not authorize the rejection, at the polling, of a claim to vote and an elector is not, because of a change of name, disqualified from voting under his previous name appearing on the roll.

(2) Where—

- (a) a person who is entitled to be enrolled claims the right to vote at an election at a polling place prescribed for the election and in respect of which he is entitled to be enrolled; and
- (b) his name has been omitted or removed from the roll,

he may be permitted to vote if—

- (c) the omission or removal was due to an error in the compilation of the roll; and
- (d) he is not enrolled for another address or ward of the same Council area; and
- (e) he did not know, and had no reasonable opportunity of knowing, of the omission or removal, or did not have a reasonable opportunity of making a claim or a further claim for enrolment.

(3) Where the Electoral Commissioner is satisfied that—

- (a) the electoral roll for an election is inadequate or incomplete; and
- (b) the name of a person whom the Presiding Officer is satisfied is qualified to be an elector for the ward in question does not appear on the roll,

the Electoral Commissioner may direct that the person be permitted to vote, and the person may vote accordingly.

PART IV.—WRIT FOR ELECTION.

16. Writ for election.

The Minister shall cause a writ for an election to be issued to the Returning Officer.

17. Form of writ.

A writ shall be in the approved form and, subject to this Part, shall fix—

- (a) the day and the hour on and at which nominations close; and
- (b) the beginning and the end of the polling period; and
- (c) the date for the return of the writ.

18. Time of issue of writ.

For the purposes of this Regulation, a writ shall be deemed to have been issued at 4 p.m. of the day on which it is issued.

19. Address of writ.

A writ for an election shall be addressed to the Returning Officer.

20. Date of polling.

The polling period for an election shall commence and end on the dates respectively fixed in the writ.

21. Date of return of writ.

(1) An election shall be deemed completed on the day immediately following the closing of the polling.

(2) The date for the return of the writ shall be not more than 21 days after the closing of the polling.

(3) Notwithstanding subsection (2), the Returning Officer shall—

(a) as soon as possible after the declaration of the result of the election; or

(b) in the case of an election that fails, as soon as possible after it is clear that the election has failed,

return the writ to the Minister.

22. Duties of Returning Officers as to writs.

(1) On receipt of a writ, the Returning Officer shall endorse it with the date of receipt.

(2) As soon as possible, the Returning Officer shall forward to the Council Clerk a certified copy of the writ.

(3) The Returning Officer shall not conduct an election unless he is in possession of—

(a) the appropriate writ; or

(b) telegraphic or other written advice from the Commissioner for Local Government that a writ addressed to the Returning Officer has been issued.

(4) Where the Returning Officer proceeds to conduct an election on the basis of advice referred to in Subsection (3)(b), he shall forward a copy of the advice to the Council Clerk as soon as possible after its receipt.

PART V.—NOMINATIONS AND BALLOT-PAPERS.

23. Requirement of nomination.

Unless duly nominated, a person is not qualified to be a candidate.

24. Method of nomination.

(1) Unless the Electoral Commissioner approves a different method of nomination, a nomination may be in the approved form, and may be made to the Returning Officer and shall—

(a) name the candidate, his place of residence and his occupation; and

(b) be witnessed by a person to whom the candidate is personally known; and

(c) be made during the period—

(i) commencing on the date of issue of the writ; and

(ii) ending on the day and at the hour fixed by the writ for the closing of nominations; and

(d) be signed by the person nominated as indicating his consent to becoming a candidate.

(2) Where the officer receiving the nomination is satisfied that there has been a substantial compliance with the provisions of Subsection (1)(a), (b) and (c), he shall not reject it on the ground of non-compliance with any of those provisions.

(3) Unless the person nominated consents to become a candidate, the nomination is invalid.

25. Withdrawal of nomination.

Unless the Electoral Commissioner approves a different method of withdrawal of nomination, a candidate may withdraw his nomination by attending and making an oral declaration to that effect before the Returning Officer or Presiding Officer, not later than one hour before the hour of commencement of the polling for the electorate or ward in respect of which the nomination has been made.

26. Failure of election.

(1) Subject to the Act and this Regulation, where an election fails the Minister may—

(a) without delay, issue a new writ for another election, called a supplementary election; or

(b) nominate persons to be Councillors for the ward or wards in question.

(2) An election fails where—

(a) no candidate is nominated; or

(b) if there are two or more candidates no votes are recorded before the closing of the polling; or

(c) a candidate dies before the closing of the polling.

27. Form of ballot-paper.

The ballot-paper to be used in an election shall be in the approved form.

28. Position of names on ballot-paper.

(1) The names of the candidates duly nominated shall be printed on the ballot-paper in an order determined as follows :—

(a) immediately after the close of nominations and in the presence of not less than two other persons, the Returning Officer, or if designated by him the Presiding Officer, shall prepare, in respect of each candidate nominated, a slip bearing the name of the candidate, enclose the slips in separate blank envelopes of exact similarity and deposit the envelopes in a locked ballot-box; and

(b) the Returning Officer shall then thoroughly shake and rotate the ballot-box and permit any other person present who so desires to do the same; and

(c) the ballot-box shall then be opened and a person (other than the Returning Officer) appointed by the Presiding Officer shall take out and open the envelopes one by one; and

(d) the candidate whose name appears on the slip enclosed in the envelope first taken out shall be placed first on the ballot-paper, the candidate whose name appears on the slip enclosed in the envelope next taken out from the

ballot-box shall be placed next on the ballot-paper and so on until the placing of all candidates has been determined.

(2) Where similarity in the names of two or more candidates is likely to cause confusion, their names may be set out with such descriptions or additions as will distinguish them from each other.

PART VI.—POLLING SCHEDULES.

29. Publication of schedule.

(1) As soon as practicable after the issue of a writ, the Returning Officer shall forward to the Council concerned copies of a polling schedule prepared by him—

- (a) designating polling booths and polling places in the Council area; and
- (b) showing the dates and times, within the period of polling, when the polling booths will be open,

in a manner that he thinks will give the electors a reasonable and sufficient opportunity of voting at the election.

(2) The Returning Officer shall cause the polling schedule to be published or notified at such places and in such manner as he thinks will give electors sufficient information.

30. Adherence to schedule.

(1) As far as practicable, polling booths shall be open in accordance with the polling schedule, and the Returning Officer and Presiding Officers shall take such action as is necessary or desirable for that purpose.

(2) Where it becomes impracticable to adhere to a polling schedule, the Returning Officer may vary the schedule.

(3) Subject to any directions given by the Returning Officer, if in the opinion of a Presiding Officer it is necessary or desirable in order to meet an unforeseen event to vary the polling schedule, and it is impracticable for the Returning Officer to do so, the Presiding Officer may vary the polling schedule in relation to a polling place and shall, as soon as practicable, advise the Returning Officer of the reason for the variation.

(4) Where the Presiding Officer varies the polling schedule in relation to a polling place, he shall take such action as is practicable to advertise the variation at the polling place and amongst the electors to vote there.

PART VII.—CONDUCT OF POLL.

31. General requirements.

(1) A candidate shall not, directly or indirectly, take part in the conduct of the polling but may authorize one person for each polling booth, called a candidate's agent, to represent him at the polling booth during the polling.

(2) Except in accordance with the conditions of any permission given by the Returning Officer or Presiding Officer, a person other than a person appointed under this Regulation, a candidate's agent or a person voting or about to vote, must not—

- (a) enter or remain in; or
- (b) be permitted by the Presiding Officer or the Returning Officer, to enter or remain in,

a polling booth during the polling.

Penalty: A fine not exceeding K100.00 or imprisonment for a term not exceeding one month, or both.

32. Offences by or in relation to candidate's agent.

(1) A candidate's agent must not—

(a) within a polling booth, interfere with or attempt to influence an elector; or

(b) except in so far as is necessary, communicate with a person in a polling booth.

(2) Subject to Subsection (3), a person must not hinder or prevent a candidate's agent from entering or leaving a polling booth.

(3) Only one candidate's agent for each candidate shall be present at a time in the polling booth.

Penalty: A fine not exceeding K100.00 or imprisonment for a term not exceeding one month.

33. Removal of candidate's agent.

The Presiding Officer may cause to be removed from the polling booth a candidate's agent who, in the opinion of the Presiding Officer, has contravened Section 32.

34. Arrangements by Returning Officer.

(1) The Returning Officer shall make all necessary arrangements for conducting the polling, including—

(a) the provision and furnishing of adequate polling booths and the provision of ballot-boxes; and

(b) the provision of a certified list of electors whose names are on the roll.

(2) A polling booth shall have one or more separate voting compartments, constructed so as to screen an elector from observation while he is marking his ballot-paper and furnished with a pencil for his use.

(3) A polling booth shall be provided with the necessary number of ballot-boxes.

35. Polling.

(1) Except where the Returning Officer or the Presiding Officer is of opinion that other hours are adequate and directs accordingly, the poll shall open at each polling place at 8 a.m. on each day (other than a Sunday or a public holiday) during the period for taking the poll at the polling-place, and shall not close until all electors present in the polling booth at 6 p.m., and desiring to vote, have voted.

(2) Before the first ballot-paper is placed in an empty ballot-box, the Returning Officer, or if he is not present the Presiding Officer, shall exhibit the ballot-box empty, and shall then securely fasten its cover.

(3) At the polling, the Presiding Officer shall hand to each person claiming to vote a ballot-paper initialled by the Presiding Officer on the reverse side of the paper, if—

(a) the name of the person under which he claims to vote is on the list of electors and no mark under Subsection (5) has already been placed against the name; and

(b) his right to vote is not challenged.

(4) At the request of a candidate's agent, the Returning Officer shall note any objection by the agent to the right of a person to vote, but the decision as to the right of

a person to vote rests solely with the Returning Officer and shall not be questioned in an election petition.

(5) Immediately after handing the ballot-paper to a person claiming to vote, the Presiding Officer shall place a mark against the name of the person on the list of electors.

36. Voting.

Subject to this Part, after being handed a ballot-paper under Section 35 the elector shall—

- (a) promptly retire alone to an unoccupied compartment of the booth and there, in private, record his vote on the ballot-paper in the prescribed manner; and
- (b) then fold the ballot-paper so as to conceal his vote and to show clearly the initials of the Presiding Officer, exhibit it so folded to the Presiding Officer and immediately, openly, and without unfolding it, deposit it in the ballot-box; and
- (c) then quit the booth.

37. Method of marking ballot-paper.

Subject to Section 45 and Section 49, an elector shall record his vote on a ballot-paper by placing an "X" in the square opposite the name of the candidate for whom he wishes to vote in such a way as to indicate clearly his preference for that candidate only.

(Replaced by No. 4 of 1978, s. 2.)

37A. Spoilt ballot-paper.

If a voter, before depositing his ballot-paper in the ballot-box, satisfies the Presiding Officer that he has spoilt the ballot-paper by mistake or accident, he may, on giving it up, receive a new ballot-paper from the Presiding Officer, who shall there and then cancel the spoilt ballot-paper, write the word "Spoilt" across the face of it, place it in an endorsed envelope and forward it to the Returning Officer after the polling.

(Added by No. 4 of 1978, s. 3.)

38. Assistance to certain electors.

- (1) Where an elector satisfies the Presiding Officer that—
 - (a) the sight of the elector is so impaired; or
 - (b) the elector is otherwise so physically incapacitated that he is unable to vote without assistance,
 the Presiding Officer shall permit a person authorized by the elector—
 - (c) to enter, with the elector, an unoccupied compartment of the polling booth; and
 - (d) on behalf of the elector, to mark, fold and deposit his ballot-paper.
- (2) Where—
 - (a) an elector has satisfied the Presiding Officer as to a matter specified in Subsection (1)(a) or (b), but does not authorize a person under Subsection (1); or
 - (b) an elector satisfies the Presiding Officer that the elector is so illiterate that he is unable to vote,
 the Presiding Officer shall, in the presence of—
 - (c) if the elector so desires—a person appointed for the purpose by the elector; or

(d) in the absence of such an appointment—a Poll Clerk, mark and fold the ballot-paper and hand it to the elector, who shall place it in the ballot-box.

PART VIII.—SCRUTINY.

39. Ascertaining result of poll.

The result of the polling shall be ascertained by scrutiny.

40. Place of scrutiny.

The scrutiny shall be conducted at a place or places appointed for the purpose by the Returning Officer.

41. Officers to conduct scrutiny.

The Returning Officer, or in his absence the Presiding Officer, shall conduct the scrutiny.

42. Scrutineers.

A candidate may appoint one scrutineer to represent him at the scrutiny.

43. Conduct of scrutiny.

The scrutiny shall be conducted so that—

- (a) it commences as soon as practicable after the end of the period of polling for a particular ward or for the election as a whole; and
- (b) the scrutineers (if any) and any persons approved by the officer conducting the scrutiny may be present; and
- (c) all the proceedings at the scrutiny are open to the inspection of the scrutineers; and
- (d) it may be adjourned from time to time as necessary until the counting of the votes is completed.

44. Action on objection to ballot-paper.

(1) If a scrutineer objects to a ballot-paper as being informal, the officer conducting the scrutiny shall mark the ballot-paper "Admitted" or "Rejected", according to his decision to admit or reject the ballot-paper.

(2) This section does not prevent the officer conducting the scrutiny from rejecting a ballot-paper as being informal although no objection has been made to it.

45. Informality.

(1) Subject to this section and to Section 49 a ballot-paper is informal if—

- (a) it is not authenticated by the initials of the Presiding Officer, or by an official mark; or
- (b) it has no vote indicated on it or does not clearly show the voter's intention; or
- (c) it has on it any mark or writing (not authorized by this Regulation to be put on it) by which, in the opinion of the officer conducting the scrutiny, the voter can be identified,

and in no other case.

(2) Subsection (1)(c) does not apply to a mark or writing placed on a ballot-paper by the Presiding Officer, notwithstanding that the placing of the mark or writing on the ballot-paper is a contravention of this Regulation.

(3) Notwithstanding the provisions of this section or Section 37, where the officer conducting the scrutiny is satisfied that any mark made on a ballot-paper clearly indicates the intention of the voter and the candidate for whom he has given his vote, the Returning Officer shall not determine that the vote is informal merely because the mark is not an "X".

(Replaced by No. 4 of 1978, s. 4.)

46. Scrutiny of votes.

The officer conducting the scrutiny shall, in the presence of any scrutineers who attend and of any persons authorized by the Returning Officer or Presiding Officer—

- (a) open the ballot-boxes; and
- (b) reject all informal ballot-papers, and arrange the unrejected ballot-papers under the names of the respective candidates by placing in a separate parcel all those on which a vote is shown for the same candidate; and
- (c) count the votes given for each candidate on all unrejected ballot-papers; and
- (d) make out and sign a statement (which may be countersigned by the Presiding Officer or Poll Clerk and, if they so desire, by such scrutineers as are present) setting out the number of votes given for each candidate and the number of informal ballot-papers; and
- (e) place in a separate parcel the ballot-papers rejected as informal.

(Amended by No. 4 of 1978, s. 5.)

47. Determining the result of the scrutiny.

(1) The result of an election shall be determined by scrutiny in the following manner :—

- (a) the officer conducting the scrutiny shall ascertain the total number of votes given for each candidate; and
- (b) the candidate who has received the largest number of votes is elected; and
- (c) if two or more candidates have an equal number of votes, the officer conducting the scrutiny shall decide by drawing lots who shall be elected.

(2) The procedure for drawing lots is as follows :—

- (a) the officer conducting the scrutiny shall immediately after the conclusion of the counting and before all persons present—
 - (i) prepare, in respect of each of the candidates having an equal number of votes, a slip bearing the name of the candidate as shown on the ballot-paper; and
 - (ii) enclose the respective slips in separate blank envelopes of exact similarity; and
 - (iii) deposit the envelopes in a locked ballot-box; and
- (b) the officer conducting the scrutiny shall—
 - (i) then thoroughly shake and rotate the ballot-box; and
 - (ii) permit any other person present, if he so desires, to do the same; and

- (c) the ballot-box shall then be opened and a person (other than the Returning Officer) appointed by the officer conducting the scrutiny shall take out and open one of the envelopes; and
- (d) the candidate whose name appears on the slip enclosed in the envelope taken from the ballot-box is elected.

(Replaced by No. 4 of 1978, s. 6.)

48. No candidate receiving absolute majority. *(Repealed by No. 4 of 1978, s. 7.)*

49. Multi-member wards.

(1) Subject to Section 45 and this section, where in any election for a ward two or more Councillors are to be elected, the method of marking the ballot-paper shall be for the elector to record his vote by placing an "X" in the square opposite the name of the candidates for whom he wishes to vote to fill the number of vacant seats in that ward.

(2) If an elector marks the ballot-paper and—

- (a) places an "X" in a number of squares less than the number of vacant seats for the ward the ballot-paper is not formal; or
- (b) places an "X" in a number of squares more than the number of vacant seats for the ward, the ballot-paper is informal.

(3) If an elector marks the ballot-paper by placing more than one "X" in the square opposite the name of a candidate, the ballot-paper is not informal but only one vote will be recorded in favour of the candidate.

(4) The result of an election for a ward for which two or more Councillors are to be elected shall be determined by scrutiny in the following manner :—

- (a) the officer conducting the scrutiny shall ascertain the number of votes given for each candidate; and
- (b) the candidates having the highest number of votes shall be elected in order of the number of votes from the higher to the lower, until the vacant seats for the ward are filled; and

(c) where—

- (i) the highest number of votes is obtained equally by a number of candidates greater than the number of seats for the ward; or
 - (ii) the next highest number of votes is obtained equally by a number of candidates greater than the remaining number of seats for the ward,
- the officer conducting the scrutiny shall, in the case of Subparagraphs (i) or (ii), decide by drawing lots who shall be elected for the seats or remaining seats, as the case may be.

(5) The procedure for drawing lots is according to Section 47(2), except that where there is more than one seat vacant, the officer conducting the scrutiny shall take out and open envelopes equal in number to the number of vacant seats, and the candidates whose names appear on the slips enclosed in the envelopes are elected.

(Replaced by No. 4 of 1978, s. 8.)

50. Two or more candidates having equal number of votes. *(Repealed by No. 4 of 1978, s. 10.)*

51. Re-count.

(1) At any time before the date of publication of the results, the Returning Officer—

- (a) may, if he thinks fit, on the request of a candidate setting forth the reasons for the request or of his own motion; or
- (b) shall, if so directed by the Electoral Commissioner,

re-count the ballot-papers.

(2) The officer conducting a re-count has the same powers as if the re-count were the scrutiny and may reverse a decision in relation to the scrutiny as to the allowance and admission or disallowance and rejection of a ballot-paper.

(3) The officer conducting a re-count may, and at the request of a scrutineer shall, reserve a ballot-paper for the decision of the Electoral Commissioner.

(4) The Electoral Commissioner shall decide whether a ballot-paper reserved for his decision under this section is to be allowed and admitted or disallowed and rejected.

(5) The Electoral Commissioner shall advise the Returning Officer, in writing, as to the number of ballot-papers that he has admitted or rejected, and the decision of the Electoral Commissioner shall be accepted by the Returning Officer in completing his re-count of the ballot-papers.

(6) A decision of the Electoral Commissioner given under this section is final¹.

PART IX.—INTERPRETERS.

52. Approval to use interpreters.

(1) Subject to Subsection (2), with the approval of the officer conducting the scrutiny, a person may make use, at any stage of the proceedings at the polling or at the scrutiny, of the services of a person as an interpreter.

(2) A person who is—

(a) a candidate; or

(b) a scrutineer,

is not eligible to be an interpreter.

53. Duties of interpreters.

(1) An interpreter must—

(a) to the best of his ability, correctly interpret any matter that he is lawfully required to interpret; and

(b) comply with the direction given by the Presiding Officer or the officer conducting the scrutiny; and

(c) refrain from disclosing any knowledge of the vote of an elector for or to whom the interpreter has interpreted.

Penalty: A fine not exceeding K100.00 or imprisonment for a term not exceeding three months, or both.

(2) The interpreter must not, in any way, attempt to influence the vote of an elector for or to whom he interprets.

Penalty: A fine not exceeding K100.00 or imprisonment for a term not exceeding one month, or both.

PART X.—RETURN OF WRIT.

54. Duties of Returning Officer.

As soon as convenient after ascertaining the result of an election, the Returning Officer, or in his absence the Presiding Officer, shall—

(a) publicly declare the result and the name of the candidate, or the names of the candidates, elected; and

(b) advise the Minister and the Electoral Commissioner in the approved forms, of the name of the candidate, or the names of the candidates, elected and

¹But see Constitution, Section 155.

provide any statistics or report required by the Minister or the Electoral Commissioner; and

- (c) return the writ to the Minister.

PART XI.—DISPUTED ELECTIONS AND RETURNS.

55. Interpretation of Part XI.

In this Part—

“the Clerk of the Court of Disputed Returns”, in relation to a disputed election or return, means the Clerk of the District Court that, under Section 57, is the Court of Disputed Returns for the Council to which the election or return relates;

“Court of Disputed Returns” means a Court of Disputed Returns constituted by Section 57;

“the Court of Disputed Returns”, in relation to a disputed election or return, means the District Court that, under Section 57, is the Court of Disputed Returns for the Council to which the election or return relates;

“election” means an election in a ward.

56. Method of disputing elections and returns.

The validity of an election or return may be disputed by petition addressed to the Court of Disputed Returns or by an objection under Section 71.

57. Constitution of Courts of Disputed Returns.

(1) The District Court established for an area that includes a Council area is the Court of Disputed Returns for that Council.

(2) Where a Council area comprises the areas, or parts of the areas, for which more District Courts than one are established, the Chief Magistrate shall, by notice in the National Gazette, appoint one such court as the Court of Disputed Returns for that Council Area. (*Replaced by No. 14 of 1976.*)

(3) The jurisdiction of a District Court under this Part shall be exercised by a Magistrate Grade III. or IV. (*Replaced by No. 14 of 1976.*)

58. Requisites of petitions.

An election petition shall—

- (a) set out the facts relied on to invalidate the election or return; and
- (b) ask for the relief to which the petitioner claims to be entitled; and
- (c) be signed by a candidate at the election, or by a person who was qualified to vote at the election; and
- (d) be attested by two witnesses whose occupations and addresses are stated in the petition; and
- (e) be filed with the Clerk of the Court of Disputed Returns within two months after the date on which the election is, under Section 21(1), deemed to have been completed.

59. Deposit as security for costs.

At the time of filing an election petition, the petitioner shall file with the Clerk of the Court of Disputed Returns the sum of K10.00 as security for costs.

60. Compliance with requisites.

Proceedings shall not be had on an election petition unless the requirements of Sections 58 and 59 are complied with.

61. Appearance by Electoral Commissioner and others.

If he so desires—

- (a) the Electoral Commissioner; or
- (b) a person returned as elected in the election; or
- (c) with the consent of the Court of Disputed Returns—any other person,

may—

- (d) enter an appearance in any proceedings on an electoral petition; and
- (e) be represented and heard on the petition.

62. Powers of Court of Disputed Returns.

(1) A Court of Disputed Returns shall sit in open court and, in addition to its other powers, functions and jurisdiction under any other law, may—

- (a) adjourn; and
- (b) compel the attendance of witnesses and the production of documents; and
- (c) grant to a party to an election petition leave to inspect, in the presence of A Council officer or an officer of the Public Service appointed by the Court for the purpose, the rolls and other documents (except ballot-papers) used at or in connexion with an election and take, in the presence of any such officer, copies of extracts from those rolls or documents; and
- (d) examine witnesses on oath; and
- (e) declare that a person who was returned as elected was not duly elected; and
- (f) declare a person duly elected who was not returned as elected; and
- (g) declare an election absolutely void; and
- (h) dismiss or uphold an election petition in whole or in part; and
- (i) award costs.

(2) A Court of Disputed Returns may exercise all or any of its powers under this section on such grounds as the Court in its discretion thinks sufficient.

(3) Without limiting the powers conferred by this section, the power of a Court of Disputed Returns to declare that a person who was returned as elected was not duly elected, or to declare an election absolutely void, may be exercised on the ground that an illegal practice was committed in connexion with the election.

63. Inquiries by Court of Disputed Returns.

A Court of Disputed Returns shall inquire whether the petition is duly signed, and so far as rolls and voting are concerned may inquire into the identity of persons and whether their votes were improperly admitted or rejected, assuming, subject to Section 15(3), the roll to be correct, but the Court shall not inquire into the correctness of a roll.

64. Voiding election for illegal practices.

(1) If a Court of Disputed Returns finds that a candidate has committed or has attempted to commit bribery or undue influence, his election, if he is a successful candidate, shall be declared void.

(2) A finding by a Court of Disputed Returns does not bar or prejudice a prosecution for an unlawful practice.

(3) A Court of Disputed Returns shall not declare that a person returned as elected was not duly elected, or declare an election void—

(a) on the ground of an illegal practice committed by a person other than the candidate and without the candidate's knowledge or authority; or

(b) on the ground of an illegal practice other than bribery or corruption, or attempted bribery or corruption,

unless the Court is satisfied that the result of the election was likely to be affected, and that it is just that the candidate should be declared not to be duly elected or that the election should be declared void.

65. Report of cases of illegal practice.

Where a Court of Disputed Returns finds that a person has committed an illegal practice, the Clerk of the Court shall immediately report the finding to the Minister and the Electoral Commissioner.

66. Real justice to be observed.

A Court of Disputed Returns shall be guided by the substantial merits and good conscience of each case, without regard to legal forms or technicalities and whether or not the evidence before it is in accordance with the law of evidence.

67. Immaterial errors.

(1) In this section, "officer" includes any person performing official functions in relation to an election.

(2) Subject to Subsection (3), an election shall not be avoided on account of a delay in the declaration of nominations, the polling, the declaration of the poll or the return of the writ, or on account of the absence or error of, or an omission by, an officer that did not affect the result of the election.

(3) Where on account of the absence or an error of, or an omission by, an officer, a person was prevented from voting in an election, a Court of Disputed Returns shall not, for the purpose of determining whether or not the absence or error of, or the omission by, the officer affected the result of the election, admit evidence of the way in which the person intended to vote in the election.

68. Evidence that person not permitted to vote.

On the trial of an election petition, a Court of Disputed Returns shall not admit the evidence of a witness that he was not permitted to vote in an election during the hours of polling in the polling period unless the witness satisfies the Court that—

(a) he claimed to vote in the election under the provision of the Act or this Regulation under which he was entitled, or might be permitted, to vote; and

(b) he complied with the requirements of the Act and this Regulation relating to voting so far as he was permitted to do so.

69. Forwarding of copies of petition and order of Court of Disputed Returns.

Immediately after the filing of an election petition, the Clerk of the Court of Disputed Returns shall forward a copy of the petition to the Minister and the Electoral Commissioner and to each person who was returned as elected, and after the trial of the petition shall immediately forward a copy of the order of the Court to each of them and to the petitioner.

70. Legal representation.

(1) A party to an election petition shall not, except by consent of all parties or by leave of the Court of Disputed Returns, be represented by a lawyer.

(2) In no case shall more counsel than one appear on behalf of a party.

71. Objections by Electoral Commissioner.

(1) The Electoral Commissioner may, by written notice to the Court of Disputed Returns, object to an election.

(2) An objection under Subsection (1) shall—

(a) set out the grounds of the objection; and

(b) be filed with the Clerk of the Court of Disputed Returns within two months after the date on which the election is, under Section 21(1), deemed completed.

(3) Sections 62 to 70, with the necessary modifications, apply to and in relation to an objection under this section as if it were an election petition.

72. Costs.

A Court of Disputed Returns may award costs against an unsuccessful petitioner.

73. Deposits applicable for costs.

If costs are awarded against the petitioner to a party, the deposit lodged under Section 59 is applicable in payment or part payment of the sum ordered, but otherwise the deposit shall be paid to the petitioner.

74. Other costs.

All other costs awarded by a Court of Disputed Returns, including any balance above the deposit payable by the petitioner, are recoverable as if the order of the Court were a judgement of a District Court, and the order, certified by the Court, may be entered as a judgement of a District Court and enforced accordingly.

75. Effect of decision.

Effect shall be given to a decision of a Court of Disputed Returns as follows :—

(a) if a person returned is declared not to have been duly elected, he ceases to be a Councillor; and

(b) if a person not returned is declared to have been duly elected, he may take his seat as a Councillor accordingly; and

(c) if an election is declared absolutely void, a new election shall, subject to Section 23(1)(b) of the Act, be held.

PART XII.—OFFENCES.

76. Illegal practices.

(1) Subject to Subsection (2), the following are illegal practices :—

- (a) publishing an electoral advertisement, handbill or pamphlet or issuing an electoral notice (other than the announcement by advertisement in a newspaper of the holding of a meeting) without the name and address of the person authorizing the publication or issue appearing at the end of it; and
- (b) printing or publishing a printed electoral advertisement, handbill or pamphlet (other than an advertisement in a newspaper) without the name and place of business of the printer being printed at the foot of it; and
- (c) printing, publishing or distributing a printed electoral advertisement, notice, handbill, pamphlet or card containing a representation of a ballot-paper, or a representation apparently intended to represent a ballot-paper, and having on it directions intended, or being likely, to mislead or improperly interfere with an elector in relation to the casting of his vote; and
- (d) printing, publishing or distributing an electoral advertisement, notice, handbill, pamphlet or card containing an untrue or incorrect statement intended, or being likely, to mislead or improperly interfere with an elector in relation to the casting of his vote; and
- (e) wilfully informing an elector during the election period that he is not—
 - (i) enrolled or entitled to be enrolled; or
 - (ii) enrolled or entitled to be enrolled for a particular ward; or
 - (iii) entitled to vote,when, as a fact, he is enrolled or entitled to be enrolled, or is enrolled or entitled to be enrolled for the ward, or is entitled to vote, as the case may be; and
- (f) before, during or after an election, corruptly providing food, drink or lodging to or for a person on account of anything done, or to be done, by an elector at an election; and
- (g) being an elector, corruptly receiving food, drink or lodging on account of anything done at an election; and
- (h) by force, threat, fraud, misrepresentation, undue influence or in any other manner inducing or attempting to induce another person to vote or fail to vote at an election, or to vote for a particular person at an election; and
- (i) falsely personating a person to secure a ballot-paper to which the personator is not entitled, or personating any other person for the purpose of voting; and
- (j) fraudulently destroying or defacing a nomination paper or ballot-paper; and
- (k) fraudulently taking a ballot-paper out of a polling booth; and
- (l) fraudulently putting a ballot-paper or other paper into a ballot-box; and
- (m) taking a ballot-paper out of a polling booth; and
- (n) forging, or uttering, knowing it to be forged, a nomination paper or ballot-paper; and

- (o) in a polling booth during the polling, misconducting oneself, or failing to obey the lawful directions of the Returning Officer or the Presiding Officer; and
 - (p) supplying ballot-papers without authority; and
 - (q) unlawfully destroying, taking, opening or otherwise interfering with ballot-boxes or ballot-papers; and
 - (r) voting more than once at the same election; and
 - (s) wagering on the result of an election; and
 - (t) wilfully defacing, mutilating, destroying or removing a notice, list or other document affixed by a Returning Officer or by his authority; and
 - (u) knowingly making a false statement in a claim, application, return or declaration, or in answer to a question under this Regulation; and
 - (v) distributing an advertisement, handbill or pamphlet published in contravention of Paragraph (a), (b), (c) or (d).
- (2) Subsection (1)(c) or (d) does not prevent the printing, publishing or distributing of a card, not otherwise illegal, that contains instructions as to how to vote for a particular candidate, so long as the instructions are not intended, or likely, to mislead an elector in relation to the recording of his vote.
- (3) A person who contravenes Subsection (1) is guilty of an offence.
- Penalty: A fine not exceeding K100.00 or imprisonment for a term not exceeding one month or both.

PART XIII.—MISCELLANEOUS.

77. Retention of ballot-papers.

- (1) The Electoral Commissioner shall cause the ballot-papers, lists of electors and declarations used in connexion with an election to be retained until—
- (a) three months after the date of publication of the results; or
 - (b) if questioned by petition, until he has dealt with the matter.
- (2) When they are no longer to be retained in accordance with Subsection (1), the Electoral Commissioner shall cause the papers, lists and declarations to be destroyed.

INDEPENDENT STATE OF PAPUA NEW GUINEA.

CHAPTER NO. 57.

Local Government (Council Staff) Regulation.

ARRANGEMENT OF SECTIONS.

1. Contract employment.
2. Approval of appointment.
3. Minimum conditions of employment.
4. Dismissal.

INDEPENDENT STATE OF PAPUA NEW GUINEA.

CHAPTER NO. 57.

Local Government (Council Staff) Regulation.

MADE under the *Local Government Act*.

1. Contract employment.

Subject to this Regulation and to the *Local Government Service Act*, a Council may negotiate with a person with regard to his employment by the Council as a Council officer.

2. Approval of appointment.

A person shall not be appointed as a Council officer unless his appointment is approved by—

- (a) a resolution of the Council; and
- (b) the Minister.

3. Minimum conditions of employment.

The wages, allowances and other emoluments of a Council officer, and his conditions of employment (other than the period of his engagement) shall not be inferior to those prescribed under the *Administration Servants Act 1958* (Adopted) for a person employed under the Act and doing comparable work.

4. Dismissal.

With the approval of the Minister, a Council may, by resolution, dismiss a Council officer.

INDEPENDENT STATE OF PAPUA NEW GUINEA.

CHAPTER No. 57.

Local Government (Urban Council Electoral Provisions) Regulation.

ARRANGEMENT OF SECTIONS.

PART I.—PRELIMINARY.

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 - "approved form"
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 - "ballot-box"
 - "ballot-paper"
 - "candidate"
 - "the date of publication of the results"
 - "elector"
 - "illegal practice"
 - "interpreter"
 - "list of electors"
 - "multi-member ward"
 - "official mark"
 - "petition"
 - "Poll Clerk"
 - "polling booth"
 - "polling place"
 - "polling schedule"
 - "Presiding Officer"
 - "Returning Officer"
 - "Roll"
 - "scrutineer"
 - "the scrutiny"
 - "writ".

2. Application.

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4. Assistant Returning Officer.
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6. General requirements.
7. Approved forms.
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42. Finger to be marked.
43. Right of elector to receive ballot-paper.
44. Claim to vote may be rejected.
45. Voting.
46. Method of marking ballot-paper.
47. Spoilt ballot-paper.
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50. Place of scrutiny.
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- 53. Conduct of scrutiny.
- 54. Action on objection to ballot-paper.
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- 56. Scrutiny of votes.
- 57. Determining the result of the scrutiny.
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- 60. Approval.
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- 63. Interpretation of Part XI.—
 - "the Clerk of the Court of Disputed Returns"
 - "Court of Disputed Returns"
 - "election".
- 64. Method of disputing elections and returns.
- 65. Constitution of Courts of Disputed Returns.
- 66. Requisites of petitions.
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- 69. Right of Electoral Commission to appear.
- 70. Powers of Court of Disputed Returns.
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- 72. Voiding election for illegal practices.
- 73. Court to report cases of illegal practice.
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- 75. Immaterial errors not to vitiate elections.
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INDEPENDENT STATE OF PAPUA NEW GUINEA.

CHAPTER no. 57.

Local Government (Urban Council Electoral Provisions) Regulation.

MADE under the *Local Government Act*.

PART I.—PRELIMINARY.

1. Interpretation.

In this Regulation, unless the contrary intention appears—

“the Act” in relation to a Council, includes the constituent proclamation;

“approved form” means a form approved under Section 7;

“Assistant Returning Officer” means an officer appointed under Section 4;

“ballot-box” means a box—

(a) having a cleft in the cover through which the ballot-papers may be deposited in the box and provided with means for securely closing the cleft so that, when the cleft is so closed, no ballot-papers or other matters or things can be deposited or placed in the box or withdrawn from it; and

(b) capable of being securely fastened with a lock;

“ballot-paper” means a ballot-paper in accordance with Sections 31 and 32;

“candidate” means a candidate in an election;

“the date of publication of the results” means the date of publication under Section 19(11) of the Act;

“elector” means a person whose name appears on a roll and who is entitled to vote at the election in question;

“illegal practice” means an illegal practice specified in Part XII. and includes an offence against Division III.3 of the Criminal Code;

“interpreter” means a person in respect of whom approval is given under Part IX;

“list of electors” means a certified list of electors provided under Section 38;

“multi-member ward” means a ward for which more than one Councillor is to be elected;

“official mark” means a mark authorized by the Returning Officer;

“petition” means a petition under Part XI.;

“Poll Clerk” means a Poll Clerk appointed under Section 5(3);

“polling booth” means a polling booth in accordance with Sections 33 and 34;

“polling place” means a polling place in accordance with Section 33;

“polling schedule” means a polling schedule in accordance with Part VI.;

“Presiding Officer” means a Presiding Officer appointed under Section 5(1);

“the Returning Officer”, in relation to a Council, means the Returning Officer appointed for that Council under Section 3;

"Roll" means a Roll of electors compiled under Part III. and includes a list of electors;

"scrutineer" means a person appointed under Part VIII.;

"the scrutiny" means the scrutiny in accordance with Part VIII.;

"writ" means a writ for an election issued under Section 16.

2. Application.

(1) The Minister may, by notice in the National Gazette, specify a Council or ward of a Council to which this Regulation applies in respect of an election and this Regulation applies accordingly to that Council or ward, as the case may be, so specified.

(2) The *Local Government (Electoral Provisions) Regulation* shall not apply in respect of an election the subject of a notice under Subsection (1).

PART II.—ADMINISTRATION.

3. Returning Officer.

The Electoral Commission shall, by notice in the *Local Government Gazette*, appoint a Returning Officer for each Council.

4. Assistant Returning Officer.

(1) The Returning Officer may appoint one or more persons as Assistant Returning Officers for an election.

(2) An Assistant Returning Officer may, subject to the control of the Returning Officer, exercise the powers and perform the duties of the Returning Officer.

5. Presiding Officers, Etc.

(1) The Returning Officer may appoint one or more persons as Presiding Officers to assist, subject to the control of the Returning Officer, in the conduct of the polling for an election.

(2) The Presiding Officer may assist the Returning Officer in the scrutiny and counting of votes at the election.

(3) The Returning Officer may appoint one or more persons as Poll Clerks to assist, subject to the control of the Returning Officer, in the conduct of the polling.

6. General requirements.

A person appointed under this Regulation shall—

(a) make such declarations as the Electoral Commission requires; and

(b) comply with such directions as the Electoral Commission gives under its power of supervision under Section 19 of the Act.

7. Approved forms.

The Electoral Commission may, by instrument, approve forms for the purposes of this Regulation.

8. Availability of forms.

A Returning Officer shall—

(a) keep available copies of approved forms required by members of the public for the purposes of this Regulation; and

- (b) without fee, supply them as required; and
- (c) assist the public in their proper use.

PART III.—ROLL OF ELECTORS.

9. Compilation of Roll.

(1) All persons who are entitled to be enrolled on a Roll in accordance with Section 15 of the Act shall, subject to this Regulation, be so enrolled.

(2) The Electoral Commission may, by notice in the National Gazette, direct that—

- (a) a new Roll be prepared for a Council or a ward of a Council specified in the notice; and
- (b) all persons entitled to be enrolled in the Council or ward specified in the notice shall apply on an approved form to be enrolled on the new Roll; and
- (c) a date specified in the notice, whether before or after the date of publication of the notice shall be the date after which an application for enrolment under this section shall be deemed a valid application.

(3) Notwithstanding enrolment on any previous Roll, a person who is entitled to be enrolled as an elector for a Council or ward of a Council specified under Subsection (2) and who fails to apply for enrolment under this section within one month of the date specified in that subsection, or the date of publication of that notice, whichever is the later, is guilty of an offence.

Penalty: A fine not exceeding K20.00.

10. Closing of Roll.

(1) The Returning Officer—

- (a) shall fix a date for the closing of a Roll for the purpose of an election; and
- (b) may, before the commencement of polling, correct errors, omissions and misdescriptions in the Roll.

(2) Where a notice is published under Section 9(2), the date for the closing of the Roll under Subsection (1)(a) shall be one month after the date specified in that notice or the date of publication of that notice whichever is the later.

11. Application by person to be enrolled.

(1) For the purposes of Section 15 of the Act, a person applying to be enrolled as an elector shall apply in accordance with the requirements of the appropriate approved form.

(2) On receipt of an application under Subsection (1) the Returning Officer shall, if he is satisfied that the applicant is entitled to be enrolled as an elector, enter that person's name on the Roll together with the address in respect of which he is enrolled.

12. Election of elector entitled to vote in respect of more than one ward, etc.

(1) Where, but for the operation of Section 15(5) of the Act, an elector would be entitled to be enrolled in respect of more addresses than one, or for more wards than one, he shall elect in respect of which address or ward, as the case may be, he desires to be enrolled.

(2) An election under Subsection (1) shall be in accordance with the requirements of the approved form.

(3) On receipt of an election by an elector in a form approved under Subsection (2), the Returning Officer shall, if he is satisfied that the applicant is entitled to be enrolled as an elector in respect of the address or ward for which the election has been made, enter that person's name on the Roll in respect of that address or ward, as the case may be.

13. Determination of Returning Officer in respect of an elector.

Where an elector, after reasonable notice given by the Returning Officer, refuses or fails to make an election under Section 12 the Returning Officer shall—

- (a) determine in respect of which address or ward, as the case may be, the elector shall be enrolled; and
- (b) enter that address or ward against the elector's name on the Roll.

14. Necessity for enrolment.

(1) The Roll in force at the time of an election is evidence of the right of a person whose name appears on the Roll to vote at that election.

(2) An elector is entitled to vote only in a ward for which he is enrolled.

(3) This section does not authorize an elector to vote more than once at the same election.

15. Effect of omission, etc., in Roll.

(1) Subject to Subsection (2), where a person's name does not appear on the Roll, his claim to vote shall be rejected.

(2) Where, in the opinion of the Returning Officer or a Presiding Officer, an elector is sufficiently identified, then—

- (a) an omission in a Roll of a part of a name; or
- (b) an entry in a Roll of a wrong name, address or occupation; or
- (c) a mistake in the spelling of a name,

does not authorize the rejection, at the polling, of a claim to vote and an elector is not, because of a change of name, disqualified from voting under his previous name appearing on the Roll.

PART IV.—WRIT FOR ELECTION.

16. Writ for election.

The Minister shall cause a writ for an election to be issued to the Returning Officer.

17. Form of writ.

A writ shall be in the approved form and, subject to this Part, shall fix—

- (a) the day and the hour on and at which nominations close; and
- (b) the beginning and the end of the polling period; and
- (c) the date for the return of the writ.

18. Time of issue of writ.

For the purposes of this Regulation, a writ shall be deemed to have been issued at 4 p.m. on the day on which the writ is issued.

19. Address of writ.

A writ for an election shall be addressed to the Returning Officer.

20. Date of polling.

The polling period for an election shall commence and end on the dates respectively fixed in the writ.

21. Date of return of writ.

(1) The election shall be deemed completed on the day immediately following the closing of the polling.

(2) The date for the return of the writ shall be not more than 21 days after the closing of the polling.

(3) Notwithstanding Subsection (2), the Returning Officer shall, as soon as possible after the declaration of the result of the election, or, in the case of an election that fails, as soon as possible after it is clear that the election has failed, return the writ to the Minister.

22. Duties of Returning Officer as to writ.

(1) On receipt of the writ, the Returning Officer shall endorse it with the date of receipt.

(2) The Returning Officer shall, as soon as possible, forward to the Council Clerk a certified copy of the writ.

(3) The Returning Officer shall not conduct an election unless he is in possession of—

(a) the appropriate writ; or

(b) telegraphic or other written advice from the Commissioner that a writ addressed to the Returning Officer has been issued.

(4) Where the Returning Officer proceeds to conduct an election on the basis of advice referred to in Subsection (3)(b), he shall as soon as possible after its receipt forward a copy of the advice to the Council Clerk.

PART V.—NOMINATIONS AND BALLOT-PAPER.

23. Requirement of nomination.

Unless duly nominated, a person is not qualified to be a candidate.

24. Method of nomination.

(1) Unless the Electoral Commission approves a different method of nomination, a nomination may be in the approved form and made to the Returning Officer and shall—

(a) name the candidate, his place of residence and occupation; and

(b) be witnessed by an individual to whom the candidate is personally known; and

(c) be made during the period—

(i) commencing on the date of issue of the writ; and

(ii) ending on the day and at the hour fixed by the writ for the closing of nominations; and

(d) be signed by the person nominated as indicating his consent to becoming a candidate; and

(e) be accompanied by a deposit of K25.00 in money or in a banker's cheque; and

- (f) be accompanied by a photograph in accordance with, and if requested under, Section 31.

(2) Unless the person nominated consents to become a candidate, the nomination is invalid.

25. Withdrawal of nomination.

Unless the Electoral Commission approves a different method of withdrawal of nomination, a candidate may withdraw his nomination by attending and making an oral declaration to that effect before the Returning Officer or Presiding Officer not later than one hour immediately before the hour of commencement of the polling for the electorate or ward in respect of which the nomination has been made.

26. Rejection, etc., of nomination.

(1) The Returning Officer may reject a nomination that is not made in accordance with Section 24(1).

(2) Where the Returning Officer—

(a) rejects the nomination of a candidate; or

(b) accepts the nomination of a candidate who is not properly qualified,

the rejection or acceptance, as the case may be, shall be grounds for a petition to the Court of Disputed Returns.

27. Proceedings at close of nominations.

(1) Where one candidate only is nominated for an electorate, the Returning Officer shall declare that candidate duly elected.

(2) Where, in the case of a multi-member ward, the number of candidates nominated for that ward is not more than the number to be elected, the Returning Officer shall declare each of those candidates duly elected.

(3) Where, in an election more candidates than one are nominated, or in a multi-member ward more candidates than the number to be elected are nominated, the proceedings shall stand adjourned to the commencement of the polling period.

28. Deposit to be forfeited in certain cases.

The deposit made by or on behalf of a candidate at an election shall be retained pending the election, and after the election shall be returned to the candidate, or to some person authorized by him in writing to receive it—

(a) if he is elected; or

(b) if the total number of votes polled in his favour is not less than 20% of the total number of votes polled by the winning candidate in the election; or

(c) in the case of multi-member wards—if the total number of votes polled in his favour is not less than 20% of the average number of votes for the winning candidates,

and otherwise it is forfeited to the State.

29. Return of deposit in case of candidate's death.

In the case of the death of a candidate before the end of the polling period, the deposit lodged by him shall be returned to his legal personal representative.

30. Failure of election.

- (1) Subject to the Act and this Regulation, where an election fails, the Minister may—
 - (a) promptly issue a new writ for another election called a supplementary election; or
 - (b) nominate persons to be Councillors for the ward or wards in question.
- (2) An election shall be deemed to have failed where—
 - (a) there are no nominations of candidates; or
 - (b) no votes are recorded before the closing of the polling; or
 - (c) before the closing of the polling—a candidate dies.

31. Form of ballot-paper.

- (1) Where in an election in an electorate there are more than one but not more than 15 candidates, the Electoral Commission may request each candidate to supply to the Returning Officer before the close of nominations, his photograph in the size, type and number as directed by the Electoral Commission, for inclusion on the ballot-paper, which shall be in the approved form.
- (2) The photographs shall be reproduced in the manner and form approved by the Electoral Commission, and the Electoral Commission may exclude from them any material that is, in its opinion, extraneous or irrelevant to the matter of identifying the respective candidates.
- (3) Notwithstanding that a candidate has failed to supply his photograph in accordance with Subsection (1) or a photograph suitable for reproduction, the ballot-paper may be printed with the photographs of the other candidates that have been supplied.
- (4) Failure to supply a photograph by a candidate, or to print a photograph of a candidate on the ballot-paper is not a ground for a petition to the Court of Disputed Returns.
- (5) The Electoral Commission shall, in its sole discretion, decide whether a photograph supplied is suitable for reproduction.

32. Determining position of names on ballot-paper.

- (1) The names of the candidates duly nominated shall be printed on the ballot-paper in an order determined as follows :—
 - (a) the Returning Officer or, if designated by him, the Presiding Officer shall, immediately after the close of nominations and in the presence of not less than two other persons, prepare, in respect of each candidate, a slip bearing the names of the candidates nominated, enclose the respective slips in separate blank envelopes of exact similarity and deposit those envelopes in a locked ballot-box; and
 - (b) the officer shall then thoroughly shake and rotate the ballot-box and shall permit any other person present, if he so desires, to do likewise; and
 - (c) the ballot-box shall then be opened and a person appointed by the Presiding Officer (other than the Returning Officer) shall take out and open the envelopes one by one; and
 - (d) the candidate whose name appears on the slip enclosed in the envelope first taken out shall be placed first on the ballot-paper, the candidate whose name appears on the slip enclosed in the envelope next taken out from the

ballot-box shall be placed next on the ballot-paper and so on until the placing of all candidates has been determined.

(2) Where similarity in the names of two or more candidates is likely to cause confusion, the names of those candidates may be set out with such descriptions or additions as will distinguish the candidates from each other.

PART VI.—POLLING SCHEDULE.

33. Publication of schedule.

(1) As soon as practicable after the issue of the writ, the Returning Officer shall forward to the Council concerned copies of a polling schedule prepared by him—

(a) showing the dates and times, within the period of polling, when polling booths will be open at polling places in the Council area; and

(b) designating those booths and places,

in a manner that he considers will give the electors a reasonable and sufficient opportunity of voting at the election.

(2) The Returning Officer shall cause the polling schedule to be published or notified at such places and in such manner as he considers will give electors sufficient information.

34. Adherence to schedule.

(1) As far as possible, polling booths shall be open in accordance with the polling schedule, and the Returning Officer and Presiding Officers shall take such action as is necessary or desirable for that purpose.

(2) The Returning Officer may, where it becomes impracticable to adhere to a polling schedule, vary the schedule.

(3) Subject to any directions given by the Returning Officer, a Presiding Officer, if, in his opinion, it is necessary or desirable in order to meet an unforeseen event and it is impracticable for the Returning Officer to vary the polling schedule, may vary the polling schedule in relation to a polling place and shall, as soon as practicable, advise the Returning Officer of the reason for the variation.

(4) Where the Presiding Officer departs from the polling schedule in relation to a polling place, he shall take such action as is practicable to advertise the variation at that polling place and amongst the electors to vote there.

PART VII.—CONDUCT OF POLL.

35. General requirements.

(1) A candidate must not directly or indirectly take part in the conduct of the polling but may authorize one person for each polling booth, called a candidate's agent, to represent him at the polling booth during the polling.

(2) Except in accordance with the conditions of any permission given by the Returning Officer or Presiding Officer, a person other than a person appointed under this Regulation or a candidate's agent or a person voting or about to vote, must not—

(a) enter or remain in; or

- (b) be permitted by the Presiding Officer or the Returning Officer, to enter or remain in,

a polling booth during the polling.

Penalty: A fine not exceeding K100.00 or imprisonment for a term not exceeding one month, or both.

36. Offences by or in relation to candidate's agent.

- (1) A candidate's agent who—

- (a) within a polling booth, interferes with or attempts to influence an elector; or
(b) except in so far as is necessary, communicates with a person in a polling booth,

is guilty of an offence.

(2) Subject to Subsection (3), a person who hinders or prevents a candidate's agent, or candidate's agent relieving the first-mentioned agent, from entering or leaving a polling booth is guilty of an offence.

(3) Only one candidate's agent for each candidate may be present at a time in the polling booth.

Penalty: A fine not exceeding K100.00 or imprisonment for a term not exceeding one month.

37. Removal of candidate's agent.

The Presiding Officer may cause to be removed from the polling booth a candidate's agent who, in the opinion of the Presiding Officer, has contravened Section 36.

38. Arrangements by Returning Officer.

(1) The Returning Officer shall make all necessary arrangements for conducting the polling, including—

- (a) the provision and furnishing of adequate polling booths and the provision of ballot-boxes; and
(b) the provision of a certified list of electors whose names are on the Roll.

(2) A polling booth shall have one or more separate voting compartments, constructed so as to screen an elector from observation while he is marking his ballot-paper and furnished with a pencil for his use.

(3) A polling booth shall be provided with the necessary number of ballot-boxes.

39. Polling.

(1) Except where the Returning Officer or Presiding Officer is of the opinion that other hours are adequate and directs accordingly, the poll shall open at each polling place at 8 a.m. each day (other than a Sunday or a public holiday) during the period for taking the poll at that polling place, and shall not close until all electors present in the polling booth at 6 p.m., and desiring to vote, have voted.

(2) Before the first ballot-paper is placed in an empty ballot-box, the Returning Officer or, if he is not present, the Presiding Officer shall exhibit the ballot-box empty, and shall then securely fasten its cover.

40. Persons claiming to vote to give name and other particulars.

A person claiming to vote at a polling booth shall state his full name or names, and, if so desired by the Presiding Officer, for the purpose of identifying the name under which the vote is claimed, any other particulars necessary to be stated in the Roll or to enable him to be identified in the Roll.

41. Questions to be put to voter.

(1) Subject to the Act, the Presiding Officer—

(a) may, and at the request of a candidate's agent shall, put to a person claiming to vote the following questions :—

- (i) "Have you already voted either here or elsewhere in this election (or these elections, *as the case requires*)?" and
- (ii) "Did you reside within this electorate for a period of more than six months in the 12 months before your claim for enrolment?" and
- (iii) "Are you at least 18 years of age?" and
- (iv) "Are you a citizen of Papua New Guinea?" and
- (v) "Are you qualified to vote?" and

(b) may, and at the request of a candidate's agent shall, also put to any person claiming to vote, whose name appears on the certified list of voters, the following question :—

"Are you the person whose name appears as (*state name*) on the certified list of voters for this electorate?"

(2) Where a person claiming to vote to whom any of the questions specified in Subsection (1) are put—

- (a) refuses to answer fully a question put to him; or
- (b) does not answer the question prescribed in Subsection (1)(a)(i) absolutely in the negative when put to him; or
- (c) does not answer the question prescribed in Subsection (1)(a)(ii) absolutely in the affirmative when put to him; or
- (d) does not answer a question specified in Subsection (1)(a)(iii), (iv), (v) or (1)(b) absolutely in the affirmative when put to him,

his claim to vote shall be rejected, unless he is a candidate for election for that electorate.

(3) The voter's answer to a question put to him by the Presiding Officer under this section is conclusive, and the matter shall not, subject to this section, be further inquired into during the polling.

42. Finger to be marked.

(1) Subject to Subsection (4), a person claiming to vote shall show to the Presiding Officer—

- (a) the fifth finger on his left hand calculated from and including the thumb of that hand, or if he has no fifth finger the next finger closest to the missing fifth finger between it and the thumb; or
- (b) if he has no left hand, the equivalent finger of his right hand,

to ascertain if he has already been marked with indelible ink.

(2) Subject to Subsection (4), the Presiding Officer shall mark the finger specified in Subsection (1) with indelible ink.

(3) If a person claiming to vote—

- (a) is found to have an indelible ink mark already on his finger; or
- (b) refuses to show his finger as required under Subsection (1); or
- (c) refuses to permit the Presiding Officer to mark his finger under Subsection (2),

his claim to vote shall be rejected.

(4) The Electoral Commission may, by notice in the National Gazette, declare prior to the polling, that marking with indelible ink in accordance with Subsection (2) shall not be carried out during the election specified in the notice.

43. Right of elector to receive ballot-paper.

(1) The Presiding Officer shall, at the polling, where—

- (a) the name of the person under which he claims to vote is on the list of electors and no mark under Subsection (3) has already been placed against the name; and
- (b) his right to vote is not challenged,

hand to that person claiming to vote a ballot-paper initialled by the Presiding Officer on the reverse side of the paper.

(2) The Returning Officer shall, at the request of a candidate's agent, note an objection by the agent to the right of a person to vote, but the decision as to the right of a person to vote rests solely with the Returning Officer and shall not be questioned in a petition under Part XI.

(3) Immediately after handing the ballot-paper to a person claiming to vote, the Presiding Officer shall place a mark against the name of that person on the list of electors.

(4) Where, in accordance with Subsection (3), a mark has been placed against the name of a person on the list of electors used at the polling place prescribed for the electorate for which he is enrolled, and he claims to vote in that polling place, he may, subject to Section 40 and 41 be permitted to vote.

44. Claim to vote may be rejected.

Where a claim to vote is rejected under Section 41 or 42, the Presiding Officer shall furnish to the Returning Officer a report stating—

- (a) the name of the person claiming to vote and the name (if any) shown in the Roll; and
- (b) the reason for the rejection of the claim.

45. Voting.

After being handed the ballot-paper under Section 43, the elector shall, without delay but subject to this Part—

- (a) retire alone to an unoccupied compartment of the booth and there, in private, record his vote on the ballot-paper in the prescribed manner; and
- (b) then fold the ballot-paper so as to conceal his vote and so show clearly the initials of the Presiding Officer, exhibit it so folded to the Presiding Officer

and then promptly, openly, and without unfolding it, deposit it in the ballot-box; and

(c) then quit the booth.

46. Method of marking ballot-paper.

Subject to Sections 55 and 58, an elector shall record his vote on a ballot-paper by placing an "X" in the square opposite the name of the candidate for whom he wishes to vote in such a way as to indicate clearly his preference for that candidate only.

47. Spoilt ballot-paper.

If a voter, before depositing his ballot-paper in the ballot-box, satisfies the Presiding Officer that he has spoilt the ballot-paper by mistake or accident, he may, on giving it up, receive a new ballot-paper from the Presiding Officer, who shall there and then cancel the spoilt ballot-paper, write the word "Spoilt" across the face of it, place it in an endorsed envelope and forward it to the Returning Officer after the polling.

48. Assistance to certain electors.

(1) Where an elector satisfies the Presiding Officer that—

(a) the sight of the elector is so impaired; or

(b) the elector is otherwise so physically incapacitated that he is unable to vote without assistance,

the Presiding Officer shall permit a person authorized by the elector—

(c) to enter with the elector an unoccupied compartment of the polling booth; and

(d) on behalf of the elector, to mark, fold and deposit his ballot-paper.

(2) Where an elector—

(a) has satisfied the Presiding Officer as to a matter specified in Subsection (1)(a) or (b) but does not authorize a person under that subsection; or

(b) satisfies the Presiding Officer that the elector is so illiterate that he is unable to vote,

the Presiding Officer, in the presence of—

(c) if the elector so desires—a person appointed for the purpose by the elector; or

(d) in the absence of such an appointment—a Poll Clerk,

shall mark and fold the ballot-paper and hand it to the elector who shall place it in the ballot-box.

PART VIII.—SCRUTINY.

49. Ascertaining result of poll.

The result of the polling shall be ascertained by scrutiny.

50. Place of scrutiny.

The scrutiny shall be conducted at a place or places appointed for the purpose by the Returning Officer.

51. Officers to conduct scrutiny.

The Returning Officer or, in his absence, the Presiding Officer shall conduct the scrutiny.

52. Scrutineer.

A candidate may appoint one scrutineer to represent him at the scrutiny.

53. Conduct of scrutiny.

The scrutiny shall be conducted as follows :—

- (a) it shall commence as soon as practicable after the end of the period of polling for a particular ward or for the election as a whole; and
- (b) the scrutineers (if any) and persons approved by the officer conducting the scrutiny may be present; and
- (c) all the proceedings at the scrutiny shall be open to the inspection of the scrutineers; and
- (d) the scrutiny may be adjourned from time to time as necessary until the counting of the votes is completed.

54. Action on objection to ballot-paper.

(1) If a scrutineer objects to a ballot-paper as being informal, the officer conducting the scrutiny shall mark the ballot-paper "Admitted" or "Rejected", according to his decision to admit or reject the ballot-paper.

(2) This section does not prevent the officer conducting the scrutiny from rejecting a ballot-paper as being informal although there is not an objection to it.

55. Informal ballot-paper.

(1) Subject to this section and to Section 58 a ballot-paper is informal if—

- (a) it is not authenticated by the initials of the Presiding Officer, or by an official mark; or
- (b) it has no vote indicated on it or does not clearly show the voter's intention; or
- (c) it has on it any mark or writing (not authorized by this Regulation to be put on it) by which, in the opinion of the officer conducting the scrutiny, the voter can be identified,

and in no other case.

(2) Subsection (1)(c) does not apply to a mark or writing placed on a ballot-paper by the Presiding Officer, notwithstanding that the placing of the mark or writing on the ballot-paper is a contravention of this Regulation.

(3) Notwithstanding this section or Section 46, where the officer conducting the scrutiny is satisfied that any mark made on a ballot-paper clearly indicates the intention of the voter and the candidate for whom he has given his vote, the Returning Officer shall not determine that the vote is informal merely because the mark is not an "X".

56. Scrutiny of votes.

The officer conducting the scrutiny shall, in the presence of those scrutineers who attend and of any persons authorized by the Returning Officer or Presiding Officer—

- (a) open the ballot-boxes; and

- (b) reject all informal ballot-papers, and arrange the unrejected ballot-papers under the names of the respective candidates by placing in a separate parcel all those on which a vote is indicated for the same candidate; and
- (c) count the votes given for each candidate on all unrejected ballot-papers; and
- (d) make out and sign a statement (which may be counter-signed by the Presiding Officer or Poll Clerk and, if they so desire, by such scrutineers as are present) setting out the number of votes given for each candidate and the number of informal ballot-papers; and
- (e) place in a separate parcel those ballot-papers rejected as informal.

57. Determining the result of the scrutiny.

- (1) The result of an election shall be determined by scrutiny in the following manner:—
 - (a) the officer conducting the scrutiny shall ascertain the total number of votes given for each candidate; and
 - (b) the candidate who has received the largest number of votes is elected; and
 - (c) if two or more candidates have an equal number of votes, the officer conducting the scrutiny shall decide by drawing lots who shall be elected.
- (2) The procedure for drawing lots is as follows:—
 - (a) the officer conducting the scrutiny shall, immediately after the conclusion of the counting and before all persons present—
 - (i) prepare, in respect of each of the candidates having an equal number of votes, a slip bearing the name of the candidate as shown on the ballot-paper; and
 - (ii) enclose the respective slips in separate blank envelopes of exact similarity; and
 - (iii) deposit the envelopes in a locked ballot-box; and
 - (b) the officer conducting the scrutiny shall—
 - (i) then thoroughly shake and rotate the ballot-box; and
 - (ii) permit any other person present, if he so desires, to do the same; and
 - (c) the ballot-box shall then be opened and a person, other than the Returning Officer, appointed by the officer conducting the scrutiny shall take out and open one of the envelopes; and
 - (d) the candidate whose name appears on the slip enclosed in the envelope taken from the ballot-box is elected.

58. Multi-member wards.

- (1) Subject to this section and to Section 55, in an election for a multi-member ward, the method of marking the ballot-paper shall be for the elector to record his vote by placing an "X" in the square opposite the name of the candidates for whom he wishes to vote to fill the number of vacant seats in that ward.
- (2) Where an elector marks the ballot-paper and—
 - (a) places an "X" in a number of squares less than the number of vacant seats for the ward—the ballot-paper is not informal; or
 - (b) places an "X" in a number of squares more than the number of vacant seats for the ward—the ballot-paper is informal.

(3) Where an elector marks the ballot-paper by placing more than one "X" in the square opposite the name of a candidate, the ballot-paper is not informal but only one vote will be recorded in favour of the candidate.

(4) The result of an election for a multi-member ward shall be determined by scrutiny in the following manner :—

- (a) the officer conducting the scrutiny shall ascertain the number of votes given for each candidate; and
- (b) the candidates having the highest number of votes shall be elected in order of the number of votes from the higher to the lower, until the vacant seats for the ward are filled; and
- (c) where—
 - (i) the highest number of votes is obtained equally by a number of candidates greater than the number of seats for the ward; or
 - (ii) the next highest number of votes is obtained equally by a number of candidates greater than the remaining number of seats for the ward,the officer conducting the scrutiny shall decide by drawing lots who shall be elected for the seats or remaining seats, as the case may be.

(5) The procedure for drawing lots is according to Section 57(2), except that where there is more than one seat vacant, the officer conducting the scrutiny shall take out and open envelopes equal in number to the number of vacant seats, and the candidates whose names appear on the slips enclosed in the envelopes are elected.

59. Re-count.

(1) At any time before the date of publication of the results of the election, the Returning Officer—

- (a) may, if he thinks fit, on the request of a candidate setting out the reasons for the request, or of his own motion; and
- (b) shall, if so directed by the Electoral Commission,

re-count the ballot-papers.

(2) The officer conducting a re-count has the same powers as if the re-count were the scrutiny and may reverse a decision in relation to the scrutiny as to the allowance and admission or disallowance and rejection of a ballot-paper.

(3) The officer conducting a re-count may, and at the request of a scrutineer shall, reserve a ballot-paper for the decision of the Electoral Commission on it.

(4) The Electoral Commission shall decide whether a ballot-paper reserved for its decision under this section is to be allowed and admitted or disallowed and rejected.

(5) The Electoral Commission shall advise the Returning Officer, in writing, as to the number of ballot-papers admitted or rejected by it and the decision of the Electoral Commission shall be accepted by the Returning Officer in completing his re-count of the ballot-papers.

(6) A decision of the Electoral Commission given under this section is final.¹

¹But, see, Constitution, Section 155.

PART IX.—INTERPRETERS.

60. Approval.

(1) Subject to Subsection (2), with the approval of the officer conducting the scrutiny, a person may, at any stage of the proceedings at the polling or at the scrutiny, make use of the services of a person as an interpreter.

(2) A person who is—

- (a) a candidate; or
- (b) a scrutineer,

is not eligible to be an interpreter.

61. Duties of interpreter.

(1) An interpreter who—

- (a) fails to correctly interpret to the best of his ability, any matter that he is lawfully required to interpret; or
- (b) fails to comply with the direction given by the Presiding Officer or the officer conducting the scrutiny; or
- (c) discloses any knowledge of the vote of an elector for or to whom the interpreter has interpreted,

is guilty of an offence.

Penalty: A fine not exceeding K100.00 or imprisonment for a term not exceeding three months or both.

(2) An interpreter who, in any way, attempts to influence the vote of an elector for or to whom he interprets is guilty of an offence.

Penalty: A fine not exceeding K100.00 or imprisonment for a term not exceeding one month or both.

PART X.—RETURN OF WRIT.

62. Duties of Returning Officer.

The Returning Officer or, in his absence, the Presiding Officer, shall, as soon as is convenient after ascertainment of the result of an election—

- (a) publicly declare that result and the name of the candidate, or the names of the candidates, elected; and
- (b) advise the Electoral Commission and the Commissioner, in the approved forms, of the name of the candidate, or the names of the candidates, elected and provide any statistics or report required by the Electoral Commission or the Minister; and
- (c) return the writ to the Minister.

PART XI.—DISPUTED ELECTIONS AND RETURNS.

63. Interpretation of Part XI.

In this Part—

“the Clerk of the Court of Disputed Returns”, in relation to a disputed election or return, means the Clerk of the District Court which is, under Section 65, the

Court of Disputed Returns for the Council to which the election or return relates.

"Court of Disputed Returns" means a Court of Disputed Returns constituted by Section 65;

"election" means an election in a ward.

64. Method of disputing elections and returns.

The validity of an election or return may be disputed by petition addressed to the Court of Disputed Returns or by an objection under Section 79.

65. Constitution of Courts of Disputed Returns.

(1) The District Court established for an area which includes a Council area is the Court of Disputed Returns for that Council.

(2) Where a Council area comprises the areas or parts of the areas for which more than one District Court is established, the Chief Magistrate shall, by notice in the National Gazette, appoint one such Court as the Court of Disputed Returns for that Council area and the Court so appointed is the Court of Disputed Returns for that Council area.

(3) The jurisdiction of a District Court under this Part shall be exercised by a Magistrate Grade III. or IV.

66. Requisites of petitions.

A petition shall—

- (a) set out the facts relied on to invalidate the election or return; and
- (b) ask for the relief to which the petitioner claims to be entitled; and
- (c) be signed by a candidate at the election in dispute, or by a person who was qualified to vote at the election; and
- (d) be attested by two witnesses whose occupations and addresses are stated in the petition; and
- (e) be filed with the Clerk of the Court of Disputed Returns within two months after the date on which the election is, under Section 21(1), deemed to have been completed.

67. Deposit as security for costs.

At the time of filing the petition the petitioner shall file with the Clerk of the Court of Disputed Returns the sum of K10.00 as security for costs.

68. No proceedings unless requisites complied with.

Proceedings shall not be had on a petition unless the requirements of Sections 66 and 67 are complied with.

69. Right of Electoral Commission to appear.

If it so desires, the Electoral Commission or any person returned as elected in the election is entitled, as of right, to enter an appearance in any proceedings on a petition and to be represented and heard on the petition, and any other person may, with the consent of the Court of Disputed Returns, do so and in that case he is a respondent to the petition.

70. Powers of Court of Disputed Returns.

(1) A Court of Disputed Returns shall sit as an open Court and, in addition to its other powers, functions and jurisdiction under any other law, may—

- (a) adjourn; and
- (b) compel the attendance of witnesses and the production of documents; and
- (c) grant to a party to a petition leave to inspect, in the presence of an officer or an officer of the Public Service appointed by the Court for the purpose, the rolls and other documents (except ballot papers) used at or in connexion with an election and take, in the presence of any such officer, copies of extracts from those rolls or documents; and
- (d) examine witnesses on oath; and
- (e) declare that a person who was returned as elected was not duly elected; and
- (f) declare a person duly elected who was not returned as elected; and
- (g) declare an election absolutely void; and
- (h) dismiss or uphold a petition in whole or in part; and
- (i) award costs.

(2) The Court of Disputed Returns may exercise all or any of its powers under this section on such grounds as the Court in its discretion thinks sufficient.

(3) Without limiting the powers conferred by this section, the power of the Court of Disputed Returns to declare that a person who was returned as elected was not duly elected, or to declare an election absolutely void, may be exercised on the ground that an illegal practice was committed in connexion with the election.

71. Inquiries by Court of Disputed Returns.

The Court of Disputed Returns shall inquire whether or not the petition is duly signed, and so far as Rolls and voting are concerned may inquire into the identity of persons and whether their votes were improperly admitted or rejected, assuming (subject to Section 15(2)) the Roll to be correct, but the Court shall not inquire into the correctness of a Roll.

72. Voiding election for illegal practices.

(1) If a Court of Disputed Returns finds that a candidate has committed or has attempted to commit bribery or undue influence, his election, if he is a successful candidate, shall be declared void.

(2) A finding by a Court of Disputed Returns does not bar or prejudice a prosecution for an unlawful practice.

(3) A Court of Disputed Returns shall not declare that a person returned as elected was not duly elected, or declare an election void—

- (a) on the ground of an illegal practice committed by a person other than the candidate and without the candidate's knowledge or authority; or
- (b) on the ground of an illegal practice other than bribery or corruption, or attempted bribery or corruption,

unless the Court is satisfied that the result of the election was likely to be affected, and that it is just that the candidate should be declared not to be duly elected or that the election should be declared void.

73. Court to report cases of illegal practice.

Where a Court of Disputed Returns finds that a person has committed an illegal practice, the Clerk of the Court shall promptly report the finding to the Electoral Commission and to the Minister.

74. Real justice to be observed.

A Court of Disputed Returns shall be guided by the substantial merits and good conscience of each case, without regard to legal forms or technicalities or whether the evidence before it is in accordance with the law of evidence.

75. Immaterial errors not to vitiate elections.

(1) In this section, "officer" includes any person performing official functions in relation to an election.

(2) Subject to Subsection (3), an election shall not be avoided—

(a) on account of a delay in—

(i) the declaration of nominations; or

(ii) the polling; or

(iii) the declaration of the poll; or

(iv) the return of the writ; or

(b) on account of the absence of, or an error or omission by, an officer that did not affect the result of the election.

(3) Where a person was, on account of the absence or an error of, or an omission by, an officer, prevented from voting in an election, the Court of Disputed Returns shall not, for the purpose of determining whether the absence or error of, or the omission by, the officer did or did not affect the result of the election, admit evidence of the way in which that person intended to vote in the election.

76. Evidence that person not permitted to vote.

On the trial of a petition, the Court of Disputed Returns shall not admit the evidence of a witness that he was not permitted to vote in an election during the hours of polling in the polling period unless the witness satisfies the Court—

(a) that he claimed to vote in the election under the provision of the Act or this Regulation under which he was entitled, or might be permitted, to vote; and

(b) that he complied with the requirements of the Act and this Regulation relating to voting in so far as he was permitted to do so.

77. Copies of petition and order of Court of Disputed Returns to be forwarded.

The Clerk of the Court of Disputed Returns shall promptly after the filing of a petition, forward to the Electoral Commission and the Minister, and to each person who was returned as elected, a copy of the petition, and after the trial of the petition shall promptly forward to each of them and to the petitioner a copy of the order of the Court.

78. Legal representation.

(1) A party to a petition shall not, except by consent of all parties or by leave of the Court of Disputed Returns, be represented by a lawyer.

(2) In no case shall more than one lawyer appear on behalf of a party.

79. Objections by Electoral Commission.

(1) The Electoral Commission may, by written notice to the Court of Disputed Returns, object to an election.

(2) The objection shall—

(a) set out the grounds of the objection; and

(b) be filed with the Clerk of the Court of Disputed Returns within two months after the date on which the election is, under Section 21(1) deemed to have been completed.

(3) The provisions of Sections 70 to 78 with the necessary modifications, apply to and in relation to an objection under this section as if it were a petition.

80. Costs.

(1) The Court of Disputed Returns may award costs against an unsuccessful petitioner.

(2) If costs are awarded to a party against the petitioner, the deposit lodged under Section 67 is applicable in payment or part payment of the sum ordered, but otherwise the deposit shall be paid to the petitioner.

(3) All other costs awarded by a Court of Disputed Returns, including any balance above the deposit payable by the petitioner, are recoverable as if the order of the Court were a judgement of a District Court, and the order, certified by the Court, may be entered as a judgement of a District Court and enforced accordingly.

81. Effect of decision.

Effect shall be given to a decision of a Court of Disputed Returns as follows :—

(a) if a person returned is declared not to have been duly elected, he shall cease to be a Councillor; and

(b) if a person not returned is declared to have been duly elected, he may take his seat as a Councillor accordingly; and

(c) if an election is declared absolutely void, a new election shall, subject to Section 23(1)(b) of the Act, be held.

PART XII.—OFFENCES.

82. Illegal practices.

(1) Subject to Subsection (2) the following are illegal practices :—

(a) publishing an electoral advertisement, handbill or pamphlet or issuing an electoral notice (other than the announcement by advertisement in a newspaper of the holding of a meeting) without there appearing at the end of it the name and address of the person authorizing the publication or issue; or

(b) printing or publishing a printed electoral advertisement, handbill or pamphlet (other than an advertisement in a newspaper) without the name and place of business of the printer being printed at the foot of it; or

(c) printing, publishing or distributing a printed electoral advertisement, notice, handbill, pamphlet or card containing a representation of a ballot-paper or a representation apparently intended to represent a ballot-paper, and having on it directions intended, or likely, to mislead or improperly interfere with an elector in relation to the casting of his vote; or

- (d) printing, publishing or distributing an electoral advertisement, notice, handbill, pamphlet or card containing an untrue or incorrect statement intended, or likely, to mislead or improperly interfere with an elector in relation to the casting of his vote; or
- (e) wilfully informing an elector during the election period that—
 - (i) he is not enrolled or entitled to be enrolled; or
 - (ii) he is not enrolled or entitled to be enrolled for a particular ward; or
 - (iii) he is not entitled to vote,when, in fact, he is enrolled or entitled to be enrolled, or is enrolled or entitled to be enrolled for that ward, or is entitled to vote, as the case may be; or
- (f) corruptly before, during or after an election, providing food, drink or lodging to or for a person on account of anything done, or to be done, by an elector at an election; or
- (g) being an elector, corruptly receiving food, drink or lodging on account of anything done or to be done at an election; or
- (h) by force, threat, fraud, misrepresentation, undue influence or in any other manner inducing, or attempting to induce, another person to vote, or fail to vote, at an election or to vote for a particular person at an election; or
- (i) falsely personating a person to secure a ballot-paper to which the personator is not entitled, or personating any other person for the purpose of voting; or
- (j) fraudulently destroying or defacing a nomination paper or ballot-paper; or
- (k) fraudulently taking a ballot-paper out of a polling booth; or
- (l) fraudulently putting a ballot-paper or other paper into a ballot-box; or
- (m) taking a ballot-paper out of a polling booth; or
- (n) forging, or uttering, knowing it to be forged, a nomination paper or ballot-paper; or
- (o) in a polling booth during the polling, misconducting oneself, or failing to obey the lawful directions of the Returning Officer or the Presiding Officer; or
- (p) supplying ballot-papers without authority; or
- (q) unlawfully destroying, taking, opening, or otherwise interfering with ballot-boxes or ballot-papers; or
- (r) voting more than once at the same election; or
- (s) wagering on the result of an election; or
- (t) wilfully defacing, mutilating, destroying or removing a notice, list or other document affixed by a Returning Officer or by his authority; or
- (u) knowingly making a false statement in a claim, application, return or declaration, or in answer to a question under this Regulation; or
- (v) distributing an advertisement, handbill or pamphlet published in contravention of Paragraph (a); or
- (w) supplying with a nomination a photograph for reproduction on a ballot-paper under Sections 24 and 31 that is a photograph of a person other than the candidate; or

(x) removing, or attempting to remove, cover or disguise the indelible ink applied under Section 42(2).

(2) Subsection (1)(c) or (d) does not prevent the printing, publishing or distributing of a card, not otherwise illegal, that contains instructions as to how to vote for a particular candidate, so long as those instructions are not intended, or likely, to mislead an elector in relation to the recording of his vote.

(3) A person who contravenes Subsection (1) is guilty of an offence.

Penalty: A fine not exceeding K100.00 or imprisonment for a term not exceeding one month, or both.

PART XIII.—MISCELLANEOUS.

83. Retention of ballot-papers.

(1) The Electoral Commission shall cause the ballot-papers, lists of electors and declarations used in connexion with an election to be retained—

(a) for three months after the date of publication of the results; or

(b) if questioned by petition—until it has dealt with the matter.

(2) When they are no longer to be retained in accordance with Subsection (1), the Electoral Commission shall cause the papers, lists and declarations to be destroyed.

INDEPENDENT STATE OF PAPUA NEW GUINEA.

CHAPTER NO. 57.

Local Government.

SUBSIDIARY LEGISLATION.

1. Act, Section 4(1)—Ex officio appointment of Deputy Commissioners.

Deputy District Commissioner, Manus Province, in relation to the Manus Province (office as at 20 August 1975).

District Officer (Local Government) in charge of Local Government affairs in each province, in relation to that province (office as at 22 January 1974).

2. Act, Section 6(1)(a)(i)—Ex officio appointments of Local Government Advisers.

Each Assistant District Commissioner, for all Councils in his Subdistrict (office as at 19 February 1975).

3. Act, Section 6(1)(a)(ii)—Ex officio appointments of Legal Advisers.

Principal Legal Officer (Local Government), in the Department of Law, for all Councils and Local Government Authorities (office as at 19 February 1975).

4. Act, Section 6(1)(a)(iii), (b)—Ex officio appointments of Specialist Advisers and respective subject matters.

All Councils and Local Government Authorities—

(a) Business Development—

(i) Assistant Secretary, Financial Advice Branch, Department of Business Development (office as at 19 February 1975).

(ii) Assistant Secretary, Management Advice Branch, Department of Business Development (office as at 19 February 1975).

(b) Youth work: Community Development Officer (Youth Work Organizer), Department of the Chief Minister and Development Administration (office as at 19 February 1975).

Kiriwina Local Government Council—Agriculture: Officer-in-Charge, Department of Agriculture, Stock and Fisheries, Losuia Subdistrict (position as at 1 May 1973).

Mendi Local Government Council—

(a) Agriculture: District Rural Development Officer, Southern Highlands District (position as at 9 June 1970).

(b) Education: District Inspector of Schools, Southern Highlands District (position as at 9 June 1970).

(c) Works: District Works Engineer, Southern Highlands District (position as at 9 June 1970).

Wapei Local Government Council—

- (a) Agriculture: Officer-in-Charge, Department of Agriculture, Stock and Fisheries, Lumi, West Sepik Province (position as at 15 March 1973).
- (b) Health: Officer-in-Charge, Department of Public Health, Lumi, West Sepik Province (position as at 2 February 1973).

5. Act, Section 10—List of Local Government Councils¹.

Afore, Northern Province
Almani, Madang Province
Amanab, West Sepik Province
Amazon Bay, Central Province
Ambenob, Madang Province
Ambunti, East Sepik Province
Angoram, East Sepik Province (formerly Biwat, Lower Sepik)
Arabaka, Madang Province
Arawa Town, Bougainville Province
Asaro-Watabung, Eastern Highlands Province
Astrolabe Bay, Madang Province
Bajmuru, Gulf Province
Bainings, East New Britain Province
Baiyer-Lumusa, Western Highlands Province
Bali-Witu, West New Britain Province
Bamu, Western Province
Bana, Bougainville Province
Bewani, West Sepik Province
Bomai Mikaru, Chimbu Province
Buin, Bougainville Province
Buka, Bougainville Province
Bundi, Madang Province
Bwana Bwana, Milne Bay Province
Cape Nelson, Northern Province
Central New Ireland, New Ireland Province
Daga, Milne Bay Province
Dei, Western Highland Province
Dobu, Milne Bay Province
Dreikikir, East Sepik Province
Duau, Milne Bay Province
East Kerema, Gulf Province

¹ Due to the size and complexity of the job of consolidating the constituent proclamations of Councils and Local Government Authorities (which would require practically an additional volume of the Revised Edition, and would, if done now, delay completion of the exercise), it seems desirable at this stage only to list the Councils and Authorities in existence as at the effective date, and to leave the major task for future action.

Eivo, Bougainville Province
Elimbari, Chimbu Province
Erave, Southern Highlands Province
Finschhafen, Morobe Province
Gau, East Sepik Province
Gazelle Peninsula, East New Britain Province¹
Gloucester, West New Britain Province
Gogodala, Western Province
Goodenough Island, Milne Bay Province
Goroka, Eastern Highlands Province
Greater Maprik, East Sepik Province
Green River, West Sepik Province
Guari, Central Province
Gumine, Chimbu Province
Henganofi, Eastern Highlands Province
Higaturu, Northern Province
Hiri, Central Province
Hoskins, West New Britain Province
Huon, Morobe Province¹
Iabu, Madang Province
Ilimo, Northern Province
Ialibu, Southern Highlands Province
Jimi, Western Highlands Province
Josephstaal, Madang Province
Kabwum, Morobe Province
Kagua, Southern Highlands Province
Kainantu, Eastern Highlands Province
Kaipi, Gulf Province
Kairuku, Central Province
Kamano, Eastern Highlands Province (amalgamated with Agarabi to form Kainantu)
Kandep, Enga Province
Kandrian, West New Britain Province
Karawari, East Sepik Province
Karkar, Madang Province
Keram, East Sepik Province
Kerema Bay, Gulf Province
Kerowagi, Chimbu Province
Kieta, Bougainville Province¹

¹ Suspended.

Kikori, Gulf Province
Kiriwina, Milne Bay Province¹
Kiunga, Western Province
Kiwai, Western Province
Komo, Southern Highlands Province
Kompam, Enga Province
Koroba, Southern Highlands Province
Korimiri, Gulf Province
Kundiawa, Chimbu Province¹
Kuni, Central Province
Lae City
Lagaip, Enga Province
Lai Valley, Southern Highlands Province
Lake Kapiago, Southern Highlands Province
Lake Kutubu, Southern Highlands Province
Lake Murray, Western Province
Lamari, Eastern Highlands Province
Lavongai, New Ireland Province¹
Louiade, Milne Bay Province
Lufa, Eastern Highlands Province
Madang Town, Madang Province
Makamaka, Milne Bay Province
Manus, Manus Province
Margarima, Southern Highlands Province
Maramatana, Milne Bay Province
Markham, Morobe Province
Marshall Lagoon, Central Province
Mattas, New Ireland Province
Mekeo, Central Province
Mendi, Southern Highlands Province
Milne Bay, Milne Bay Province
Morehead, Western Province
Morobe, Morobe Province
Mount Giluwe, Western Highlands Province
Mount Hagen, Western Highlands Province
Mount Wilhelm, Chimbu Province
Mul, Western Highlands Province
Mumeng, Morobe Province

¹ Suspended.

Murua, Milne Bay Province
Mussau-Emira, New Ireland Province
Naho-Rawa, Madang Province
Nakanai, West New Britain Province
Namatanai, New Ireland Province
Nawae, Morobe Province
Ningerum, Western Province
Nipa, Southern Highlands Province
Nuku, West Sepik Province
Okapa, Eastern Highlands Province
Oriomo-Bituri, Western Province
Oro Bay, Northern Province
Orokolo, Gulf Province
Pangia, Southern Highlands Province
Pindiu, Morobe Province
Porgera, Enga Province
Poroma, Southern Highlands Province
Port Moresby City, National Capital District
Rabaul Town, East New Britain Province
Rai Coast, Madang Province
Ramoaina, East New Britain Province
Rigo, Central Province
Salt-Nomane, Chimbu Province
Saussia, East Sepik Province
Siane (Nambaiyufa), Chimbu Province
Siassi, Morobe Province
Siau, West Sepik Province
Simbai, Madang Province
Sinai, Bougainville Province
Sina Sina, Chimbu Province
Suau, Milne Bay Province
Sumgilbar, Madang Province
Talasea, West New Britain Province
Tamata, Northern Province
Tapini, Central Province
Tari, Southern Highlands Province
Telefomin, West Sepik Province
Teop-Tinputz, Bougainville Province
Tewae, Morobe Province
Tikana, New Ireland Province

Usino, Madang Province
Vanimo, West Sepik Province
Wabag, Enga Province
Wahgi, Western Highlands Province
Wakunai, Bougainville Province
Walsa, West Sepik Province
Wantoat, Morobe Province
Wapei, West Sepik Province
Wapenamanda, Enga Province
Waria, Morobe Province
Wasu, Morobe Province
Watut, Morobe Province
Weraura, Milne Bay Province
West Fergusson, Milne Bay Province
Wewak-But, East Sepik Province
Woitape, Central Province
Wosera, East Sepik Province
Wuvulu, East Sepik Province
Yangoru, East Sepik Province
Yawar, Madang Province
Yelia, Eastern Highlands Province.

6. Act, Section 24(4)—Model Standing Orders.

NOTE:—In view of the fact that these are in no sense binding or law, but are merely the raw material out of which Standing Orders may be made, it seems sufficient merely to give a reference to the date of their publication in the *Local Government Gazette*.

Papua New Guinea Local Government Gazette No. 9 of 3 September 1971, p.1.

7. Act, Section 65—Publication and Disallowance of Rules.

In view of the hundreds of rules involved, and of the fact that rules are notified only and not published in full, no good purpose is seen at this stage in reprinting them. In these circumstances, no good purpose is seen in reprinting notices of disallowance, either.

8. Act, Section 66—Model Rules.

NOTE:—In view of the fact that these are in no sense laws but are merely the raw material out of which laws may be made, it seems sufficient merely to give references to their publication in the *Local Government Gazette*.

1. Model Fire Prevention and Control Rule.

Papua and New Guinea Local Government Gazette No. 13 of 24 November 1971, p.1.

2. Model Regulation of School Attendance Rule.

Papua and New Guinea Local Government Gazette No. 14 of 31 December 1971.

9. Act, Section 88—Council Tax Appeal Tribunals.

All Magistrates Grade IV., Magistrates Grade III. and Reserve Magistrates of District Courts.

10. Act, Section 99(*d*)—Authorized Investments.

1. Shares issued by the Investment Corporation Fund of Papua New Guinea, a fund created and managed by the Investment Corporation of Papua New Guinea.

2. Wantoat Local Government Council: Authorization to invest moneys—

(*a*) in the Reserve Fund; or

(*b*) Standing to the credit of an account referred to in Section 90,

in ordinary shares in R.J.L. Atkinson and Sons Ltd. (description of company as at 18 June 1973).

11. Act, Section 120(*a*)—List of Area Authorities¹.

Chimbu District, Chimbu Province

Eastern Highlands, Eastern Highlands Province

Enga, Enga Province

Fly River, Western Province

Gulf District, Gulf Province

Madang District, Madang Province

Manus District, Manus Province

Melpa, Western Highlands Province

Milne Bay District, Milne Bay Province

Morobe District, Morobe Province

New Ireland District, New Ireland Province

Northern District, Northern Province

Southern Highlands, Southern Highlands Province

West New Britain, West New Britain Province.

12. Act, Section 120(*b*)—List of Special Purposes Authorities¹.

Finschhafen—Kabwum Planning and Development Authority, Morobe Province

Higaturu—Oro Bay Special Purpose Authority, Northern Province

South Bougainville Roads Special Purpose Authority, Bougainville Province

Southern Highlands Development Authority, Southern Highlands Province.

13. Electoral Provisions Regulation, Section 3—Ex Officio Appointments of Returning Officers.

Port Moresby City Council: Assistant District Commissioner of the Port Moresby Subdistrict (position as at 24 June 1974).

Lae City Council: Assistant District Officer of the Lae Subdistrict (position as at 24 June 1974).

Rabaul Town Council: Executive Officer (position as at 24 June 1974).

¹ See Footnote 1 on p.106.

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Madang Town Council: Town Clerk (position as at 24 June 1974).

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CHAPTER NO. 57.

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APPENDIXES.

APPENDIX 1.

SOURCE OF THE LOCAL GOVERNMENT ACT.

Part A.—Previous Legislation.

Local Government Act 1963 (No. 16 of 1964)

as amended by—

Local Government Act 1965 (No. 50 of 1965)

Local Government Act 1967 (No. 5 of 1967)

Local Government Act (No. 2) 1967 (No. 34 of 1967)

Local Government Act (No. 3) 1967 (No. 66 of 1967)

Local Government Act (No. 4) 1967 (No. 84 of 1967)

Currency Conversion (Local Government Ordinance) Order (Currency Conversion Order No. 1 of 1968)

Local Government (Council Borrowing) Act 1968 (No. 44 of 1968)

Local Government (Education Grants) Act 1968 (No. 52 of 1968)

Local Government (Amendment) Act 1969 (No. 48 of 1969)

Local Government (Amendment) Act 1970 (No. 45 of 1970)

Local Government (Rates and Taxes) Act 1970 (No. 11 of 1971)

Local Government (Authorities) Act 1971 (No. 25 of 1971)

Local Government (Amendment) Act 1971 (No. 26 of 1971)

Local Government (Further Amendment) Act 1971 (No. 96 of 1971)

Local Government (Council Staff) Act 1971 (No. 97 of 1971)

Local Government (Council Rules) Act 1972 (No. 59 of 1972)

Local Government (Amendment) Act 1973 (No. 17 of 1973)

Local Government (Further Amendment) Act 1973 (No. 44 of 1973)

Local Government (Amendment of Section 40) Act 1974 (No. 38 of 1974)

Statute Law Revision (Transfer of Powers) Act 1976 (No. 25 of 1976)

Local Government (Change of Fiscal Year) Act 1978 (No. 7 of 1978).

Part B.—Cross References.

Section etc., in Revised Edition.	Previous Reference. ¹	Section etc., in Revised Edition.	Previous Reference. ¹
1	5	54	39O
2	6	55	39P
3	7	56	40
4	8	57	104
5	9	58	41
6	10	59	42
7	11	60	44
8	12	61	105
9	13	62	44A
10	14	63	46
11	15	64	46A
12	16	65	47
13	17	66	49
14	18	67	45
15	19	68	50
16	21	69	51
17	22	70	52
18	23	71	53
19	24	72	54
20	25	73	55
21	26	74	56
22	27	75	57, 59(1), (2)
23	28	76	58
24	30	77	59(1), (3)-(8)
25	31	78	59A
26	32	79	59B
27	32A	80	59C
28	32B	81	59D
29	32C	82	59E
30	32D	83	59F
31	32E	84	59G
32	33	85	59H
33	33A	86	63
34	34	87	60
35	35	88	61
36	36	89	62
37	37	90	67
38	38	91	68
39	39	92	69
40	39B	93	70
41	39A	94	71
42	39C	95	71A
43	39D	96	71B
44	39E	97	72
45	39F	98	73
46	39G	99	74
47	39H	100	75
48	39I	101	76
49	39J	102	77
50	39K	103	78
51	39L	104	79
52	39M	105	80
53	39N	106	81

¹Unless otherwise indicated, references are to the Act set out in Part A.

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Part B.—Cross References—*continued.*

Section, etc., in Revised Edition.	Previous Reference.	Section, etc., in Revised Edition.	Previous Reference.
107	82	135	89
108	83	136	89A
109	84	137	90
110	84A	138	91
111	84B	139	92
112	84C	140	92A
113	84D	141	93
114	84E	142	94
115	84F	143	95
116	84G	144	95A
117	85	145	95B
118	86	146	95C
119	87	147	95D
120	87A	148	95E
121	87B	149	95F
122	87C	150	95G
123	87D	151	95H
124	87E	152	95I
125	87F	153	95J
126	87G	154	95K
127	87H	155	96
128	87I	156	97
129	87J	157	97A
130	87JA	158	98
131	87K		
132	87L	Schedule 1	Schedule 2
133	87M	Schedule 2	Schedule 3
134	88	Schedule 3	Schedule 4

APPENDIX 2.

SOURCE OF LOCAL GOVERNMENT REGULATION.

Part A.—Previous Legislation.

Local Government Regulations 1964 (Statutory Instrument No. 38 of 1964).

as amended by—

Statutory Instrument No. 10 of 1968

Statutory Instrument No. 31 of 1970

Statutory Instrument No. 1 of 1971

Statutory Instrument No. 15 of 1972

Statutory Instrument No. 20 of 1972

Statutory Instrument No. 16 of 1973.

Part B.—Cross References.

Section, etc., in Revised Edition.	Previous Reference. ¹	Section, etc., in Revised Edition.	Previous Reference. ¹
1	3A	17	13
2	3	18	14
3	25	19	15
4	26	20	16, 17
5	3B	21	5
6	4	22	27
7	18	23	28
8	19, 22		
9	21	Schedule	Schedule
10	20	Form 1	Form 1
11	23	Form 2	Form 2
12	24	Form 3	Form 3
13	6, 7, 8	Form 4	Form 4
14	9	Form 5	Form 5
15	10	Form 6	Form 6
16	11, 12	Form 7	Form 7

¹ Unless otherwise indicated, references are to the regulations set out in Part A.

APPENDIX 3.

SOURCE OF LOCAL GOVERNMENT (ELECTORAL PROVISIONS) REGULATION.

Part A.—Previous Legislation.

Local Government (Electoral Provisions) Regulations 1970 (Statutory Instrument No. 30 of 1970)

as amended by—

Statutory Instrument No. 11 of 1971

Statutory Instrument No. 19 of 1971

Statutory Instrument No. 20 of 1971

Local Government (Electoral Provisions) (Disputed Elections) Regulation 1976 (Statutory Instrument No. 14 of 1976)

Local Government (Electoral Provisions) (Amendment) Regulation 1978 (Statutory Instrument No. 4 of 1978).

Part B.—Cross References.

Section, etc., in Revised Edition.	Previous Reference. ¹	Section, etc., in Revised Edition.	Previous Reference. ¹
1	4	31	38
2	5	32	39
3	6	33	40
4	7	34	41
5	8	35	42
6	9	36	43
7	10	37	44
8	11	37A	44A
9	12	38	45
10	13	39	46
11	14	40	47
12	15	41	48
13	16	42	49
14	21	43	50
15	22	44	51
16	23	45	52
17	24	46	53
18	25	47	54
19	26	48 (Rep.)	55
20	27	49	55A
21	28	50 (Rep.)	56
22	29	51	58
23	30	52	59
24	31	53	60
25	32	54	61
26	33	55	62
27	34	56	63
28	35	57	64
29	36	58	64A
30	37	59	64B

¹Unless otherwise indicated, references are to the regulations set out in Part A.

Part B.—Cross References—*continued*.

Section, etc., in Revised Edition.	Previous Reference.	Section, etc., in Revised Edition.	Previous Reference.
60	64C	69	64L
61	64D	70	64M
62	64E	71	64N
63	64F	72	64O
64	64G	73	64P
65	64H	74	64Q
66	64I	75	64R
67	64J	76	65
68	64K	77	66

APPENDIX 4.

SOURCE OF LOCAL GOVERNMENT (COUNCIL STAFF) REGULATION.

Part A.—Previous Legislation.

Local Government (Council Staff) Regulation 1964 (Statutory Instrument No. 39 of 1964).

Part B.—Cross References.

Section, etc., in Revised Edition.	Previous Reference. ¹
1	2
2	3
3	4
4	6

¹Unless otherwise indicated, references are to the regulations set out in Part A.

APPENDIX 5.

SOURCE OF THE LOCAL GOVERNMENT (URBAN COUNCIL ELECTORAL PROVISIONS) REGULATION.

Part A.—Previous Legislation.

Local Government (Urban Council Electoral Provisions) Regulation 1978 (No. 5 of 1978).

Part B.—Cross Reference.

Section, etc., in Revised Edition.	Previous Reference ¹ .	Section, etc., in Revised Edition.	Previous Reference ¹ .
1	2	43	43
2	1	44	44
3	3	45	45
4	4	46	46
5	5	47	47
6	6	48	48
7	7	49	49
8	8	50	50
9	9	51	51
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28	28	70	70
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30	30	72	72
31	31	73	73
32	32	74	74
33	33	75	75
34	34	76	76
35	35	77	77
36	36	78	78
37	37	79	79
38	38	80	80, 81, 82
39	39	81	83
40	40	82	84
41	41	83	85

¹Unless otherwise indicated, references are to the regulations set out in Part A.

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