

[No. 21 of 1986

GOVERNMENT OF ZAMBIA

ACT

No. 21 of 1986

Date of Assent: 30th October, 1986

An Act to amend the Local Administration Act

[7th November, 1986

ENACTED by the Parliament of Zambia.

Enactment

1. This Act may be cited as the Local Administration (Amendment) Act, 1986, and shall be read as one with the Local Administration Act, 1980, hereinafter referred to as the principal Act.

Short title

Act No. 16
of 1986

2. Section *two* of the principal Act is amended—

Amendment
of
section 2

(a) by the insertion in the appropriate place of the following definition:

“mass organisation” means any organisation designated as a mass organisation by or under the Constitution of the Party; ; and

(b) in the definition of “officer”, by the deletion of “a public officer” and the substitution therefor of “a person”.

3. Section *three* of the principal Act is amended by the addition of the following new subsections:

Amendment
of
section 3

(3) The Minister shall, by statutory order, grade every council established by subsection (1) or under subsection (2).

(4) Such grading shall be based on the economic circumstances of each council and shall be reviewed periodically.

Amendment
of
section 134. Section *thirteen* of the principal Act is amended—

(a) by the deletion of subsection (1) and the substitution therefor of the following subsection:

(1) A councillor referred to in paragraph (d) or (i) of subsection (1) of section *ten* shall, so long as he remains eligible to be a councillor, hold office for a term of three years, and shall be eligible to be a councillor for a subsequent term.; and

(b) in subsection (2), by the deletion of “ paragraph (a), (b), (e), (g) or (h) ” and the substitution therefor of “ paragraph (a), (b), (c), (e), (f), (g) or (h) ”.

Amendment
of
section 145. Section *fourteen* of the principal Act is amended in paragraph (c)—

(a) by the deletion of the full-stop and the substitution therefor of a colon; and

(b) by the addition thereafter of the following proviso to paragraph (c):

Provided that this paragraph shall not apply to a councillor referred to in paragraph (e) of subsection (1) of section *ten* if such absence was caused by his duties with the National Assembly or other affairs of the State.Amendment
of
section 326. Section *thirty-two* of the principal Act is amended by the deletion of subsection (2) and the substitution therefor of the following subsection (2):

(2) The accounts of a council shall be prepared for each financial year of the council and a summarised statement thereof, certified under the hand of the District Executive Secretary, shall be presented to the council at a meeting to be held within six months of the end of that financial year, or within such longer period as the Minister may in any particular case determine.

Amendment
of
section 40A7. Section *forty A* of the principal Act is amended—

(a) by the re-numbering of subsections (2), (3) and (4) as (3), (4) and (5) respectively; and

(b) by the insertion, immediately after subsection (1), of the following subsection (2):

(2) The Minister may, by writing under his hand, delegate his powers under subsection (1) to the Permanent Secretary of the Province in which the council is located or to the Permanent Secretary of the Ministry responsible for local administration.

8. The principal Act is amended by the repeal of section *forty-one* and the substitution thereof of the following section:

Repeal and
replacement
of
section 41

41. (1) The Minister shall cause any part of the audit report made under section *thirty-nine* or the extraordinary audit report made under section *forty A* to be brought to the notice of any councillor, or officer or employee of the council who may be affected thereby and shall afford to every such person an opportunity of furnishing an explanation to the Minister.

Power of
dis-
allowance
and
surcharge

(2) After considering any explanation furnished to him under subsection (1) the Minister shall—

- (a) disallow any expenditure incurred contrary to law;
- (b) surcharge the amount of any expenditure disallowed upon the person or persons responsible for incurring or authorising the expenditure;
- (c) surcharge any sum which has not been duly brought to account upon the person or persons by whom that sum ought to have been brought to account;
- (d) surcharge the amount of any loss or deficiency upon any person or persons by whose negligence or misconduct the loss or deficiency incurred;
- (e) certify the amount due from any person upon whom he has made a surcharge and cause a copy of the certificate to be furnished to such person:

Provided that the Minister may abstain from making a disallowance or surcharge or may make such reduction in such disallowance or surcharge as he deems equitable.

9. Section *forty-two* of the principal Act is amended—

- (a) in subsection (1); and
- (b) in paragraphs (a) and (b) of subsection (2);

by the deletion of "the council" and the substitution thereof of "the Minister".

Amendment
of
section 42

10. Section *forty-three* of the principal Act is amended—

- (a) by the deletion of "the council" and the substitution thereof of "the Minister"—

- (i) in subsection (1) where that term appears for the first time; and
- (ii) in subsection (2); and

- (b) in subsection (4), by the deletion of "District Executive Secretary" and the substitution thereof of "the Minister".

Amendment
of
section 43

Amendment
of
section 47

11. Section *forty-seven* of the principal Act is amended by the deletion of subsection (3).

Insertion of
new section
47A

12. The principal Act is amended by the insertion, immediately after section *forty-seven*, of the following new section:

Committees
of council
and
delegation

47A. (1) A council may establish standing or occasional committees, consisting of such member or members and subject to such procedures as the council may determine, for the purpose of examining and reporting on any matter or performing any function of the council which the council may assign or delegate to such committee.

(2) Subject to the provisions of this section, a council may, on such terms and conditions as it thinks fit, delegate to a committee established under subsection (1), the power to discharge on behalf of the council any function of the council.

(3) A council shall not delegate to any committee its power to discharge any function—

(a) if such committee includes amongst its members persons who are not councillors; or

(b) if such delegation involves the power to—

(i) make and levy a rate;

(ii) adopt estimates of revenues and expenditure of the council;

(iii) borrow money;

(iv) impose fees and charges; or

(v) make by-laws.

(4) A council may at any time withdraw or alter any delegation to a committee, but such withdrawal or alteration shall not affect anything lawfully done by the committee prior to such withdrawal or alteration.

(5) Subject to the provisions of the standing orders of the council, and any general or specific directions of the council, a committee established under subsection (1) may determine its own procedure.

(6) Any function discharged by a committee in the exercise of powers delegated to it under this section shall be deemed to have been discharged by the council.

(7) A committee established under subsection (1) may, from amongst its members appoint sub-committees for the purpose of examining and reporting to the committee on any matter, but not for the purpose of discharging any function of the council.

(8) Subject to the provisions of the standing orders of the council, and any general or specific directions of the committee which appoints such sub-committee, a sub-committee may determine its own procedure.

13. (1) The principal Act is amended in Part XI by— Amendment of Part XI

(a) the deletion of the heading "Transitional Provisions" and the substitution thereof of "Staff and Provincial Service Boards";

(b) the deletion of section *ninety-one* and the substitution thereof of the new sections as indicated in subsection (2); and

(c) the re-numbering of section *ninety-two* as section *one hundred and three*.

(2) Section *ninety-one* of the principal Act is replaced by the following sections:

91. (1) In this Part, unless the context otherwise requires— Transfer of service

"Board" means a Provincial Service Board established under section *ninety-two*;

"chairman" means the chairman of a Board;

"former council employee" means any person who prior to the 1st January, 1981, was employed in the local government service or in the service of any local authority on permanent and pensionable establishment and who was deemed to have been seconded to the public service by virtue of the old section *ninety-one*;

"member" means a member of the Board;

"old section *ninety-one*" means the section *ninety-one* contained in the Local Administration Act, 1980, and which was repealed by the Local Administration (Amendment) Act, 1986.

Act No. 15
of 1980,
Act No. 21
of 1986

(2) The provisions of this Part shall apply notwithstanding anything to the contrary contained in the old section *ninety-one*.

(3) Every former council employee who on the 1st December, 1986, is serving in a council shall be deemed to be an employee of that council, unless within six months of that date he gives a written notice to the Public Service Commission, with a copy thereof to the appropriate council, stating his intention not to transfer to the service of that council; and any person who has given such notice shall be retired in the public interest and shall be entitled to be paid all his terminal benefits.

(4) A former council employee who has, since the 1st January, 1981, ceased to serve in a council and is instead serving in the public service, shall opt either to be employed in the public service or to revert to serving in the council in which he last served.

(5) A person who was serving in the public service on the 1st January, 1981, and has, since that date, been transferred to serve in a council, shall opt either to become an employee of that council or to revert to serving in the public service.

(6) Any person employed in the public service since the 1st January, 1981, who is serving in a council on the 1st December, 1986, shall opt either to become an employee of that council or to revert to serving in the public service.

(7) Any person required to opt under subsection (4), (5) or (6), shall, before the 31st March, 1987, give a written notice to the Public Service Commission, with a copy thereof to the appropriate council, stating his intention; and in the absence of such notice such person shall be deemed to have opted to be employed where he was serving on the 1st December, 1986.

(8) A former council employee, or a person to whom subsection (5) or (6) applies who—

(a) prior to the 1st December, 1986—

(i) retired from or for any other reason left the local government service, the service of any local authority or the public service; or

(ii) proceeded on leave pending such retirement or other departure as is referred to in sub-paragraph (i); or

(b) is due to retire from the local government service, the service of any local authority or the public service before the 31st March, 1987;

shall not be affected by the provisions of this section, but instead shall be dealt with in accordance with the provisions of the old section *ninety-one*.

(9) A person to whom subsection (3), (4), (5) or (6) applies shall not be adversely affected in relation to—

(a) his previous service; or

(b) his rights to or eligibility for pension, gratuity, leave or other benefits;

by any transfer of service effected pursuant to the provisions of this section or the old section *ninety-one*; and where a person has exercised, or is deemed to have exercised, an option pursuant to subsection (7), the terms and conditions of the service to which he transfers shall be deemed to be more favourable to him than those which he enjoyed before such transfer.

92. (1) There is hereby established for each Province a Provincial Service Board. Establishment and composition of Boards

(2) A Board shall consist of the following members, appointed on part-time basis:

- (a) a chairman appointed by the Minister;
- (b) two persons to represent all the councils in respect of which the Board is authorised to exercise its functions, appointed by the Minister from nominations submitted collectively by such councils;
- (c) two persons to represent the officers and employees of the councils in respect of which the Board is authorised to exercise its functions, appointed by the Minister after consultations with such persons or association of persons as appear to the Minister to represent the interests of such officers and employees; and
- (d) two persons appointed by the Minister after consultation with the Member of the Central Committee for the Province.

(3) In the absence of the chairman from any meeting of a Board, the members present at that meeting shall elect one of the members appointed under paragraph (b) or (c) of subsection (2) to preside over the meeting.

(4) The quorum at a meeting of a Board shall be four members.

(5) A decision of the Board on any question shall be by a majority of the members present and voting at the meeting and, in the event of an equality in votes, the person presiding at the meeting shall have a casting vote in addition to his deliberative vote.

(6) Subject to any directions given by the Minister, a Board may regulate its own procedure.

93. (1) Subject to the provisions of this section, a member referred to in paragraph (a), (b), (c) or (d) of subsection (2) of section *ninety-two* shall hold office for a period of three years from the date of his appointment. Tenure of Office of member

(2) A member may, by notice in writing addressed to the Minister, resign his office at any time.

(3) A member who absents himself from three consecutive meetings of the Board shall be reported to the Minister together with a detailed explanation by the member and comments by the chairman.

(4) Whenever it appears to the Minister that a member has absented himself frequently without reasonable cause, or that he is unable or unfit to discharge his functions as member, the Minister may remove him from office as member.

(5) A person who has completed his term as member or has ceased to be chairman may be re-appointed.

Remuneration, and allowances

94. The Minister shall, by statutory instrument, prescribe the remuneration or allowances payable to members.

Secretary and other staff

95. For each Board, the Minister shall designate a public officer to be the Secretary to the Board and such number of other public officers as may be necessary to carry out the functions of the Board.

Funds of Board

96. The funds required by a Board to carry out its functions shall be appropriated by Parliament.

Functions of Board

97. (1) A Board shall, in respect of the councils for which it is authorised to exercise its functions—

- (a) review disciplinary cases from such councils; and
- (b) hear appeals from aggrieved officers of such councils.

(2) The decision of a Board shall be binding upon the council and the officer or employee, subject to an appeal to a court of appropriate jurisdiction.

(3) The overall responsibility for the co-ordination of all matters relating to staffing generally in councils shall remain with the Minister, and he may make such regulations or administrative arrangements relating to recruitment or transfer of officers as appear to him to be necessary in the interest of local administration.

(4) The Minister may, from time to time, give such general directions as he thinks necessary to any Board or any council on any matter contained in this Part, and such Board or council, as the case may be, shall give effect to every such direction.

98. (1) With effect from the 1st December, 1986, a council shall have the power, subject to the other provisions of this Part, to appoint, promote, transfer, second, dismiss, discharge or discipline its officers and employees; and any such power shall be exercised in accordance with the terms and conditions determined by the council with the prior approval of the Minister. ^{Staff of councils}

(2) Upon receiving a request in that behalf, the Public Service Commission may authorise the secondment of a public officer to a council for such period and on such conditions as may be agreed between the council and the Public Service Commission.

(3) A public officer may apply to the Public Service Commission to transfer from the public service to the service of a council, and the Public Service Commission may, after consultation with that council, grant or refuse such transfer.

(4) A public officer who transfers in accordance with subsection (3)—

(a) may with the approval of the Public Service Commission, retire from the public service before such transfer; or

(b) may have his previous service and accrued benefits relating to gratuity, pension, earned leave, and the like, transferred to the council for his benefit.

(5) A council may, on such terms and conditions as may be agreed between all parties concerned, permit the secondment or transfer of any of its officers to the service of another council or to the public service.

99. (1) The Minister may, by statutory instrument, make regulations for the better carrying out of the purposes of this Part. ^{Regulations under Part XI}

(2) Without derogation from the generality of the power contained in subsection (1), the regulations made under this section may provide for—

(a) the creation or abolition of any post in any council or grade of councils;

(b) the qualifications for appointment to any such post;

(c) such training in the local administration service as he considers necessary for the promotion of efficiency in councils;

- (d) matters relating to the terms and conditions of appointment, promotion, transfer, secondment, dismissal, discharge and discipline of officers or employees of councils; and
- (e) matters relating to the performance of the functions of a Board.

Insertion
of new
Parts XII
and XIII

14. The principal Act is amended by the insertion, immediately after section *ninety-nine* of the following new Parts:

PART XII

DISTRICT ADMINISTRATOR

Appoint-
ment of
District
Admini-
strator and
discharge
by him of
functions of
council

100. (1) Whenever, by reason of the refusal, failure or inability of a council adequately to discharge all or any of its functions, the Minister considers it necessary or expedient in the interest of local administration to do so, he may, by statutory order, appoint a public officer to be the District Administrator for that council; and notwithstanding anything contained in this Act, may—

- (a) empower the District Administrator to discharge all or any of the functions of the council, either generally or in respect of any part of the area of the council;
- (b) suspend all councillors of the council from performing any or all functions as councillors; and
- (c) suspend any officer or employee of the council from the exercise of the powers and functions of his office on such terms and conditions as the Minister thinks fit.

(2) Any functions of the council discharged by the District Administrator to the extent indicated in, and in accordance with, the appointment order referred to in subsection (1) shall be deemed to have been discharged by the council in accordance with the provisions of this Act.

(3) Any officer or employee of the council suspended under paragraph (c) of subsection (1) shall be deemed to have been lawfully suspended by the council in accordance with the provisions of this Act and may thereafter be dealt with by the council in accordance with the appropriate disciplinary procedures.

101. (1) The appointment of a District Administrator shall, unless sooner revoked, expire after ninety days: Revocation
of appoint-
ment order

Provided that the Minister may, if he considers it desirable in the interest of local administration, extend the appointment for further periods of ninety days at a time.

(2) On the revocation of the order appointing the District Administrator made under section *one hundred*, the District Administrator shall cease to discharge the functions of the council, and such functions shall be discharged by the council as constituted by section *ten*.

PART XIII

FIRE SERVICES, REPEAL AND SAVINGS

102. The Minister may, by statutory instrument— Fire
Services
- (a) establish a fire authority for any area;
 - (b) alter the area of any fire authority;
 - (c) require a council to carry out the functions of a fire authority;
 - (d) require a fire authority to enter into arrangements with other fire authorities or other organisations for mutual co-operation and assistance;
 - (e) prescribe the powers and functions of a fire authority;
 - (f) regulate the operations of any fire brigade;
 - (g) regulate the standards for providing, maintaining and operating by any person of—
 - (i) adequate fire-fighting equipment;
 - (ii) fire-prevention equipment or services;
 - (iii) fire-escape facilities in any premises;
 - (h) provide for the inspection of any premises by fire inspectors or fire officers;
 - (i) provide for the qualifications for appointment, powers and functions of fire inspectors or fire officers, and for their names to be notified in the *Gazette*; and
 - (j) provide for such matters as to him appear necessary for the purposes of ensuring adequate fire services in any area.

15. The Schedule to the principal Act is amended by the insertion, in the appropriate place, of the following new paragraph: Amendment
of
Schedule

70A. To undertake mining operations.

**THE ZAMBIA AGRICULTURAL DEVELOPMENT BANK
(DISSOLUTION) ACT, 1986**

ARRANGEMENT OF SECTIONS

Section

1. Short title and commencement
2. Interpretation
3. Winding-up affairs of Bank and its dissolution
4. Vesting of assets and liabilities of Bank in Company
5. Registration of property to be transferred by Bank
6. Terms of service of employees of Bank upon transfer
7. Legal proceedings
8. Repeal