

GOVERNMENT OF ZAMBIA

**ACT**

No. 30 of 1995

Date of assent: 6th September, 1995

An Act to amend the Local Government Act

[ 13th September, 1995

ENACTED by the Parliament of Zambia.

Enactment

1. This Act may be cited as the Local Government (Amendment) Act, 1995, and shall be read as one with the Local Government Act, 1991, in this Act referred to as the principal Act.

Short title

Act No. 22  
of 1991

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

Amendment  
of section 2

(a) by the deletion of the definitions of " Commission ", " District Executive Secretary ", " member " and " Secretary ";

(b) by the insertion in the appropriate places of the following definitions:

" board " means a provincial local government appeals board established under section *ninety-three*;

" member " means a member of the board;

" principal officer " means of the Chief Executive Officer of a council and includes any person for the time being discharging the functions of the Chief Executive Officer;

" Secretary " means the Secretary of a board holding office in accordance with section *ninety-six*;

3. Section *nine* of the principal Act is amended by the deletion of subsection (1) and the substitution therefor of the following subsection:

Amendment  
of section 9

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(1) A council shall consist of—

- (a) the members of Parliament in the district;
- (b) two representatives of the Chiefs, appointed by all the Chiefs in the district; and
- (c) all the elected councillors in the district.

Repeal of  
section 10

4. Section *ten* of the principal Act is hereby repealed.

Amendment  
of section 12

5. Section *twelve* of the principal Act is amended—

(a) by the insertion after the word "council" of the words "who are required to be elected";

(b) by renumbering the section as subsection (1) and by the addition of the following new subsection:

(2) A representative of the Chief shall be appointed to hold office under paragraph (b) of subsection (1) of section *nine* in such manner, and for such term, not exceeding three years, as the chiefs in the district shall determine.

Amendment  
of section 14

6. Section *fourteen* of the principal Act is amended—

(a) in subsection (1) by the insertion after paragraph (c) of the following new paragraph:

(d) if, having been elected to office as the endorsed candidate of a political party, the holder of the office ceases to be a member of that party; or

(b) in subsection (1) by renumbering existing paragraph (d) as paragraph (e);

(c) in subsection (3) by the insertion before the word "provisions" of the word "preceding";

(d) by the insertion after subsection (3) of the following new subsection:

(4) When a member of Parliament in the district ceases to be a member of Parliament, his office as a councillor shall be vacant until the corresponding vacancy in the National Assembly is filled.

Amendment  
of section 16

7. Section *sixteen* of the principal Act is amended by the insertion of the following proviso to subsection (1):

Provided that a councillor who is a member of Parliament or a representative of a chief shall not be eligible for the office of Mayor, Deputy Mayor, Chairman or Vice-Chairman of the council.

8. Section *forty-five* of the principal Act is amended—
- Amendment  
of section 45
- (a) in subsection (1) by the insertion of the words "constitu-  
ency development" before the word "grants";
- (b) in subsection (2) by the insertion of the words "constitu-  
ency development" before the word grant.
9. Section *forty-six* of the principal Act is amended—
- Amendment  
of section 46
- (a) in subsection (1) by the deletion of the word "may" and  
the substitution therefor of "shall";
- (b) by the deletion of subsection (2).
10. Section *fifty-six* of the principal Act is amended—
- Amendment  
of section 56
- (a) in subsection (2) by the deletion of the words "three  
months" and the substitution therefor of "sixty days";
- (b) by the insertion after subsection (4) of the following new  
subsection:
- (5) Without limiting the operation of section *eighty-  
eight*, where a council fails to transmit to the Minister,  
within the time allowed under subsection (2), the  
report and statement of accounts referred to in that  
subsection, the Minister may, for as long thereafter as  
the council continues to fail to transmit them, suspend  
or withhold grants due to the council.
11. Section *sixty* of the principal Act is amended—
- Amendment  
of section 60
- (a) in subsection (2) by the deletion of paragraphs (a) and (c)  
and the renumbering of paragraphs (b) and (d) as para-  
graphs (a) and (b); respectively;
- (b) by the deletion of subsection (3), (4) and (5) and the  
substitution therefor of the following subsections:
- (3) An auditor shall, after completing an extraor-  
dinary audit of the accounts of a council and his  
investigations, if any, make his report to the Minister  
and shall submit a copy of the report to the council.
- (4) The Minister shall, within sixty days of the  
receipt of the report under subsection (3), consider the  
report and shall thereafter take such action as he may  
consider appropriate in the circumstances.
- (5) The Minister may, at any time, appoint a  
person to inspect all or any of the accounts of a council  
and the provisions of subsection (4) shall apply  
accordingly.

Amendment  
of section 6712. Section *sixty-seven* of the principal Act is amended—

(a) in subsection (1) by the deletion of the full-stop and the substitution therefor of a colon and the addition of the following proviso:

Provided that, where the council intends to sell a council asset, the council shall, before conducting the sale, cause a valuation of the asset to be carried out by the department of the Government responsible for property valuations or by a valuer approved by the Minister.

(b) in subsection (2) by the insertion after the word "land" of the words "or building".

Repeal and  
replacement  
of section 8813. The principal Act is amended by the repeal of section *eighty-eight* and the substitution therefor of the following:Suspension  
or dissolution  
of  
Council and  
appointment  
of Local  
Government  
Administrator

88. (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—

(a) appoint a public officer to be the Local Government Administrator for that council; and

(b) notwithstanding anything contained in this Act—

(i) suspend all councillors of the council from performing all of their functions as councillors and empower the Local Government Administrator to discharge all the functions of the council; and

(ii) after due inquiry held under section *one-hundred and twenty*, dissolve the council after receiving prior approval of the President, and direct the holding of elections within ninety days from the date of the dissolution.

(2) Any functions of the council discharged by a Local Government Administrator under subsection (1) shall be deemed to have been discharged by the council in accordance with this Act.

(3) The Local Government Administrator shall relinquish office upon the lifting of the suspension or the election of a new council, as the case may be.

14. The principal Act is amended by the repeal of Part X and the substitution therefor of the following Part: Repeal and replacement of Part X

PART X

SERVICE WITH COUNCILS AND PROVINCIAL LOCAL GOVERNMENT  
APPEALS BOARDS

90. Subject to regulations made under this Part, a council shall have power to— Councils may appoint staff

(a) appoint officers and other employees for the purpose of assisting the council in carrying out its functions;

(b) discipline any officer or employee.

91. (1) A council may, upon receiving a request from another council, second an officer to that council for such period and on such terms and conditions as may be agreed between the council and the council requesting the secondment. Secondment to another council

(2) A council may, in accordance with regulations issued by the Minister, make arrangements with any Ministry or statutory corporation for the secondment to the council of an officer of the civil service or of any such corporation.

92. (1) The Minister may, by statutory instrument, make regulations governing service with a council and the powers and duties of councils with regard to their officers and employees. Regulations

(2) Without prejudice to the generality of subsection (1), regulations made under this section may provide for—

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

(b) the terms and conditions of appointment, promotion, transfer, dismissal, discharge and discipline of officers and employees;

(c) the qualifications for appointment to any post in a council;

(d) a right of appeal to a provincial local government appeals board by an officer or employee and the procedures to be followed for such appeals;

(e) the establishment of a council secretariat under the supervision of the principal officer of the council, the other members of the secretariat, and their functions; or

(f) the training of employees and officials of a council and the standards for promotion.

(3) Regulations under this section may make different provisions for different categories of councils and different categories of officers or employees.

Establishment of provincial local government appeals boards

93. (1) The Minister may, by statutory order, establish a provincial local government appeals board in each Province which shall consist of a Chairman and not less than three nor more than seven other members.

(2) The members of a board shall be appointed by the Minister and shall serve on a part-time basis.

(3) A person shall not be qualified for appointment as a member of a board if—

(a) he holds the office of President of the Republic;

(b) he is a member of the National Assembly;

(c) he is a councillor.

(d) he is employed in any council;

(e) he is a member of any staff association of a council, a trade union or any other similar organisation;

(f) he is, under any law in force in Zambia, adjudged or otherwise declared to be of unsound mind;

(g) he has been sentenced to a term of imprisonment exceeding six months; or

(h) he is an undischarged bankrupt, having been adjudged or otherwise declared bankrupt, under any law in force in Zambia.

(4) One of the members of the board shall be appointed by the Minister as Chairman of the board.

Provisions relating to the office of member

94. (1) Subject to the other provisions of this section—

(a) a member of a board shall hold office for a term of two years and shall be eligible for re-appointment for such term, and shall serve on such terms and conditions, as the Minister may determine;

(b) the office of a member shall become vacant—

(i) at the expiry of the term for which he was appointed or re-appointed;

(ii) if any circumstances arise that, if he were not a member, would cause him to be disqualified for appointment as such:

(iii) if he dies; or

(iv) if he resigns his office as such.

(2) A member may be removed from office by the Minister only for inability to discharge the functions of his office, arising from infirmity of body or mind or any other cause, or for misbehaviour.

(3) If the office of the Chairman is vacant or if the person holding that office is for any reason unable to perform the functions of that office, then, until a person has been appointed to, and has assumed the functions of, that office or until the person holding that office has resumed those functions, as the case may be, those functions shall be performed by such one of the other members as may be designated in that behalf by the Minister.

(4) A member shall not be eligible for appointment to any post in the service of a council for a period of twelve months after he has ceased to be a member.

(5) A member may resign from office by notice in writing addressed to the Minister; and the resignation shall take effect when it is accepted by the Minister.

95. A member shall be paid such allowances as the Minister may determine. Allowances

96. The Provincial Local Government Officer shall be the Secretary of the provincial local government appeals board. Secretary

97. No action or other proceedings shall be brought against any member of a board for or in respect of any act done or omitted to be done in good faith in the exercise or purported exercise of his powers under this Act or any regulation or rule made thereunder. Immunity of members

98. (1) Every member of a board shall, on appointment but before assuming office, take an oath in the form set out in the Third Schedule. Oath of office

(2) Where any person is required to take an oath under this section and—

(a) he has not religious belief; or

(b) the taking of an oath is contrary to his religious belief;

he may take and subscribe a solemn affirmation in the form prescribed by subsection (1) substituting the words "solemnly and sincerely declare and affirm" for the word "swear and omitting the words "SO HELP ME GOD".

Powers of  
boards

99. (1) The functions of a board shall be to—

(a) hear grievances from officers relating to promotions or demotions;

(b) review disciplinary cases from the council relating to officers and employees of that council; and

(c) hear appeals on disciplinary matters from officers and employees of the council.

(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 competent jurisdiction.

Performance  
of functions  
of boards

100. (1) Any decision of a board shall require the support of a majority vote of all the members present at that meeting of the board:

Provided that—

(a) if upon any question the votes of the members are equally divided, the Chairman shall have a casting vote;

(b) whenever it considers it expedient for the proper discharge of its functions, a board may invite any person to advise the board upon any matter being considered by the board, but the board shall not be bound to accept such advice.

(2) The quorum of a board shall be not less than one-half of all the members.

Offence of  
supplying  
false  
information

101. Any person who, in connection with the exercise of any function of a board, wilfully gives to a board or any member thereof, any information which he knows to be false or misleading in any material particular shall be guilty of an offence and shall be liable upon conviction to a fine not exceeding six thousand penalty units or to imprisonment for a term not exceeding two years, or to both.

102. Notwithstanding anything to the contrary in any other written law, no person shall in any legal proceedings be permitted or compelled to produce or disclose any communication, written or oral, which has taken place between a board or any member of a board or officer of the board, or any council or any person employed by a council, or between the members or officers or employees of the council in exercise of, or in connection with the exercise of, any of the functions of a board, unless the Minister has consented in writing to such production or disclosure.

Certain  
communications to be  
privileged

103. (1) No person shall, without the consent in writing given by or on behalf of a council or a board, publish or disclose to any person, otherwise than in the course of his duties, the contents of any document, communication or information which relates to and which has come to his knowledge in the course of his duties under this Act.

Unauthorised  
disclosure of  
information

(2) Any person who knowingly contravenes subsection (1) shall be guilty of an offence and shall be liable upon conviction to a fine not exceeding six thousand penalty units or to imprisonment for a term not exceeding one year, or to both.

(3) If any person having information which to his knowledge has been published or disclosed in contravention of subsection (1) unlawfully publishes or communicates any such information to any other person, he shall be guilty of an offence and shall be liable upon conviction to a fine not exceeding six thousand penalty units or to imprisonment for a term not exceeding one year, or to both.

104. Any person who otherwise than in the course of his duties directly or indirectly by himself or by any other person in any manner whatsoever influences or attempts to influence any decision of a board shall be guilty of an offence and shall be liable upon conviction to a fine not exceeding ten thousand penalty units or to imprisonment for a term not exceeding two years, or to both:

Offence to  
influence or  
attempt to  
influence  
board

Provided that nothing in this section shall prohibit any person from giving a certificate or testimonial to any applicant or candidate for any office or prohibit any person from supplying any information or assistance upon formal request made by a board.

Amendment  
of Third  
Schedule

15. The Third Schedule to the principal Act is amended—
- (a) in the headings thereto by the deletion of the words “MEMBERS OF COMMISSION” and the substitution therefor of the words “ MEMBERS OF BOARD ”;
  - (b) by the deletion of the words “ Local Government Service Commission ”: wherever they appear and the substitution therefor of the words “ Provincial Local Government Appeals Board ”.

Repeal of  
Fourth  
Schedule

16. The principal Act is amended by the deletion of the Fourth Schedule.

Addition of  
section 123

17. The principal Act is amended by the addition of the following new section:

Savings and  
transitional  
provisions  
consequent  
on the  
enactment of  
Act No. of  
1995 Act  
No. of  
1995

123. (1) The amendment of section *nine* by the Local Government (Amendment) Act, 1995, shall not discontinue or otherwise affect the existence of any council, or affect the tenure of any councillor holding office immediately before that Act came into operation; and any such councillor shall, on the commencement of that Act, be deemed to hold office under paragraph (c) of subsection (1) of that section, as amended by that Act.

(2) The abolition of the Local Government Service Commission by the Local Government (Amendment) Act, 1995 shall not affect, in any manner, the employment of any person with a council.

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