

REGIONAL AND LOCAL GOVERNMENT

Publication of Local Regulations Proclamation 4 of 1917.

Summary: This Proclamation provides that local regulations issued by competent authorities shall be deemed to be “promulgated” if sufficient copies are exhibited in public.

Fire Brigade Services Ordinance 10 of 1978.

Summary: This Ordinance provides for the establishment of fire brigades by local authorities.

Amendments: This Ordinance is amended by Act 18/1988. Section 18 is repealed by Act 23/1992.

Boundaries of Regions and Local Authorities Proclamation 6 of 1992.

Summary: In accordance with Article 137(4) of the Constitution and with the recommendations of the First Delimitation Commission (established in terms of Proclamation 12/1990), this Presidential Proclamation establishes the boundaries of regions and local authorities as referred to in Chapter 12 of the Constitution.

Amendments: This Proclamation is amended by Proc. 20/1992 (spelling of “Otjozondjupa”) and Act 22/1992 (“Liambezi” becomes “Caprivi”).

The boundaries of the constituencies within the regions are set forth in Proc. 25/1992 (GG 473), which is amended by Proc. 42/1992 (GG 506) (substitutes description of boundaries of Rehoboth West Urban Constituency).

Regional Councils Act 22 of 1992.

Summary: This Act provides for the establishment of regional councils in respect of regions determined in accordance with Article 103 of the Constitution and sets forth the rights, powers, duties and functions of such councils. It also provides for the election of National Council members by regional councils.

The Act commenced on 31 August 1992 (GN 117/1992, GG 472), *except for* section 45(1) which came into operation on the date for regional elections fixed in terms of Article 137(6) of the Constitution. This date was set as 30 November-3 December in Proc. 39/1992 (GG 502).

Amendments: Act 17/1997 amends sections 5 and 21 and inserts section 18A. Act 30/2000 (which came into force on 5 March 2001 in terms of GN 35/2001, GG 2492) amends sections 1, 17, 19A (previously erroneously numbered as section 18A), 20, 28, and 32 and inserts sections 24a, 24B, 24C, 44A and 44B. Act 12/2002 (which came into force on 15 February 2003 in terms of GN 18/2003, GG 2915) amends sections 1 and 24, substitutes section 23, and repeals section 24A, 24B, and 24C.

Regulations: Commercialisation Regulations are contained in GN 41/2001 (GG 2492). Joint Business Venture Regulations are contained in GN 42/2001 (GG 2492). Tender Board Regulations are contained in GN 43/2001 (GG 2492).

A Code of Conduct for members of Regional Councils is contained in GN 174/2004 (GG 3255).

Standing rules in connection with meetings of Regional Councils and committees established by Regional Councils, are contained in GN 175/2004 (GG 3255).

Appointments: The First Delimitation Commission was appointed before this Act was passed in Proc. 12/1990, in terms of the Constitution. Delimitation Commissions are appointed in terms of section 5 of the Act by Proc. 9/1998 (GG 1855) and Proc. 6/2002 (GG 2855).

Designation of regions: Prior to the enactment of this law, the boundaries of regions and local authorities were established in the Boundaries of Regions and Local Authorities Proclamation 6 of 1992, as amended by Proc. 20/1992, Act 22/1992 and Proc. 15/1998 (GG 1940).

The boundaries of the constituencies within the regions are set forth in Proc. 25/1992 (GG 473), which is amended by Proc. 42/1992 (GG 506) (substitutes description of boundaries of Rehoboth West Urban Constituency), Proc. 16/1998 (GG 1940) (re-divides constituencies in all regions other than Karas) and Proc. 35/1999 (GG 2233) (affecting two constituencies in the Oshikoto Region).

The boundaries of Omaheke and Khomas Regions are changed by Proclamation 7/2003 (GG 2942), which also re-divides constituencies in a number of regions.

Local Authorities Act 23 of 1992.

Summary: This Act provides for the determination of local authorities and the establishment of local authority councils. It also sets forth the powers, duties and functions of such councils. This Act came into force on 31 August 1992 (GN 118/1992, GG 472). It replaces the Municipal Ordinance 13 of 1963.

Amendments: The Registration of Deeds in Rehoboth Amendment Act 35 of 1994 amends section 78.

Act 3/1997 substitutes sections 5 and 6 to provide that the second local government elections shall be held on a party list system and defer the delimitation of local authorities into wards until after the second elections. It also increases the maximum size of municipal councils from 12 to 15, and strengthens the affirmative action provisions for women in respect of the second local elections.

Act 14/1997 amends section 8 of the Act in connection with the postponement of Namibia's second local authority elections.

Act 24/2000, which came into operation on 15 February 2001 (GN 29/2001, GG 2486), amends the Act substantially.

Act 17/2002 (which came into operation on 15 February 2003 in terms of GN 19/2003, GG 2915) amends the Act substantially. Amongst other things, it eliminates

provisions for a ward system and extends the period for the third general elections for members of local authority councils.

The Electoral Amendment Act 7 of 2003, which came into operation on 8 July 2003 (GN 146/2003, GG 3014), substitutes the definition of 'party list' in section 1 of the Act.

Act 27/2003 substitutes the dates for elections for members of local authority councils in section 8 of the Act.

Act 14/2004, which came into operation on 27 November 2004 (GN 254/2004, GG 3331), amends sections 1, 30 and 94C of the Act.

Regulations: Model Pound Regulations are contained in GN 191/1994 (GG 945). Model Electricity Supply Regulations are contained in GN 71/1996 (GG 1283), as amended by General Notice 130/2003 (GG 3019). Model Water Supply Regulations are contained in GN 72/1996 (GG 1283). Model Sewerage and Drainage Regulations are contained in GN 99/1996 (GG 1311). Tender Board Regulations are contained in GN 30/2001 (GG 2486). Commercialisation Regulations are contained in GN 39/2001 (GG 2492). Joint Business Venture Regulations are contained in GN 40/2001 (GG 2492).

Designation of local authorities: Prior to the enactment of this law, the boundaries of regions and local authorities were established in the Boundaries of Regions and Local Authorities Proclamation 6 of 1992, as amended by Proc. 20/1992 and Act 22/1992.

Areas of local authorities are also set forth in Proc. 26/1992 (GG 479) (the incorporation of Brakwater into the Municipality of Windhoek, under the previous Municipal Ordinance 13 of 1963), Proc. 27/1992 (GG 479) (proclaiming four additional villages) and Proc. 28/1992 (GG 479) (proclaiming four additional towns).

Walvis Bay is established as a municipality in Proc. 16/1994 (GG 873), as amended by Proc. 18/1994 (GG 893). (Proc. 15/1994 (GG 873) ends the application of the Walvis Bay Municipal Ordinance 26 of 1978 in Walvis Bay, effective 16 August 1994.) The Walvis Bay and Off-Shore Islands Amendment Act 14 of 1998 provides for the retrospective application of certain provisions of the Local Authorities Act in Walvis Bay. The boundaries of the Municipality of Walvis Bay are altered by Proc. 17/1999 (GG 2088).

Eenhana and Outapi are proclaimed as towns in Proc. 14/1997 (GG 1673), as amended by Proc. 18/1997 (GG 1698), Proc. 26/1997 (GG 1738) and Proc. 31/1997 (GG 1749).

Five villages are deproclaimed in Proc. 22/1993 (Aris, Kappsfarm, Omitara, Summerdown and Wlotzkasbaken). Five more villages are deproclaimed in Proc. 1/1996 (GG 1241) (Ariamsvlei, Grünau, Kalkfeld, Noordoewer and Warmbad). The village of Aus is deproclaimed in Proc. 6/1996 (GG 1454).

Proc 13/1997 (GG 1639) changes the designation of Hentiesbaai from a town to a municipality.

The boundaries of the municipality of Tsumeb are altered in Proc. 17/1993 (GG 668).

Helao Nafidi is proclaimed as a town in GN 194/2003 (GG 3054).

The demarcation of wards within local authorities is contained in GN 92/1996 (GG 1300).

Proclamation 22/1997 (GG 1714) increases the number of members of the Swakopmund Municipal Council from 7 to 10, and increases the number of members of the Windhoek Municipal Council from 10 to 15. This Proclamation also amends Schedule I of the Act. Schedule 2 of the Act, which deals with the number of members on town councils, is substituted by GN 194/2003 (GG 3054).

The members of the Rehoboth Town Council and removed from office by GN 68/2001 (GG 2516), which transfers their powers to the Minister of Regional and Local Government and Housing and specifies a date for the election of a new council.

The boundaries of the local authority area of Luderitz are altered by GN 250/2003 (GG 3108).

Appointments: The First Delimitation Commission was appointed before this Act was passed in Proc. 12/1990, in terms of the Constitution. A Delimitation Commission was appointed in terms of section 5 of the Act by Proc. 9/1995 (GG 1089).

Cases:

Kruger v The Council of the Municipality of Windhoek & Another (LC 4/96; 1996.11.15) refers to section 239 of the predecessor to this act, the Municipal Ordinance 13 of 1963.

Kruger v The Council of the Municipality of Windhoek & Another (LC 4/96; 1998.06.11) discusses the exercise of the power to litigate by a body corporate established in terms of the Act.

S v Negongo 1992 NR 352 (HC) (Regulation 48 of the Street and Traffic Regulations of the Municipality of Windhoek).

Municipality of Walvis Bay v Du Preez (LCA 15/97), reported as 1999 NR 106 (LC) (section 27 of the Act; also sections 47 and 61 of the *Walvis Bay Municipal Ordinance 26 of 1978* repealed by Proc. 15/1994; also Proclamation 16/1994.).

Council of the Municipality of Windhoek v Petersen & Others 1998 NR 8 (HC) discusses the powers of local authorities to regulate trade by hawkers and pedlars (specifically Regulation 15(3) of the Hawker and Pedlar Regulations of the Municipality of Windhoek, in relation to Article 21(2) of the Constitution and section 94(3) of the Act).

Hailulu v Council 2002 NR 305 (LC) (section 27(3))

RBH Construction and Another v Windhoek Municipal Council and Another 2002 NR 443 (HC) (Tender Board Regulations) .

Trust Fund for Regional Development and Equity Provisions Act 22 of 2000.

Summary: This Act establishes a Trust Fund to be used for financial and technical assistance to the development of regions and local authorities, and assistance with the implementation of decentralisation programmes. It came into force on 5 March 2001 (GN 38/2001, GG 2492).

Appointments: The Board of Trustees is announced in GN 189/2001 (GG 2615).

Decentralisation Enabling Act 33 of 2000.

Summary: This Act provides for and regulates the decentralisation of central government functions to regional and local authorities. It came into force on 5 March 2001 (GN 34/2001, GG 2492).

LOCAL REGULATIONS OF PARTICULAR INTEREST

Windhoek Municipality: Amendment of Street and Traffic Regulations (including rules regarding hawking by children and public demonstrations) (General Notice 27/1994, GG 797).

Walvis Bay Municipality: Regulations on informal trading (General Notice 291/1998, GG 2000).

Windhoek Municipality: Street Trading Regulations (General Notice 252/1999, GG 2179).

Windhoek Municipality: Outdoor Advertising Regulations (General Notice 279/1999, GG 2184).

See also Electoral Act 24 of 1992 (which covers regional and local elections) **(ELECTIONS)**.