

# REGIONAL AND LOCAL GOVERNMENT

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## Regional Councils Act 22 of 1992.

**Summary:** This Act ([GG 469](#)) 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 was brought into force on 31 August 1992 by GN 117/1992 ([GG 472](#)), *except for* section 45(1) which came into force 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 1992 in Proc. 39/1992 ([GG 502](#)).

**Amendments:** Act 17/1997 ([GG 1764](#)) amends sections 5 and 21 and inserts section 18A (erroneously numbered as “(19A)”).

Act 30/2000 ([GG 2461](#)), which was brought into force on 5 March 2001 by GN 35/2001 ([GG 2492](#)), amends sections 1, 17, 18A (also correcting its erroneous numbering), 20, 28, and 32 and inserts sections 24A, 24B, 24C, 44A and 44B.

Act 12/2002 ([GG 2870](#)), which was brought into force on 15 February 2003 by GN 18/2003 ([GG 2915](#)), amends sections 1 and 24, substitutes section 23, and repeals section 24A, 24B, and 24C.

Act 12/2010 ([GG 4543](#)) amends sections 7 and 8 to reduce the term of office of regional councillors from six years to five years.

Act 16/2010 ([GG 4618](#)) amends sections 1, 11, 18 and 21 to delineate the functions of chairpersons of regional councils and regional governors.

Act 7/2017 ([GG 6422](#)) amends sections 1, 18, 23, 44 and 44A. Amongst other things, these amendments provide that a member of a Regional Council who is a member of the Council’s management committee is not eligible for election to the National Council, and that the appointment of the chief regional officer of a Regional Council is subject to the approval of the Minister.

Schedule 1 of the Act indicates the regions for which regional councils have been established. Schedule 2 indicates the number of council members for each of these regions. These Schedules are amended by Proc. 25/2013 ([GG 5261](#)) “so as to bring those Schedules in line with the changes effected by this Proclamation and previous Proclamations issued under section 5(3)”. Proc. 25/2013 is amended by Proc. 34/2015 ([GG 5853](#)) to substitute “//Kharas” for “!Karas”.

Note that there are two Proclamations numbered as Proclamation 34 of 2015, in GG 5853 and GG 5869.

**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](#)).

**Rules:** 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](#)).

**Fees:** Remuneration, allowances and benefits for members of Regional Councils are contained in Proc. 35/2008 ([GG 4129](#)).

**Appointments:** The First Delimitation Commission was appointed before this Act was passed in Proc. 12/1990 ([GG 69](#)), 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](#)).

**Elections of members of the National Council:** No gazette setting the date for the 1992 elections of members of the National Council has been located. The date of election of members of the National Council in 1998 was fixed by the President as 8 December 1998 by GN 291/1998 ([GG 2005](#)). The date of election of members of the National Council in 2004 was fixed as 7 December 2004 by GN 255/2004 ([GG 3334](#)). No gazette setting the date for the 2010 election of members of the National Council has been located.

**Designation and boundaries of regions:** Prior to the enactment of this law, the boundaries of **regions** were established in the Boundaries of Regions and Local Authorities Proclamation 6 of 1992 ([GG 368](#)).

The boundaries of many regions are defined with reference to land boundaries established by various pre-independence government notices, proclamations and AG proclamations. Some of the pre-independence government notices and proclamations were subsequently amended. However, Proclamation 6 of 1992 does not appear to adopt the amendments; it refers to boundaries established by pre-independence government notices and proclamations, but does not say “as amended”. Furthermore, some of the boundaries it adopts come from proclamations that it identifies as being repealed. This further supports the interpretation that Proclamation 6 of 1992 adopts the original boundaries described in the referenced government notices and proclamations, and not the boundaries as they were subsequently amended. Therefore, only post-independence changes which clearly affected regional boundaries in Namibia are recorded here.

Proc. 20/1992 ([GG 436](#)) amends the First Schedule of the Proclamation to correct the spelling of the Otjozondjupa Region.

Section 45(2) of Act 22/1992 ([GG 469](#)) amends the First Schedule of the Proclamation to re-name the Liambezi Region as Caprivi Region.

Proc. 15/1998 ([GG 1940](#)) amends the First Schedule to Proclamation 6 of 1992 to alter the boundaries of six regions (Kunene, Omusati, Oshana, Oshikoto, Okavango and Caprivi). It also renames the Okavango Region as the Kavango Region.

Proc. 7/2003 ([GG 2942](#)) amends the First Schedule to Proclamation 6 of 1992 to alter the boundaries of two regions (Omaheke and Khomas).

Proc. 25/2013 ([GG 5261](#)) amends the First Schedule to Proclamation 6 of 1992 to rename “Caprivi Region” as “Zambezi Region”, and “Karas Region” as “!Karas Region” and to divide “Kavango Region” into “Kavango East Region” and “Kavango West Region”.

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), Proc. 35/1999 ([GG 2233](#)) (affecting two constituencies in the Oshikoto Region), Proc. 7/2003 ([GG 2942](#)) (which affects constituencies in a number of regions), Proc. 11/2011 ([GG 4767](#)) (renaming “Soweto Constituency” in the Khomas Region as “John Pandeni Constituency”) and Proc. 25/2013 ([GG 5261](#)) (which substitutes names and/or boundaries of many constituencies pursuant to the report of the Fourth Delimitation Commission). As in the case of the regions, the boundaries of some constituencies are defined with reference to land boundaries established by various pre-independence government notices, proclamations and AG proclamations – but apparently without the intention to incorporate amendments to these documents which are not referenced. In fact, some of the constituency descriptions make reference to certain Government Notices as they stood before particular amendments.

Note: Proc. 25/2013 re-named several constituencies, amongst them the “Luderitz Constituency” in !Karas Region which was re-named “!Nami≠Nüs Constituency”. This was widely reported in the press as having changed the name of the local authority of Lüderitz to !Nami≠Nüs, but in fact the Proclamation was issued in terms of section 5(3) of the Regional Councils Act and does not purport to affect the names of any local authorities.

Designations of settlement areas and withdrawals of such designations have not been recorded here.

#### **Commentary:**

Christian Keulder & Deon van Zyl, “Delimiting Regional and Constituency Boundaries: Considering the Impact of Malapportionment, Population Size, Population Density, and Area Size”, Institute for Public Policy Research, 2002, available at [www.ippr.org.na](http://www.ippr.org.na)

Graham Hopwood, “Regional Councils and Decentralisation: At the Crossroads”, Namibia Institute for Democracy, 2005, available at [www.kas.de](http://www.kas.de)

Graham Hopwood, “Regional development and decentralisation” in H Melber (ed), *Transitions in Namibia: What Changes for Whom?*, Uppsala: Nordiska Afrikainstitutet, 2007

Ellison Tjirera, Malakia Haimbodi & Graham Hopwood, “Risking Corruption: Regional and Local Governance in Namibia”, Institute for Public Policy Research, 2012, available at [www.ippr.org.na](http://www.ippr.org.na)

Delimitation underway”, Institute for Public Policy Research, 2013, available at [www.ippr.org.na](http://www.ippr.org.na).

## **Local Authorities Act 23 of 1992.**

**Summary:** This Act ([GG 470](#)) 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.

It repeals the Municipal Ordinance 13 of 1963, the Village Management Boards Ordinance 14 of 1963 and the Peri-Urban Development Board Ordinance 19 of 1970. It also repeals a number of other laws, including the Native Administration Proclamation 11 of 1922, the Local Loans Ordinance 7 of 1927, the Natives (Urban Areas) Proclamation 56 of 1951, the Housing Schemes Loans Ordinance 24 of 1952,

the Establishment of Local Government in Coloured Townships Ordinance 34 of 1965 and the Co-operation in relation to Housing Schemes Act 20 of 1982.

This Act was brought into force on 31 August 1992 by GN 118/1992 ([GG 472](#)), with the exception of section 94(5), which is deemed to have come into force retroactively on 1 April 2018 pursuant to section 96(1A) of the Act as inserted by Act 3/2018 ([GG 6578](#)).

**Amendments:** The Registration of Deeds in Rehoboth Amendment Act 35 of 1994 ([GG 995](#)) amends section 78.

Act 3/1997 ([GG 1584](#)) 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. These substitutions also increase the maximum size of municipal councils from 12 to 15, and strengthen the affirmative action provisions for women in respect of the second local elections.

Act 14/1997 ([GG 1743](#)) amends section 8 of the Act in connection with the postponement of Namibia's second local authority elections.

Act 24/2000 ([GG 2455](#)), which was brought into force on 15 February 2001 by GN 29/2001 ([GG 2486](#)), amends the Act substantially.

Act 17/2002 ([GG 2887](#)), which was brought into force on 15 February 2003 by 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 ([GG 3013](#)), which was brought into force on 8 July 2003 by GN 146/2003 ([GG 3014](#)), substitutes the definition of 'party list' in section 1 of the Act.

Act 27/2003 ([GG 3126](#)) substitutes the date for elections for members of local authority councils in section 8 of the Act.

Act 14/2004 ([GG 3330](#)), which was brought into force on 27 November 2004 by GN 254/2004 ([GG 3331](#)), amends sections 1 and 30 and inserts section 94C.

The Electoral Amendment Act 4 of 2006 ([GG 3759](#)) amends section 1 of the Act.

Act 1/2009 ([GG 4258](#)) amends section 8 on the dates for elections of local authority councils.

The Water Resources Management Act 11 of 2013 ([GG 5367](#)), which has not yet been brought into force, amends section 30(1).

Act 3/2018 ([GG 6578](#)) amends the Act substantially.

Note that there are two versions of GG 6578.

The following Proclamations and Government Notices – which establish new local authorities, change the designations of local authorities or alter the size of local authority councils – amend or substitute the Schedules to the Act accordingly:

**Schedule 1** is amended by Proc. 16/1994 ([GG 873](#)) and Proc. 18/1994 ([GG 893](#)), substituted by Proc. 13/1997 ([GG 1639](#)) and amended by Proc. 22 of

1997([GG 1714](#)).

**Schedule 2** is substituted by Proc. 28/1992 ([GG 479](#)), Proc. 13/1997 ([GG 1639](#)), Proc. 14/1997 ([GG 1673](#)), GN 194/2003 ([GG 3054](#)), GN 233/2004 ([GG 3313](#)), GN 155/2006 ([GG 3699](#)), GN 4/2008 ([GG 3974](#)) and GN 130/2011 ([GG 4767](#)).

**Schedule 3** is substituted by Proc. 27/1992 ([GG 479](#)), Proc. 22/1993 ([GG 718](#)), Proc. 1/1996 ([GG 1241](#)), Proc. 6/1996 ([GG 1454](#)), GN 234/2004 ([GG 3313](#)) and GN 70/2005 (GN 3456), amended by GN 193/2010 ([GG 4556](#)), and substituted by GN 6/2011 ([GG 4649](#)) and GN 225/2013 ([GG 5264](#)).

**Regulations:** Regulations made under repealed laws survive pursuant to section 95(5) of this Act, which states that anything done under a provision of a law repealed by the Act which could have been done under a corresponding provision of this Act survives. Pre-independence regulations have not been researched.

The following regulations were made in terms of this Act:

**Model Pound Regulations** are contained in GN 191/1994 ([GG 945](#)).

**Model Electricity Supply Regulations** are contained in GN 71/1996 ([GG 1283](#)).

**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](#)).

**Model Regulations for the Control of Dogs in Local Authority Areas** are contained in GN 166/2008 ([GG 4077](#)). These regulations repeal a number of regulations made under the Municipal Dog Tax Ordinance 13 of 1967.

Note that there is a corrected version of [GG 4077](#). The correct version states at the top: “*This gazette replaces Government Gazette No. 4077 of 3 July 2008.*”

**Commercialisation Regulations** are contained in GN 39/2001 ([GG 2492](#)), as amended by GN 113/2007 ([GG 3864](#)).

**Joint Business Venture Regulations** are contained in GN 40/2001 ([GG 2492](#)), which is replaced by GN 114/2007 ([GG 3864](#)).

**Tender Board Regulations** were originally contained in GN 30/2001 ([GG 2486](#)), which was subsequently replaced by General Notice 73/2011 ([GG 4685](#)).

**Rules:** A Code of Conduct for Members of Local Authority Councils is published in General Notice 139/2015 ([GG 5704](#)).

Standing Rules for meetings of Local Authority Councils are contained in General Notice 140/2015 ([GG 5705](#)).

**Individual local authorities:** Regulations, rules and tariffs issued by individual local authorities and notices concerning valuations in individual local authorities are not recorded here.

**Designation and boundaries of local authorities:** Prior to the enactment of this law, the boundaries of local authorities were established in the Boundaries of Regions and Local Authorities Proclamation 6 of 1992 ([GG 368](#)), as amended by Proc. 20/1992 ([GG 436](#)) and Act 22/1992 ([GG 469](#)). The local authorities covered were **Aranos, Ariamsvlei, Aris, Aroab, Aus, Bethanie, Gobabis, Gochas, Grootfontein, Grünau, Hentiesbaai, Kalkveld, Kalkrand, Kamanjab, Kappsfarm, Karasburg, Karibib, Keetmanshoop, Koes, Leonardville, Lüderitz, Maltahöhe, Mariental, Noordoewer, Okahandja, Okakarara, Omaruru, Omitara, Ondangwa, Ongwediva, Opuwo, Oshakati, Otavi, Otjiwarongo, Outjo, Rehoboth, Stampriet, Summerdown, Swakopmund, Tsumeb, Usakos, Warmbad, Windhoek, Witvlei and Wlotzkasbaken**. The boundaries of many local authorities were defined with reference to land boundaries established by various pre-independence government notices, proclamations and AG proclamations. Some of the pre-independence government notices and proclamations were subsequently amended. However, Proclamation 6 of 1992 does not appear to adopt the amendments; it refers to boundaries established by pre-independence government notices and proclamations, but does not say “as amended”. In fact, some of the local authority descriptions make reference to certain Government Notices as they stood before particular amendments. Furthermore, some of the boundaries referenced in Proclamation 6 of 1992 come from proclamations that it identifies as repealed. This further supports the interpretation that Proclamation 6 of 1992 adopts the original boundaries described in the referenced government notices and proclamations, and not the boundaries as they were subsequently amended. Therefore, only post-independence changes which clearly affected local authority boundaries in Namibia are recorded here.

The boundaries of **Windhoek** are extended by Proc. 26/1992 ([GG 479](#)) (the incorporation of Brakwater into the municipality under the previous Municipal Ordinance 13 of 1963) and altered further by GN 184/2011 ([GG 4801](#)). They were also altered by GN 305/2016 ([GG 6209](#)), but this notice was withdrawn by GN 52/2017 ([GG 6262](#)).

Four additional villages (**Berseba, Gibeon, Tses and Uis**) are proclaimed by Proc. 27/1992 ([GG 479](#)), which accordingly substitutes Schedule 3 of the Act.

Four additional towns (**Arandis, Katima Mulilo, Khorixas and Rundu**) are proclaimed in Proc. 28/1992 ([GG 479](#)), which accordingly substitutes Schedule 2 of the Act.

The boundaries of **Tsumeb** are altered by Proc. 17/1993 ([GG 668](#)), GN 39/2010 ([GG 4440](#)) and GN 115/2012 ([GG 4941](#)).

Note that GN 39/2010 is erroneously labelled as GN 49 on the list of contents in the relevant *Gazette*.

Five villages are deproclaimed in Proc. 22/1993 ([GG 718](#)) (**Aris, Kappsfarm, Omitara, Summerdown and Wlotzkasbaken**), which accordingly substitutes Schedule 3 of the Act.

**Walvis Bay** is established as a municipality in Proc. 16/1994 ([GG 873](#)), as amended by Proc. 18/1994 ([GG 893](#)) – which both accordingly substitute Schedule 1 of the Act. 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 ([GG 1884](#)) 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](#)).

The history of the Walvis Bay municipal area is set forth in *Walvis Bay Municipality & Another v Occupiers of the Caravan Sites at Long Beach Caravan Park, Walvis Bay* 2007 (2) NR 643 (SC) at 647I-648C.

Five villages are deproclaimed in Proc. 1/1996 ([GG 1241](#)) (**Ariamsvlei, Grünau, Kalkfeld, Noordoewer and Warmbad**), which accordingly substitutes Schedule 3 of the Act.

The village of **Aus** is deproclaimed in Proc. 6/1996 ([GG 1454](#)), which accordingly substitutes Schedule 3 of the Act.

**Eenhana** and **Outapi** are proclaimed as towns in Proc. 14/1997 ([GG 1673](#)), which accordingly substitutes Schedule 2 of the Act. (Proc. 18/1997 ([GG 1698](#)), Proc. 26/1997 ([GG 1738](#)) and Proc. 31/1997 ([GG 1749](#)) amend the election date set for these towns in Proc. 14/1997.)

**Helao Nafidi** is proclaimed as a town in GN 194/2003 ([GG 3054](#)), which accordingly substitutes Schedule 2 of the Act. Its boundaries are amended by GN 11/2005 ([GG 3379](#)).

**Okahao** is established as a town by GN 233/2004 ([GG 3313](#)), which accordingly substitutes Schedule 2 of the Act. Its boundaries are amended by GN 170/2016 ([GG 6086](#)).

**Oshikuku** is established as a village by GN 234/2004 ([GG 3313](#)), which accordingly substitutes Schedule 3 of the Act.

**Ruacana** is established as a village by GN 70/2005 ([GN 3456](#)), which accordingly substitutes Schedule 3 of the Act. Its boundaries were altered by GN 176/2014 ([GG 5579](#)).

**Nkurenkuru** is established as a town by GN 155/2006 ([GG 3699](#)), which accordingly substitutes Schedule 2 of the Act.

**Omuthiya** is established as a town by GN 4/2008 ([GG 3974](#)), which accordingly substitutes Schedule 2 of the Act.

The boundaries of **Lüderitz** are altered by GN 250/2003 ([GG 3108](#)), GN 242/2013 ([GG 5284](#)) and GN 135/2014 ([GG 5547](#)).

The boundaries of **Opuwo** are altered by GN 233/2009 ([GG 4386](#)).

The boundaries of **Usakos** are altered by GN 65/2010 ([GG 4451](#)).

**Uis** is abolished as a local authority in GN 193/2010 ([GG 4556](#)), which amends Schedule 3 of the Act accordingly.

The boundaries of **Omaruru** are altered by GN 267/2012 ([GG 5069](#)), GN 129/2015 ([GG 5772](#)) and GN 1445/2015 ([GG 5783](#)).

**Otjinene** is proclaimed as a village in GN 6/2011 ([GG 4649](#)), which accordingly substitutes Schedule 3 of the Act.

Note that GN 6/2011 contains a confusing error of wording. It does not “substitute section 3(4)(c) of the Local Authorities Act, 1992, for Schedule 3 of that Act” as it states; instead, *pursuant to* section 3(4)(c) of the Act, it *substitutes Schedule 3* of the

Act.

The boundaries of **Okahandja** are altered by GN 114/2011 ([GG 4756](#)), GN 216/2011 ([GG 4834](#)), GN 127/2014 ([GG 5533](#)), GN 235/2014 ([GG 5613](#)), GN 126/2015 ([GG 5772](#)), GN 127/2015 ([GG 5772](#)), GN 128/2015 ([GG 5772](#)) and GN 224/2017 ([GG 6397](#)).

The boundaries of **Karibib** are altered by GN 115/2011 ([GG 4756](#)).

**Oranjemund** is established as a town by GN 130/2011 ([GG 4767](#)), which accordingly substitutes Schedule 2 of the Act.

The boundaries of **Otavi** are altered by GN 145/2011 ([GG 4774](#)). However, all previous legal references to the boundaries of Otavi were subsequently repealed and replaced by GN 248/2012 ([GG 5049](#)).

The boundaries of **Outjo** are altered by GN 217/2011 ([GG 4834](#)) and GN 35/2012 ([GG 4883](#)).

The boundaries of **Ongwediva** are altered by GN 238/2012 ([GG 5038](#)).

**Bukalo** is established as a village by GN 225/2013 ([GN 5264](#)), which accordingly substitutes Schedule 3 of the Act.

The boundaries of **Swakopmund** are extended by GN 202/2014 ([GG 5590](#)).

**Divundu** is established as a village by GN 54/2015 ([GG 5721](#)), which accordingly substitutes Schedule 3 of the Act.

**Okongo** is established as a village by GN 56/2015 ([GG 5721](#)), which accordingly substitutes Schedule 3 of the Act.

**Oniipa** is established as a town by GN 59/2015 ([GG 5721](#)), which accordingly substitutes Schedule 2 of the Act. GN 59/2015 is corrected by GN 102/2015 ([GG 5670](#)).

**Tsandi** is established as a village by GN 61/2015 ([GG 5721](#)), which accordingly substitutes Schedule 3 of the Act.

The boundaries of **Otjiwarongo** are altered by GN 130/2015 ([GG 5772](#)).

The boundaries of **Stampriet** are altered by GN 169/2016 ([GG 6086](#)).

**Designation of local authorities as municipality, town or village:** Proc. 13/1997 ([GG 1639](#)) changes the designation of **Hentiesbaai** from a town to a municipality and amends Schedules 1 and 2 of the Act accordingly. The designations of several local authorities (**Karibib, Karasburg, Usakos, Ruacana, Aranos, Oshikuku, Otavi**) are altered in GN 193/2010 ([GG 4556](#)), which designates all of these local authorities as towns and amends Schedules 1-3 of the Act accordingly.

**Size of local authority councils:** Proc. 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 1 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](#)).

**Wards:** A notice pertaining to inspection of a map of local authorities showing the demarcation of each local authority into wards by the Delimitation Commission is contained in GN 92/1996 ([GG 1300](#)). However, Act 17/2002 ([GG 2887](#)), which was brought into force on 15 February 2003 by GN 19/2003 ([GG 2915](#)), eliminates the provisions in the Act pertaining to a ward system.

**Other:** The members of the **Rehoboth Town Council** were removed from office by GN 68/2001 ([GG 2516](#)), pursuant to section 92 of the Local Authorities Act 23 of 1992. The powers of the Council were transferred to the Minister of Regional and Local Government and Housing and a date was set for the election of a new council. The members of the Omaruru Municipal Council were suspended by GN 326/2013 ([GG 5364](#)), pursuant to section 92, and the powers of the Council transferred to the Minister of Regional and Local Government and Housing.

**Appointments:** The First Delimitation Commission was appointed before this Act was passed in Proc. 12/1990 ([GG 69](#)), in terms of the Namibian Constitution. A Delimitation Commission was appointed in terms of section 5 of the Act by Proc. 9/1995 ([GG 1089](#)) and by Proc. 6/2002 ([GG 2855](#)).

**Cases:**

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

*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 Namibian Constitution and section 94(3) of the Act)

*Kruger v The Council of the Municipality of Windhoek & Another* NLLP 1998 (1) 157 NLC (refers to section 239 of the predecessor to this Act, the Municipal Ordinance 13 of 1963)

*The Council of the Municipality of Windhoek & Another v Kruger* NLLP 1998 (1) 161 NLC (discusses the exercise of the power to litigate by a local authority established in terms of the Act)

*Municipality of Walvis Bay v Du Preez* 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)

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

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

*Cronje v Municipality Council of Mariental* NLLP 2004 (4) 129 NSC (interpretation of section 27, as amended in 2000, and transition from the Municipal Ordinance 13 of 1963)

*The Municipality of Walvis Bay v The Occupiers of the Caravan Sites at the Long Beach Caravan Park Walvis Bay Republic of Namibia* 2005 NR 207 (HC) (a municipal council has legal personality to sue and be sued, but not a municipality); *Walvis Bay Municipality & Another v Occupiers of the Caravan Sites at Long Beach Caravan Park, Walvis Bay* 2007 (2) NR 643 (SC) (dealing with the Walvis Bay Municipal Ordinance 26 of 1978 which applied to the municipality prior to its reintegration into Namibia)

*Grobelaar & Another v Council of the Municipality of Walvis Bay & Others* 2007 (1) NR 259 (HC) (sections 50 and 63(2))

*Council of the Municipality of Windhoek v Bruni NO & Others* 2009 (1) NR 151 (HC) (powers and duties of Council and requirement of ratification, citing sections

- 27(5), 30, 31, 31A, 63 and 93(1))
- Erongo Regional Council v Wlotzkasbaken Home Owners Association* 2009 (1) NR 252 (SC) (discussion of history of Wlotzkasbaken)
- Seagull's Cry CC v Council of the Municipality of Swakopmund & Others* 2009 (2) NR 769 (HC) (sections 6(3), 11(1) and 14(2))
- Council of the Municipality of Keetmanshoop v Van Rooi & Others* 2012 (2) NR 525 (HC) (section 27(1))
- Oka Investments (Pty) Ltd v Chair of the Tender Board, City of Windhoek & Another* 2013 (4) NR 916 (HC) (Tender Board Regulations: interpretation of regulations 6 and 27; cancellation of an agreement made in terms of those regulations is an commercial act and not a reviewable administrative act; note that the Tender Board Regulations are erroneously cited in the case as being contained in GN 73/2011 instead of General Notice 73/2011).
- Luderitz Town Council v Shipepe* 2013 (4) NR 1039 (LC) (section 27(1)(c)(ii)(bb))
- Strauss & Another v Witt & Another* 2014 (1) NR 213 (HC) (section 65)
- Walvis Bay Municipal Council v Kangumu* 2014 (4) NR 978 (LC) (a municipality has no legal personality and therefore cannot sue or be sued; it is the local authority council which has legal personality; section 1 read with sections 3(1), 6(1) and 6(3))
- Kandetu v Karibib Town Council* 2014 (4) NR 1097 (LC) (section 29(4)(a)-(b))
- Hugo v Council of Municipality of Grootfontein* 2015 (1) NR 73 (SC) (section 27)
- Helao Nafidi Town Council v Shivolo* 2016 (2) NR 401 (HC) (breach of fiduciary duty of CEO found to have violated Act and Tender Board Regulations).

**Commentary:**

- Dianne Hubbard & Kaveri Kavari, *Affirmative Action for Women in Local Government in Namibia*, Legal Assistance Centre, 1993
- Kapena L Tjihero, Doufi Namalambo & Dianne Hubbard, *Affirmative Action for Women in Local Government in Namibia: The 1998 Local Government Elections*, Legal Assistance Centre, 1998, available at [www.lac.org.na](http://www.lac.org.na)
- Clever Mapaure, "Jurisprudential aspects of proclaiming towns in communal areas in Namibia", *Namibia Law Journal*, Volume 1, Issue 2, 2009, available at [www.kas.de](http://www.kas.de)
- Ellison Tjirera, Malakia Haimbodi & Graham Hopwood, "Risking Corruption: Regional and Local Governance in Namibia", Institute for Public Policy Research, 2012, available at [www.ippr.org.na](http://www.ippr.org.na)
- Max Weylandt, "The Local Authorities Amendment Bill: Time for a Pause and a Re-think", Institute for Public Policy Research, 2015, available at [www.ippr.org.na](http://www.ippr.org.na)
- Marvin R Awarab, "Corporate Governance and Municipalities: Are the King III Principles Exportable to Local Government in Namibia?" in Dunia P Zongwe & Yvonne Dauseb, eds, *The Law Reform and Development Commission of Namibia at 25: A Quarter Century of Social Carpentry*, Ministry of Justice, LRDC: 2017.

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

**Summary:** This Act ([GG 2451](#)) 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 was brought into force on 5 March 2001 by GN 38/2001 ([GG 2492](#)).

**Amendments:** The State-owned Enterprises Governance Act 2 of 2006 ([GG 3698](#)), which was brought into force on 1 November 2006 by Proc. 13/2006 ([GG 3733](#)) and which has since been re-named the Public Enterprises Governance Act 2 of 2006, amends section 5 and substitutes section 11.

**Regulations:** The Act makes no provision for regulations.

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

## **Decentralisation Enabling Act 33 of 2000.**

**Summary:** This Act ([GG 2464](#)) provides for and regulates the decentralisation of central government functions to regional and local authorities. It was brought into force on 5 March 2001 by GN 34/2001 ([GG 2492](#)).

**Regulations:** The Act makes no provision for regulations.

**Notices:** Certain functions are delegated to regional councils in GN 173/2007 ([GG 3907](#)), GN 83-84/2009 ([GG 4260](#)), GN 11/2015 ([GG 5668](#)), GN 33/2016 ([GG 5961](#)), GN 83/2018 ([GG 6590](#)) and GN 134/2018 ([GG 6646](#)).

### **Commentary:**

Graham Hopwood, *Regional Councils and Decentralisation: At the Crossroads*, Namibia Institute for Democracy, 2005

Graham Hopwood, "Regional development and decentralisation" in H Melber (ed), *Transitions in Namibia: What Changes for Whom?*, Uppsala: Nordiska Afrikainstitutet, 2007

Ellison Tjirera, Malakia Haimbodi & Graham Hopwood, "Risking Corruption: Regional and Local Governance in Namibia", Institute for Public Policy Research, 2012, available at [www.ippr.org.na](http://www.ippr.org.na).

## **Local Authorities Fire Brigade Services Act 5 of 2006.**

**Summary:** This Act ([GG 3760](#)) provides for the establishment, maintenance, utilisation, co-ordination and standardisation of fire brigade services by local authorities, replacing the Fire Brigade Services Ordinance 10 of 1978. It was brought into force on 13 August 2010 by GN 175/2010 ([GG 4540](#)).

**Regulations:** Regulations made under the previous law survive to the extent that they are consistent with this Act. Pre-independence regulations have not been researched.

Model Fire Brigade Services Regulations are contained in GN 176/2010 ([GG 4540](#)). In terms of section 20 of the Act, these are applicable until a town council, village council or regional council makes its own regulations. Note that model regulations 13, 14, 15(6), 15(7), 15(8) and 18(3) come into force only after the expiry of a period of six months after the date of publication of the model regulations (13 August 2010).

Other regulations are contained in GN 177/2010 ([GG 4540](#)).

## **INTERNATIONAL LAW**

***\*African Charter on the Values and Principles of Decentralisation, Local Government and***

*Local Development, 2014*

See also Electoral Act 5 of 2014 (regional and local elections) (**ELECTIONS**).

See also Public Office-Bearers (Remuneration and Benefits) Commission Act 3 of 2005 (remuneration, benefits and conditions of service of members of Regional Councils) (**CONSTITUTION**).

See also Members of Parliament and other Office-bearers Pension Fund Act 20 of 1999 (pensions for members of Regional Councils) (**PENSIONS**).