

PROVINCIAL AND METROPOLITAN COUNCILS ADMINISTRATION BILL

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An Act to provide for the establishment, administration and functions of provincial and metropolitan councils; and to provide for matters connected with or incidental to the foregoing.

PART 1

PRELIMINARY

1. Short title

This Act may be cited as the Provincial Councils and Metropolitan Councils Administration Act [Chapter]

2. Interpretation

In this Act

“clerk”, in relation to a provincial Council or metropolitan council means –

the person for the time being performing the functions of, clerk of the provincial Council or metropolitan council

“ council” means a provincial council or a metropolitan council, as the case may be;

“local authority” means a municipal council, town council, local board or rural district council

“Minister” means the Minister of Local Government Public Works and National Housing or any other Minister to whom the President may from time to time assign the administration of this Act

“metropolitan council” means a metropolitan council established in terms of section 13

“Province” means an area declared to be a province in terms of section 3

“Provincial Council” means a provincial council established in terms of section 9

PART 11

PROVINCES AND DISTRICTS OF ZIMBABWE

3. Establishment of provinces

- (i) The President may at any time, in terms of an Act of Parliament –
 - (a) after consultation with the Zimbabwe Electoral Commission and the people in the provinces and district concerned, alter the boundaries.
 - (b) declare any place or area in any province to be the administrative centre of that Province

4. Declaration, naming, alteration and abolition of districts

Subject to section *three*, the President may at any time, by Act of Parliament—

- (a) declare any area within a province to be a district;
- (b) assign a name to any district;
- (c) alter the boundaries or name of, or abolish, any district.

5. Consultation before exercise of powers relating to districts

(1) Before the President exercises his powers in terms of section *four*, the Minister may appoint a committee of not more than five members which shall make recommendations to the Minister, within six months or such longer or shorter period as the Minister may authorize or require, upon—

- (a) the proposed exercise of powers by the President; and
- (b) proposed district and the Minister has required- the committee to make recommendations to him upon those matters.

(2) If, before the President exercises his powers in terms of section four, the Minister has not appointed a committee in terms of subsection (1), the Minister shall take such steps as are reasonably necessary to give residents of the area concerned notice of the proposal to exercise such powers, and, in addition, shall cause a notice to be published in at least three issues of a local newspaper and one with a national circulation—

(a) stating that it is proposed to recommend to the President that he should exercise such powers and setting out the nature of the proposals and, in particular, to the extent applicable—

- (i) the proposed boundaries of the district concerned;
- (ii) the proposed name of the district concerned;
- (iii) where the proposals will affect the area of any council or any ward thereof—

and

(b) calling upon any person who wishes to make representations in relation to the proposals to lodge them with the Minister within the period stated in the notice, which period shall be at least thirty days from the date of the last publication of the notice.

(3) When any recommendation is submitted to the President concerning the exercise of his powers in terms of section four, there shall be submitted to him, together with the recommendation—

- (a) the report of the committee, if any, appointed in terms of subsection (1); or
- (b) the substance and number of the objections, if any, lodged with the Minister in response to a notice published in terms of subsection (2);

as the case may be, together with any comments the Minister may wish to make on the report or objections.

(4) After considering any report or objections submitted to him in terms of subsection (3) in relation to any proposal to declare a district or alter the boundaries of a district, the President may, in the exercise of his powers in terms of section four—

- (a) declare a greater or lesser area to be a district; or
- (b) alter the boundaries of the district to a greater or lesser extent; as the case may be, and it shall not be necessary for the Minister to reconvene any commission appointed in terms of subsection (1) or to appoint a further such commission, or to cause a further notice to be published in terms of subsection (2):

Provided that the President shall not declare a greater area to be a district or alter the boundaries of a district

to a greater extent unless he is satisfied that there has been adequate consultation with the Zimbabwe Electoral Commission, every council, commission and local authority concerned and with the people living in the area concerned.

PART 111

ESTABLISHMENT, NATURE, FUNCTIONS AND MEMBERSHIP OF PROVINCIAL AND METROPOLITAN COUNCILS

6. Establishment of Provincial and Metropolitan Councils

Subject to this Act, the President shall by proclamation in a statutory instrument establish a provincial council for any province with effect from a date to be fixed in the proclamation; which date shall not be more than thirty days after elections.

7. Provincial and Metropolitan Councils to be bodies corporate

A provincial and metropolitan council shall be a body corporate with perpetual succession and shall, in its own name, be capable of suing and being sued and generally of doing, suffering and performing all such things as, by this Act and any other law, it may do, suffer and perform. Notwithstanding that the Provincial or Metropolitan Council is a body corporate; members shall be liable either collectively or individually

8. Functions of provincial and metropolitan councils

Subject to this Act, the functions of a provincial council shall be—

- (a) to plan and implement social and economic development activities in its province;
- (b) to co-ordinate and implement government programmes in its province
- (c) to plan and implement measures for the conservation, improvement and management of natural resources in its province;
- (d) to promote tourism in its province, and develop facilities for that purpose;
- (e) to monitor and evaluate the use of resources in its province; and
- (f) to exercise any other functions that may be conferred upon it by or in terms of this Act or

any other enactment.

9. Membership of provincial councils

(1) Subject to this Act, a provincial council shall consist of—

(a) a chairperson of council, elected in terms of the Section 272 of the Constitution

(b) the senators elected from the province concerned

(c) the two senator chiefs elected from the province concerned ; and

(d) the president and deputy president of the National Council of Chiefs, where their areas fall within the province concerned.

(e) all the Members of the National Assembly whose constituencies fall within the province concerned;

(f) the women Members of the National Assembly elected by proportional representation from the province concerned;

(g) the mayors and chairpersons, by whatever title they are called, of all urban and rural local authorities in the province concerned;

(h) ten persons elected by a system of party list proportional representation

(2) A person is qualified to be elected to a provincial council if he or she is qualified for election as a Member of the National Assembly.

(3) Elections to provincial councils must be conducted in accordance with the Electoral Law, which must ensure that the councilors are elected under a party-list system of proportional representation—

(a) which is based on the votes cast for candidates representing political parties in the province concerned in the general election for Members of the National Assembly;

and

(b) in which male and female candidates are listed alternately, every list being headed by a female candidate.

10. Membership of Metropolitan Councils

- (1) For each of the metropolitan provinces there is a metropolitan council consisting of—
- (a) in the case of Bulawayo, the mayor of the City of Bulawayo, who is the chairperson of the Bulawayo Metropolitan Council;
 - (b) in the case of Harare—
 - (i) the mayor of the City of Harare, who is the chairperson of the Harare Metropolitan Council; and
 - (ii) the mayor or chairperson of the second-largest urban local authority within the province, who is the deputy chairperson of the Harare Metropolitan Council;
 - (c) all the Members of the National Assembly whose constituencies fall within the metropolitan province concerned;
 - (d) the women Members of the National Assembly who are elected from the metropolitan province concerned;
 - (e) the Senators elected from the metropolitan province concerned; and
 - (f) the mayors and deputy mayors and the chairpersons and deputy chairpersons, by whatever title they are called, of all local authorities in the metropolitan province concerned.

11. Chairpersons and vice – chairpersons of Provincial councils

- (1) At its first sitting after every general election, a provincial council must elect a chairperson from a list of at least two qualified persons from the membership of council submitted by—
- (a) the political party which gained the highest number of National Assembly seats in the province concerned; or
 - (b) if there is no political party such as is referred to in paragraph (a), the political party which received the highest number of votes cast in the province in that general election for Members of the National Assembly.
- (2) A person is qualified for election as the chairperson of a provincial council if he or she

is qualified for election as a Member of the Senate.

(3) The office of chairperson of a provincial council is a public office but does not form part of the Civil Service.

(4) Before commencing his or her duties, the chairperson of a provincial council must take before the clerk of the provincial council the oaths of loyalty and office *in the form set out in the first schedule*.

(5) The chairperson of a provincial council may resign by announcing his or her resignation in person to the provincial council.

(6) The chairperson of a provincial council must vacate his or her office—

(a) on the day on which the provincial council first meets after a general election;

(b) if he or she becomes disqualified to be a member of the provincial council;

(c) if a resolution for his or her removal from office is passed by at least two-thirds of the total membership of the provincial council; or

(d) if he or she is removed from office by a tribunal referred to in section 17.

12. Terms of office of members of provincial councils

(1) Subject to subsection (2), a member of a provincial council who is a member by virtue of being—

(a) Senator, senator chief, member of the National Assembly or women members of the National Assembly shall remain a member for so long as he or she remains a member of Parliament;

(b) the mayor or chairperson of a local authority shall remain a member for so long as he or she holds the office of mayor or chairman, as the case may be, of the local authority concerned;

(c) one of the ten persons elected by a system of proportional representation remains a member and his or her seat becomes vacant under the circumstances relating to Members of Parliament

13. Filling of vacancies of Provincial and Metropolitan councils

(1) In the event of a vacancy in the membership of the provincial and Metropolitan Councils, such a vacancy must be filled in terms of the Electoral Act [Chapter 2:13] provided that ;

the vacancy must be filled

- (a) By persons belonging to the same political parties as those who previously held the seats or office; and
- (b) Except in the case of chairpersons, by a person of the same gender as the person who previously held the seats

14. Terms of office of members of Metropolitan Councils

The seat of a member of a council referred to in—

- (a) section 13 subsection (1) (a) and (b) becomes vacant if the member ceases to be mayor, deputy mayor or chairperson, as the case may be;
- (b) section 13 subsection (1) (c) (d) and (e) becomes vacant if the member vacates his or her seat in Parliament;
- (c) section 13 subsection (1) (f) becomes vacant if the member ceases to be a mayor, deputy mayor, chairperson or deputy chairperson, as the case may be, of a local authority in the metropolitan province concerned.

15. Notification to the Minister of State for Provincial Affairs of appointment of members of Provincial and Metropolitan councils

All members of a Provincial or a Metropolitan Council must notify in writing to the Clerk of council the names and addresses for official contact purposes and these must be displayed on the council's notice board

16 . Suspension of chairpersons of Provincial and Metropolitan Councils

- (1) Subject to this section, if the President has reasonable grounds for suspecting that a chairperson –
 - (a) is incapable of performing the functions of their office due to mental or physical incapacity;
 - (b) is grossly incompetent
 - (c) has committed an act of misconduct
 - (d) has been convicted of an offence involving dishonesty, corruption or abuse of office;
or

the President may, by written notice to the clerk and the provincial council concerned, suspend the chairperson from exercising all or any functions as a chairperson in terms of this Act or any other enactment.

- (2) Any allowance that is payable to the chairperson in terms of this Act shall continue to be paid to a chairperson who has been suspended in terms of subsection (1) for so long as he remains a chairperson unless the Minister, by notice in writing to the provincial or metropolitan council concerned, directs otherwise.
- (3) As soon as is practicable after he has suspended a chairperson in terms of subsection (1), and in any event within thirty days, the President shall refer the matter to the independent tribunal to determine whether or not the chairperson has been guilty of any act, omission or conduct referred to in that subsection.
- (4) If, following investigation, the independent tribunal is satisfied that the grounds of suspicion on the basis of which a chairperson has been suspended in terms of subsection (1) have been established as fact, the tribunal shall by written notice to the provincial council and the chairperson concerned, dismiss the chairperson, and the chairperson's seat shall thereupon become vacant.
- (5) A person who has been dismissed in terms of subsection (4) shall be disqualified from nomination or election as a chairperson for a period of five years.

17. Independent tribunal

For the purposes of removing chairpersons of Council from office, there is hereby established an Independent Tribunal.

- (1) The Independent tribunal shall consist of:
 - (a) A chairperson who shall be a registered legal practitioner who has been in practice for not less than five years. The chairperson shall be appointed by the President.
 - b) Two other members recommended to the President by the chairperson, appointed in terms of subsection 1(a), from time to time as each case arises;

Provided that one shall be:

- i) a local government administrator with not less than five years experience; and
- ii) an accountant with not less than five years experience.

(2) A person shall not be eligible for appointment to the independent tribunal if—

(a) he/she is neither a citizen of Zimbabwe nor permanently resident in Zimbabwe; or

(b) he/she has, in terms of a law in force in any country—

(i) been adjudged or otherwise declared insolvent or bankrupt and has not been rehabilitated or discharged; or rescinded or set aside;

(iii) he/she has, within the period of five years immediately preceding the date of his

(iv) proposed appointment, been sentenced in any country to a term of imprisonment of six months or more, imposed without the option of a fine, and has not received a free pardon.

18. Terms and conditions of office of members of Independent tribunal

(1) Subject to this Part, the chairperson shall hold office for such period, not exceeding five years from the time of his appointment.

(2) The chairperson shall be eligible for reappointment for a period not exceeding two terms.

19. Allowances of members of Independent tribunal

A member shall be paid such allowances as the Minister may fix for members from time to time in consultation with the Minister responsible for finance.

20. Vacation of office by members of Independent tribunal

A member may resign his office at any time by giving the chairperson such notice, or the President in the case of the chairperson, of his intention to resign.

21. Removal of members of Independent tribunal from office

(1) A member shall not be removed from office except in terms of this section.

(2) The President may remove a member from office on the grounds of—

(a) in ability to discharge the functions of his office, whether arising from infirmity of mind or body or any other cause; or

(b) being found guilty of misconduct by competent authority

(c) failure to comply with any of the conditions of his office fixed in terms of this Act.

22. Filling of vacancies on Independent tribunal

On the death of, or on the vacation of office, by a member, the President shall appoint a person to fill in the vacancy.

23. Meetings of Independent tribunal

(1) The chairperson of the Independent tribunal, whenever he or she considers it to be necessary, may convene a meeting of the tribunal.

(2) The quorum at any meeting of the Independent tribunal shall be all the 3 (three) members .

(3) Any question arising at a meeting of the Independent tribunal shall be decided by a consensus of the members present and voting and, in the event of an equality of votes, the member presiding shall have a casting vote in addition to a deliberative vote.

(4) The chairperson of the Independent tribunal may, with the approval of the other members, invite any person with special knowledge or experience of any matter under consideration to attend a meeting of the meeting, but such person shall not vote on any question before the tribunal.

(5) If a member of the tribunal has any direct or indirect pecuniary interest in any matter and is present at a meeting of the tribunal where the matter is the subject of consideration he/she shall, as soon as practicable after commencement thereof, disclose the fact and shall withdraw from the meeting while the matter is under consideration or being voted upon and shall not vote on any question relating thereto.

(6) The Independent tribunal may regulate the proceedings at its meetings and shall keep minutes of such proceedings.

24. Functions of Independent tribunal

(1) The functions of the Independent tribunal shall be—

(a) to conduct disciplinary hearings of council members

(b) to remove members of council from office

25. Grounds for removal of members of council from office

(1) a member of council shall only be removed on the grounds of-

(a) inability to perform the functions of their office due to mental or physical incapacity;

(b) gross incompetence;

- (c) gross misconduct;
- (d) conviction of an offence involving dishonesty, corruption or abuse of office; or
- (e) willful violation of the law, including a local authority by-law.

(2) A member of a council does not vacate his or her office except in accordance with this subsection.

PART V

MEETINGS AND PROCEEDINGS OF PROVINCIAL AND METROPOLITAN COUNCILS

26. Presiding officer at meetings

(1) Subject to this Part, the council chairperson shall preside at all meetings of a provincial council at which he or she is present and, in his absence the vice council chairperson for the province concerned shall preside.

(2) If neither the council chairperson nor the vice council chairperson is present at a meeting the members present shall elect one of their number to be the chairperson to preside at that meeting.

27. Meetings and special meetings

(1) Subject to this Part, a council may meet together for the dispatch of business, adjourn and otherwise regulate its meetings and proceedings as it thinks fit:

Provided that every provincial council and metropolitan council shall meet at least once in every three months, at such time and place as it may determine.

(2) At least fourteen days before any ordinary meeting of a provincial council or a metropolitan council the clerk of the provincial council or metropolitan council as the case may be, shall send a notice stating the date, time and place of the meeting and the business to be transacted thereat to each member of the council concerned and shall display the notice at the places at which and in the manner in which the notices of the provincial councils are normally displayed or in such other place and manner as may be prescribed.

(3) Every member present at a meeting of council shall be entitled to one vote on every question before the meeting; provided that the person presiding at any such meeting shall not have a vote.

(4) Save as otherwise provided in this Act, any question before a meeting of a provincial council or metropolitan council shall be decided by resolution passed by a majority of the

members present at the meeting and, in the event of an equality of votes, the motion shall be deemed to have been lost.

(5) The provincial chairperson or the metropolitan chairperson may at any time and shall, at the request in writing of no fewer than one-third of the members of the council concerned, call a special meeting of a provincial council or a metropolitan council. **only if the matter cannot wait till the next seating of council**

(6) Written notice of any special meeting called in terms of subsection (5) shall be sent by the clerk of the provincial council or the metropolitan council as the case may be to each member of the respective council not later than seven days before the meeting and such notice shall specify the subject to be discussed at the meeting.

(7) No subject, other than a subject specified in a notice sent in terms of subsection (6), shall be discussed at any special meeting called in terms of subsection (5).

28. Quorum at meetings

Unless the provisions of this or any other enactment require a different number of members to be present at any duly convened meeting of a provincial council or a metropolitan council, all functions vested in a provincial council or metropolitan council as the case may be may be exercised at any duly convened meeting thereof at which no fewer than one-third of the whole number of the members entitled to sit on the provincial council or metropolitan council are present.

29. Standing orders

The clerk of the provincial or metropolitan council whatever the case may be shall within a week after the swearing in of members provide standing orders to each and every member of the council.

30. Meetings to be open to public

- (1) Subject to subsection (2), every meeting of a provincial council shall be open to the public.
- (2) If a provincial council or a metropolitan council considers that any matter can be more conveniently and advantageously dealt with in private, it may at any meeting resolve itself into committee and exclude the public, and any resolution adopted in committee shall have full force and effect as a resolution of the provincial council or the metropolitan council.

31. Minutes of proceedings

(1) A council shall cause minutes to be made in the English language of all proceedings of the provincial council and metropolitan council and shall cause to be recorded therein the names of all members attending any meeting and the names of the members voting respectively for or against any matter for the decision of which a division is called.

(2) The minutes made in terms of subsection (1) shall be recorded in a book kept for the purpose, or on loose sheets of paper which shall subsequently be bound into a book.

(3) The minutes of a meeting of a provincial council and metropolitan council shall, if in order, be confirmed at the same or next succeeding ordinary meeting of the council and shall, if so approved, be signed by the person presiding at the meeting at which such confirmation occurs:

Provided that, if the minutes are written upon loose sheets of paper, each such loose sheet shall be consecutively numbered and initiated by the person presiding at the meeting.

(4) A document purporting to be—

(a) the minutes of a meeting of a provincial council and metropolitan council signed as provided in subsection (3); or

(b) a copy or extract from such minutes certified by the clerk of the provincial council or metropolitan council as correct; shall on its mere production in a court of law by any person be *prima facie* proof of the facts set out therein, and all matters relating to the meeting of which the said minutes purport to be the record shall be presumed to have been done and executed with the due formalities until the contrary is proved.

(6) The provincial or metropolitan clerk shall keep a resolution book together with all minute books referred to in this section.

(6) The minutes of proceedings of a council shall at all reasonable times be open to the inspection of any member of the public who may obtain a copy thereof or an extract therefrom on payment of such fee, not exceeding such amount as may be prescribed, as may be fixed by resolution of the council:

Provided that—

(i) minutes of proceedings conducted in committee in terms of subsection (2) of section thirty-one shall not be open to inspection;

(ii) minutes of proceedings of committees relating to any legal proceedings or negotiations to which the council is or may become a party and the disclosure of which is considered by the committee to be prejudicial to the general interests of the council shall not be open to inspection; and

(iii) where any minute contains a reference to a document, such document shall not be open to inspection.

(7) At any meeting of a council, upon request by a member, the clerk of the council shall record the dissent of such member to any resolution passed by the meeting.

32. Validity of proceedings of councils

No decision, act or proceedings of a council shall be invalid by reason only of the fact that—

- (a) there was a vacancy in the number of members of the council; or
- (b) a person who was not a member of the council acted as a member;

when the decision was taken or the act was done or authorized or the proceedings took place, as the case may be.

PART VI

COMMITTEES OF PROVINCIAL AND METROPOLITAN COUNCILS

33. Standing committees of provincial and metropolitan councils

- (1) Subject to this section for the better exercise of its functions, a provincial council or a metropolitan council may appoint one or more standing committees and vest in the committees such of its functions as it thinks fit.
- (2) Every provincial council and metropolitan council shall appoint a finance committee which shall be responsible for regulating the financial affairs of the council concerned.
- (3) Every provincial council and metropolitan council shall appoint an environmental management committee which shall be responsible for environmental matters relating to the council.
- (4) Every standing committee shall, at its first meeting after the appointment of the members thereto, elect one of its members to be chairperson and one of its members to be vice-chairperson thereof, and may at any time, if the person elected as chairperson or vice-chairperson ceases to be a member of that committee, elect a member to replace him or her
- (5) A member of a standing committee shall cease to be a member thereof forthwith—
 - (a) after the general election ; or
 - (b) if he or she ceases to be a member of the provincial or metropolitan council

(6) A standing committee shall consist of such number of members, being not less than three, as the council may determine.

(7) Subject to section (7) no person, other than the members of, and the secretary to, a

standing committee and the chairperson of the provincial or metropolitan council shall be present at a meeting of that standing committee:

Provided that if—

(a) the attendance of any employee of the council is required by chairperson; or

(b) the chairperson of the standing committee has invited an employee or other person to attend a meeting in connection with the consideration of any matter; that employee or other person may attend the meeting.

(8) If the chairperson is not a member of a standing committee he or she, or in his or her absence, the vice-chairperson shall be entitled to attend and to participate in any discussion at a meeting of a standing committee but he or she shall not be entitled to vote on any matter before that standing committee.

34. Audit committee

(1) Every provincial and metropolitan council shall appoint an audit committee.

(2) The chairperson, the vice chairperson and chairperson of every committee of council shall not be a member of, or be entitled to attend any meeting, of the audit committee.

(3) No person other than the members of the audit committee and the external auditors of council shall attend any meeting of the audit committee:

Provided that if the audit committee requires the attendance of any employee or other person at its meeting, that person or other person shall attend the meeting.

(4) Where an employee or any other person fails, without just cause, to comply with any requirement to attend an audit committee meeting in terms of subsection (3), he shall be guilty of an offence and liable to a fine not exceeding level four or to imprisonment for a period not exceeding three months or to both such fine and such imprisonment.

35. Functions of audit committee

(1) The functions of the audit committee shall be—

(a) to inquire into and report upon the manner in which the finances of the provincial council or metropolitan council, its assets and human resources are being used;

(b) to ascertain whether the funds and assets of the provincial or metropolitan council are applied to the purposes intended and are consistent with any regulations and standing orders issued by the council, or the Minister, as the case may be;

(c) to call for information, explanations and evidence in respect of any matters in respect of which the auditor has made observations;

(d) to receive and consider reports of internal and external auditors and make appropriate recommendations to the council;

(e) to recommend to the council appropriate methods of investment of moneys, and custody of any other properties of the council.

(2) The audit committee shall report its proceedings only to the provincial or the metropolitan council, as the case may be:

Provided that where the Minister requests a report of such committee, the committee shall comply with such request.

(2) The council shall pay due regard to any recommendation made by the audit committee in terms of paragraph (e) of subsection (1), but shall not be obliged to act in accordance with any such recommendation.

36. Establishment of Provincial and Metropolitan development committees

(1) Every provincial and metropolitan council shall establish a provincial development committee or a metropolitan development committee which ever applies.

(a) Such committees may establish a team of technical experts to give advice and guidance.

37. Chairperson of provincial development committees

The provincial or metropolitan development committee shall be presided over by a member elected by a system of proportional representation or the women members of the National Assembly

38. Functions of provincial and metropolitan development committees

The functions of a development committee shall be—

(a) to make recommendations to the provincial council or the metropolitan council which ever applies as to matters to be included in the annual development and other long-term plans for the province; and

(b) to assist the provincial council or metropolitan council whichever the case is, in preparing the annual development and other long-term plans for the province; and

(c) when instructed to do so by the provincial council or metropolitan council, as the case may be, to investigate the implementation of the annual development and other long-term plans for the province; and

(d) to exercise such other functions in relation to the annual development and other long-term plans for the province as may be assigned to it from time to time by the provincial council or the metropolitan council

39. Meetings and quorum of provincial and metropolitan development committees

(1) Subject to section 38, the chairperson shall fix the times and places of all meetings of a provincial or metropolitan development committee, and subsection (2) of section *twenty* shall apply, *mutatis mutandis*, to the convening of such meetings.

(2) A majority of the members referred to in section *thirty – seven* shall form a quorum at any meeting of a Provincial or Metropolitan development committee.

40. Special committees

(1) A special committee may at any time be appointed by a council subject to the following provisions—

(a) that committee shall be appointed for a specific task and once that committee has submitted a report thereon it shall be dissolved unless reconstituted by the council for further investigation or consideration in connection with the original task;

(b) that committee shall be composed of members of the provincial council or metropolitan council as the case may be, and persons who are not members of council and any such member of that special committee shall be entitled to exercise a vote;

(c) the chairperson of that committee shall be a member of the provincial council or metropolitan council, whichever the case may be,

(d) the quorum at any meeting of that committee shall be formed by such number of members as the provincial or metropolitan council may determine;

(e) no powers shall be delegated by the provincial or metropolitan council to that committee.

(2) A special committee shall consist of such number of members, being not less than three, as the provincial or metropolitan council may determine.

(3) A special committee—

(a) at its first meeting after the appointment of the members thereto—

- (i) shall, subject to subsection (1)(c), elect one of its members to be chairperson; and
- (ii) may elect one of its members to be vice-chairperson; and

(b) may at any time, if the person elected as chairperson or vice-chairperson ceases to be a member of the special committee, elect a member to replace him or her.

(4) No person, other than the members of, and the secretary to, a special committee appointed in terms of subsection (1) and the clerk, shall be present at a meeting of that committee: Provided that if the chairperson of that committee has invited an employee or other person to attend a meeting in connection with the consideration of any matter, that employee or other person may attend the meeting.

41. Application of other provisions of Act to committees of provincial and metropolitan councils

In respect of any matter that is not expressly provided for in this Part, sections *twentyandtwenty-two* shall apply, *mutatis mutandis*, to the meetings and procedure of committees established by a provincial council or metropolitan council whichever the case is in terms of this Part.

PART VII

STAFF OF PROVINCIAL AND METROPOLITAN COUNCILS

42 Establishment of the office of the clerk of provincial and metropolitan councils

There shall be established the office of the clerk of the provincial and Metropolitan council whatever the case they may be

- (1) For the better exercise of its functions each provincial council and the metropolitan council shall appoint a clerk of the provincial council or metropolitan council. In the event that the council fails to appoint a clerk within a reasonable time the Minister shall appoint an acting clerk from the civil service.
- (2) Subject to the general control of the Provincial or metropolitan council, whichever the case may be, the clerk shall—
 - (a) manage the affairs and property of the council;
 - (b) supervise and control the activities of the other employees of the council in the course of their employment;

- (c) be the accounting officer of the council in terms of the Public Finance Management Act [*Chapter 22:19*] (No. 11 of 2009);
- (d) perform any of the functions of the council that the council may entrust or assign to him or her:

Provided that the council shall not assign to the clerk any duty that has been assigned to the Chairperson of the provincial council or metropolitan council , which ever the case may be.

(3) Any assignment of functions in terms of subsection (2)(d) may be made either generally or specially and subject to such reservations, restrictions and exceptions as the council may determine, and may be revoked by the council at any time.

(4) The council shall terminate the appointment of the Clerk if—

(a) he or she breaches any condition of service prescribed in terms of this Act

(5) The council shall not terminate the services of the Clerk of Council on a ground other than one referred to in subsection (4) without the approval of the Minister.

(6)The clerk shall have the right to attend meetings of the council and, except in the case of any discussion relating to the terms and conditions of his or her appointment, to take part in the proceedings of the council as if he or she were a member, but shall not have a vote on any question before the council.

(9) The council shall employ such persons in addition to the Clerk as it considers expedient for the better exercise of the functions of the council

(10)The council shall, with the approval of the Minister responsible for finance, fix the terms and conditions of service of the employees of the council.

(11)The remuneration and other benefits payable to the clerk and other employees and agents of the council shall be paid from the funds of the council.

PART V111

POWERS OF PROVINCIAL AND METROPOLITAN COUNCILS

43. Conferring of powers on provincial councils and metropolitan councils

- (1) To the extent that the Minister, by notice in the *Gazette*, authorizes it to do so, a provincial council or a metropolitan council may undertake, carry out or carry on any act or thing whatsoever which is incidental or conducive to the exercise of the functions of

the provincial council or metropolitan council whichever the case may be in terms of this Act or any other enactment.

(2) When authorizing a provincial council to undertake, carry out or carry on any act or thing in terms of subsection(1), the Minister may impose such terms and conditions upon his authority as he may specify therein, and the provincial council or the metropolitan council shall comply with any such term or condition.

(3) The Minister may at any time, by notice in the *Gazette*, amend or revoke any authority given in terms of subsection (1) or any term or condition of such authority.

PART VIII

FINANCIAL PROVISIONS RELATING TO PROVINCIAL AND METROPOLITAN COUNCILS

44. Financial year of provincial and metropolitan councils

The financial year of the provincial and metropolitan councils shall be the period of twelve months ending on the 31st December in each year.

45. Accounts of provincial and metropolitan councils

- (1) Provincial and Metropolitan councils shall ensure that proper accounts and other records relating to such accounts are kept in respect of all the council's activities, funds and property, including such particular accounts and records as the Minister may direct.
- (2) Not later than three months after the end of each financial year, the provincial and metropolitan councils shall prepare and submit to the Minister a statement of accounts in respect of that financial year or such other period as the Minister may direct.

46. Audit of provincial and metropolitan councils accounts

- (1) Subject to this Act the Auditor General shall audit the accounts of the provincial councils and metropolitan councils.
- (2) The accounts kept by the provincial and metropolitan councils in terms of section 46 (1) shall be examined by the auditors appointed in terms of subparagraph (1).

- (3) The auditors appointed in terms of subparagraph (1) shall make a report to the provincial council or the metropolitan council whichever the case may be and the Minister on the statement of accounts prepared in terms of section 46 (2), and such report shall state whether or not in their opinion the statement of accounts gives a true and fair view of the council affairs.
- (4) In addition to the report referred to in subparagraph (3), the Minister may require the provincial council or the metropolitan council whichever the case may be, to obtain from its auditors appointed in terms of subparagraph (1) such other reports, statements or explanations in connection with the council's operations, funds and property as the Minister may consider expedient, and the council shall forthwith comply with any such requirement.

47. Internal Auditor

- (1) Section 80 of the Public Finance Management Act [*Chapter 22:19*] (Act No. 11 of 2009) shall apply, with any necessary changes, to the appointment of an internal auditor to provincial and metropolitan councils in all respects as if the council were a Ministry or department of a Ministry.
- (2) The functions of the internal auditor shall be—
 - (a) to monitor the financial administration and procedures of the council to ensure that—
 - (i) proper accounting and bookkeeping transactions and procedures are carried out;
and
 - (ii) proper accounting records are maintained; and
 - (iii) adequate internal checks and controls are maintained; and
 - (iv) the assets of the council are properly accounted for; and
 - (v) all instructions and directives issued in terms of section 6 of the Public Finance Management Act [*Chapter 22:19*] (Act No. 11 of 2009) are complied with;
 - (b) to assess the effectiveness of any projects undertaken by the council; and
 - (c) to perform any other function that may be assigned to him or her by the clerk.

(3) In the performance of his or her functions, the internal auditor—

(a) shall have free access at all reasonable times to any records, books, vouchers, documents and resources under the control of the council; and

(b) shall have direct access to the clerk; and

(c) may cause search to be made in and extracts to be taken from any record, book, voucher or documents of the council; and

(d) may call upon any member of the staff of the council to give, and shall be entitled to receive without undue delay from that member, any explanations and information the internal auditor may reasonably require to enable him or her to perform his or her functions.

(5) If at any time it appears to the internal auditor that an offence has been committed in relation to—

(a) the collection, receipt, custody, control or payment of any funds of the council; or

(b) the receipt, custody, control, issue, sale, transfer or delivery of any council property or State property assigned to the council; he or she shall immediately bring the matter to the notice of the council, the clerk and any one of the persons approved by the Minister to be the council's external auditors in terms of section 36(1).

(6) Whenever the internal auditor has completed any internal audit programme, he or she shall prepare a report on the financial administration and accounting system of the council, and may include in such report any instances of hindrance or obstruction he or she has encountered in the discharge of his or her duties, and shall transmit copies of such reports to the council, the clerk and any one of the persons approved by the Minister to be the Council's external auditors in terms of section 36(1).

48. Powers of auditors

(1) An auditor referred to in section 47 shall be entitled at all reasonable times to require to be produced to him or her all accounts and other records relating to such accounts which are kept by the council or its agents and to require from any member of council or employee or agent of the council such information and explanations as in the auditor's opinion are necessary for the purposes of his or her audit.

(2) Any member of council or employee or agent of the council who fails without just cause to comply with a requirement of an auditor in terms of subparagraph (1) shall be guilty of an offence and liable to a fine not exceeding level four or to

imprisonment for a period not exceeding three months or to both such fine and such imprisonment.

49. Statement of accounts of and auditor's report to be laid before National Assembly

The Minister shall, within six months after the end of each financial year, lay before the National Assembly the council's statement of accounts and auditor's report for that financial year, such statements shall be published and also posted on the notice board of the council

PART X

GENERAL

50. Exemption of members, assigned employees and other persons from liability

No matter or thing done or omitted to be done or contract entered into by a provincial council or a metropolitan council, any committee thereof, as the case may be, shall subject any—

(a) member of the provincial council, or metropolitan council or committee; or

(b) assigned employee or other person acting under the general or specific directions of the provincial Council or the metropolitan council or committee; in his or her personal capacity to any action, liability, claim or demand whatsoever, and any expenses incurred by such member, assigned employee or other person as a result of any such action, claim or demand shall be paid by the provincial council or the metropolitan council as the case may be:

Provided that this section shall not indemnify any such member, assigned employee or other person against any action, liability, claim or demand arising out of anything done or omitted to be done by him in bad faith, recklessly or in deliberate contravention of any provision of this Act.

51. Copy of Act and regulations to be available for inspection

A provincial council and a metropolitan council shall ensure that a copy of—

(a) this Act; and

(b) any regulations which have been made in terms of this Act and which are applicable within the province; are available for inspection by any person at the office of the provincial council or metropolitan council, whichever the case may be during office hours.

52. Minister to be furnished with reports and information

The provincial or metropolitan council shall submit quarterly narrative of financial reports to the Minister and other necessary documents.

53. Inquiries by Minister and appointment of investigators

- (1) The Minister may, if he considers it necessary or desirable in the public interest, appoint one or more members of the Public Service as investigators, together with such assistants and advisers as he may consider necessary, to inquire into any matter which—
 - (a) relates to the good government of a province; or
 - (b) relates to the failure of a provincial council or a metropolitan council to undertake any function for which it has the necessary power in terms of this Act, which power it has failed to exercise; or
 - (c) relates to or arises out of the affairs of a provincial council or as metropolitan council; and to report to him thereon.
- (3) A provincial council or a metropolitan council into whose affairs an inquiry is being conducted in terms of subsection (1) and every member or assigned employee of such a provincial council or metropolitan council shall, when requested to do so, submit to an investigator all information in its or his or her possession and produce to him and give him access to all books, documents, records, and other sources of information of the provincial council or the metropolitan council.
- (4) Where, in the opinion of the Minister, a provincial council or metropolitan council has failed to carry out any duty imposed upon it by this Act or any other enactment, he may, after having given the provincial council or metropolitan council an opportunity to submit any representations it may wish to make in connection therewith, direct the provincial council or metropolitan council to take such action as he considers necessary within a time specified by him.
- (5) If any act or thing required to be done in terms of this Act is omitted to be done, or is not done in the manner or within the time so required, the Minister may order all such steps to be taken as in his opinion are necessary or desirable to rectify such act or thing, and such act or thing when done in terms of the said order shall be of the same force and effect as if originally done in accordance with the appropriate provision of this Act:

Provided that no person shall be deprived in terms of this section of any right which may have vested in him before the Minister makes an order in terms of this section.
- (6) The costs shall be borne by the council inquired

54. Execution and authentication of documents

Every order, written contract or other document requiring execution or authentication by a provincial council or a metropolitan council shall be sufficiently executed or authenticated if signed by the chairperson or the clerk of the provincial or metropolitan council, as the case maybe, in the presence of such witnesses, if any, as may be required in terms of any law.

55. Regulations

- (1) Subject to this Act, the Minister may make regulations prescribing anything which in terms of this Act is required or permitted to be prescribed or which, in his opinion, is necessary or convenient to be prescribed for carrying out or giving effect to this Act.

FIRST SCHEDULE **Section 11**

OATH OR AFFIRMATION OF LOYALTY

I, swear [*or solemnly affirm*] that I will be faithful and bear true allegiance to Zimbabwe and observe the laws of Zimbabwe.
So help me God. [*To be omitted in affirmation*]