

REPUBLIC OF VANUATU

BILL FOR
THE DECENTRALISATION ACT No. 11. OF 1980

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REPUBLIC OF VANUATU

BILL FOR

THE DECENTRALISATION ACT

NO 11 OF 1980

To make provision for the establishment of local Government Regions, Local Government Councils, and their powers and the manner of their administration.

Be it enacted by the President and Parliament as follows :-

PART 1 - INTERPRETATION

Interpretation.

1. "Minister" means the Minister for the time being responsible for regional government or any Minister acting on his behalf;

"Secretary" means a Secretary of a local government council appointed pursuant to Section 11;

"representative bodies" means the body or bodies recognised by the Minister as representative of the group or class in relation to which the phrase is used.

PART 2 - ESTABLISHMENT OF LOCAL GOVERNMENT REGIONS

Establishment of Local Government regions and Local Government Councils.

- 2.(1) The President may on the advice of the Prime Minister by order -
- (a) declare a local government region;
 - (b) give a name to a local government region;
 - (c) define the boundaries of a local government region and later them.
- (2) When the President declares a local government region under subsection (1) he shall in the order establish a local government council for that region.
- (3) The President shall on a petition from Parliament suspend or dissolve a local government council.
- (4) When a local government council is dissolved in accordance with subsection (3) an election shall take place on a date fixed by the President in the order of dissolution which shall not be more than one calendar month after the date of dissolution.

(5) During the period of a suspension under subsection (3) or until an election following a dissolution the powers and duties of a local government council should be exercised by a commission appointed by the President on the advice of the Minister.

Division of local government region into area council division.

3. The Minister shall by order divide a local government region into area council divisions and may alter those divisions.

Local Government Councils to be bodies corporate.

4. A local government council shall be a body corporate with perpetual succession and power to:
(a) sue and be sued in its corporate name and
(b) to purchase, acquire hold manage and dispose of movable and immovable property

Composition of Local Government Councils.

5. The Minister may from time to time by order -
(a) prescribe the composition of a local government council and the number of councillors;
(b) prescribe the number of members of local government councils to be elected in respect of each area council division;
(c) provide for appointed members of local government councils who shall number not more than one third of each local government council and shall consist of -
(i) chiefs nominated by the National Council of Chiefs;
(ii) women selected by the Minister from among persons nominated by representative bodies of women;
(iii)- youth representatives selected by the Minister from among persons nominated by representative bodies of youth;
(d) provide for the election of a President who shall be chairman of the local government council.
(e) provide for the election of a Deputy President;
(f) prescribe the terms and conditions of office of the President and other member of local government councils;
(g) provide for any other matter not herein specified which may be necessary for the proper establishment and functioning of local government council.

Seal.

6. Each local government council shall have a seal of a design approved by such local government council which shall be kept in the custody of the Secretary to the local government council.

Standing
Orders.

- 7.(1) Subject to the provisions of this Act every local government council shall make standing orders for :-
- (a) the regulation and conduct of the meetings of the local government council and of committees of the local government council;
 - (b) the authentication of all documents required to be sealed with the seal of the local government council; and
 - (c) such other matters as may be necessary for the purposes of this Act or as may be directed by the Minister.
- (2) The Secretary shall cause a certified true copy of the standing orders of a local government council and of all amendments to such standing orders to be forwarded to the Minister.
- (3) Standing Orders of local government councils and all amendments thereto shall not have effect until forwarded to the Minister.

PART 3 - TERM OF OFFICE AND ELECTION OF MEMBERS
OF LOCAL GOVERNMENT COUNCILS

Term of office
of members of
local government
councils and
elections thereto.

- 8.(1) Members of local government councils shall be elected or appointed as the case may be for a period of four years and together with any councillor elected or appointed to fill a vacancy shall retire together at the end of that period.
- (2) Subject to the provisions of this Act, the Minister may by order provide for the regulation and conduct of elections to be held under the provisions of this Act and, without prejudice to the generality of the foregoing, may provide for :-
- (a) the date for election of elected members of a local government council. If the Minister fails to fix such date the election shall take place on a date that is one calendar month before the end of the term office of the members presently in office. If the date is a Saturday, Sunday or Public holiday the election shall take place on the next preceding day that is not one of those days.
 - (b) the qualifications and disqualifications of electors;
 - (c) the registration of electors in any local government region or in any area council division;
 - (d) the ascertainment of the qualifications and disqualifications of candidates for election as members of local government councils;
 - (e) the method of making and disposing of claims or objections in connection with the registration of electors;

- (f) the procedure for the nomination of candidates for election as members of local government councils;
- (g) the method of election in any local government region;
- (h) the determination of any question which may arise whether any person has been elected as a member of a local government council;
- X (i) the nature of corrupt and illegal practices in connection with elections and penalties in relation thereto;

Provided that no penalty prescribed by any order made under this paragraph shall exceed imprisonment for a period of 5 years or a fine of FNH 100,000 or both such imprisonment and fine;

- X (j) such forms as he may consider necessary to be used in connection with elections.

Disqualification for election or appointment as member of local government council.

- 9.(1) A person shall be disqualified for election or appointment as a member of a local government council if he :-
 - (a) is a member of Parliament;
 - (b) is disqualified from being a member of Parliament;
 - (c) is in the service of the local government council;

Vacation of office.

- 10. If any member of a local government council,
 - (a) ~~member~~ is found to have been unqualified or disqualified for election or appointment to a local government council;
 - (b) does, or permits or suffers any act, matter or thing which would, under the provisions of Section 9 disqualify him for appointment or election;
 - (c) resigns from the local government council
 - (d) retires in accordance with any terms and conditions that may be prescribed under the provisions of section 5;
 - (e) fails to attend 3 consecutive meetings of the local government council or of any committee of the local government council of which he is a member, unless he has obtained the prior permission of the local government council to absent himself throughout such period, he shall cease to hold office.

Filling of vacancies.

- 11.(1) Whenever a vacancy occurs in the office of an elected member of a council an election shall be held in accordance with orders made under the provisions of section 7.

- (2) Notwithstanding the provisions of subsection (1) if -
- (a) a vacancy occurs in the office of a councillor within six months preceding the date on which such councillor would ordinarily retire; and
 - (b) the total of unfilled vacancies does not exceed a third of the total number of councillors.

And if no local council division will thereby be unrepresented an election to fill such vacancy shall not be held under the provisions of this section and such vacancy shall remain unfilled until the time of the next ordinary election.

- (3) A person elected under the provisions of this section to fill a vacancy shall hold office until the date upon which the person in whose place he is elected would ordinarily have retired, and he shall then retire.
- (4) Whenever there is a vacancy in the office of an appointed member of a local government council the Minister shall appoint another person to fill that vacancy in accordance with subsection (3) and orders made under Section 5 (c).

PART 4 - MEETINGS OF LOCAL GOVERNMENT COUNCILS

- 12.(1) Every local government council shall hold not less than 3 meetings each year for the transaction of general business at one of which it shall consider the annual estimates.
- (2) Subject to subsection (3) every meeting of a local government council shall be open to the public and to representatives of the Press.
- (3) The chairman of any such meeting may :-
- (a) exclude or require to withdraw from such meeting any person who, in his opinion, is behaving in a disorderly manner; and
 - (b) call upon any police officer or any officer or servant of the local government council to eject any such person refusing to withdraw from such meeting.
- (4) No meeting of any committee of a local government council shall be open to the public or to representatives of the Press unless the local government council otherwise directs.
- (5) The Secretary or his representative shall attend every meeting of the local government council and its committees but shall not be entitled to vote thereat.

Meetings.

Chairman of
meetings
of local
government
councils.

Quorum and
voting at
meetings.

Minutes of
meetings.

13. (1) Save as provided in subsection (2) the President or Deputy President shall preside at all meetings of a local government council.
- (2) In the absence of the President or Deputy President the members present at any meeting of a local government council shall elect one of their members to act as chairman of that meeting.
14. (1) The quorum for any meeting of a local government council shall be one half of the elected members.
- (2) All acts of a local government council and all questions and matters coming before a local government council for decision shall be done and decided by a majority of the elected members present and voting thereon.
- (3) The chairman of any meeting of a local government council shall in addition to his ordinary vote have a casting vote in the case of an equality of votes.
15. (1) Minutes of the proceedings of all meetings of a local government council and of any committee of a local government council including the names of all members present at any such meeting shall be drawn up and entered in a book kept for that purpose. They shall be signed at the next meeting of the local government council or committee, as the case may be, by the chairman. Any minutes purporting to be so signed, or any extract from the minute book purporting to be certified by writing under the hand of the Secretary to be a true copy of any entry in the minute book, shall be received in evidence without further proof.
- (2) Until the contrary is proved, a meeting of a local government council or of a committee of a local government council in respect of the proceedings whereof a minute has been made and signed in accordance with the provisions of subsection (1) shall be deemed to have been duly convened and held. All members present at such meeting shall be deemed to have been duly qualified. Where such proceedings are proceedings of a committee it shall be deemed to have been duly constituted and to have had power to deal with the matters to which reference is made in such minute.

PART 5 - EXECUTIVE AND FINANCE COMMITTEE
AND OTHER COMMITTEES

- mittees.
16. (1) Each local government council shall appoint an Executive and Finance Committee consisting of the President and the Deputy President of the local government council and not less than 2 nor more than 5 other elected members.
 - (2) A local government council may from time to time appoint and dissolve other committees for any general or special purposes which in the opinion of the local government council would be better regulated and managed by a committee and may delegate to a committee so appointed, with or without restrictions or conditions, as the local government may decide, any power conferred upon the local government council under this Act or any other law, except,
 - (a) the power to make regional laws;
 - (b) the power to borrow money; or
 - (c) any other power which by this Act or any other law or an order made by the Minister may not be exercised by a committee of a local government council.
 - (3) In no case shall any act of any committee of a local government council be binding upon the local government council until submitted to and approved by the local government council except in any case where the local government council has, by resolution, authorised a committee to manage, regulate or conclude any matter.
 - (4) The number of members of a committee other than the Executive and Finance Committee and the term of office of members shall be fixed by the local government council.
 - (5) The chairman of any such committee shall be a member who is an elected member of the local government council. The Chairman shall be appointed either by the local government council or, in default of any such appointment, by the members of the committee.
 - (6) A committee, other than the Executive and Finance Committee, may include persons who are not members of the local government council to a number not exceeding one third of the membership of such committee. Such persons shall not be entitled to vote at any meeting of the committee.
 - (7) Every member of a committee who at the time of his appointment to such committee is a member of the local government council shall, upon ceasing to be such member, cease to be a member of the committee.

PART 6 - SECRETARY, TREASURER AND STAFF

Secretary to
local government.

17. (1) Subject to Section 18 (3) a local government council shall appoint a fit person not being a member to be Secretary.
- (2) The Secretary shall be the chief executive officer of the local government council and shall have the charge and custody of and be responsible for all books, records and other documents of the local government council.
- (3) The appointment of a person as Secretary and the terms and conditions of such appointment shall in all respects be subject to the prior approval in writing of the Minister.

Treasurer and
other
officers.

18. (1) Subject to subsection (3) a local government council shall appoint a Treasurer.
- (2) A local government council may appoint such other officers, as it may consider necessary for the proper performance of its functions, upon such terms and conditions as it may determine and may define the powers and duties of such officers.
- (3) Until such time as the Minister is satisfied that suitable persons are otherwise available the Secretary, Treasurer and such other officers as he may consider necessary shall be seconded to a local government council from the public service.

Consent of
Minister to
dismissals.

19. The Secretary and Treasurer shall not be dismissed without the prior consent in writing of the Minister.

Power to
engage
staff.

20. Subject to Section 18 (3) a local government council may from time to time employ, on such terms and conditions as it may determine, such agents, servants and workmen as may be necessary for the proper performance of its function

Staff
regulations.

21. (1) A local government council shall make staff regulations, which, subject to the provisions of this Act, may make provision for all or any of the following matters relating to persons in the service of the council other than persons seconded to it :-
- (a) grades and salary scales;
 - (b) appointments, promotions, leave, termination of appointments and dismissals;
 - (c) maintenance of discipline;
 - (d) disciplinary offences;

- (e) interdiction and payment of salary or wages during any period of interdiction;
- (f) punishments in respect of disciplinary offences including the withholding or deferment of increments, fines, reductions in rank or salary and deductions from salary in respect of damage to property of the local government council by reason of misconduct or breach of duty by an officer servant or employee;
- (g) training;
- (h) payment of allowances; and
- (i) terms and conditions of service generally including matters relating to procedure and the duties and responsibilities of officers, servants and employees.

(2) Staff regulations made under the provisions of subsection (1) shall be subject to the approval of the Minister.

Pension Schemes.

22.

A local government council may -

- (a) establish and maintain or join with other local government councils or authorities in establishing and maintaining a pension or superannuation scheme;
- (b) contribute to a pension or superannuation scheme established and maintained by the Government; or
- (c) make other arrangements for the payment of pensions or superannuation benefits to persons retiring from the service of the local government council, or to any dependent of any deceased person who at the time of his death was in or had retired from the service of the local government council.

PART 7 - DUTIES AND POWERS OF LOCAL GOVERNMENT COUNCILS

General duty of local government council.

23. (1)

Subject to any other law, and the provisions of this Act a local government council shall be generally responsible for the good government of its local government region and the welfare of the people therein.

(2)

It shall have the direct and indirect duties and powers set out in Part 1 of the Schedule.

(3)

The Minister may by order from time to time alter the Schedule but may not alter the maximum limits of local taxes provided for in Part 2 of the Schedule.

Agent for Government.

24.

At the request of the Minister, a local government council may -

- (a) act as the agent of the Government for the collection of government revenue upon such terms and conditions as to payment of commission or otherwise as may be agreed; or

- (b) act as agent for and perform and do such other acts, matters and things on behalf of the Government as may be agreed between the Government and the local government council.

contracts.

- 25. (1) Subject to the provisions of subsection (2), to any order made under section 42 and to any conditions or limitations imposed by its standing orders, a local government council may enter into contracts for the purpose of any works, services or other matters which it is required or empowered to undertake, carry out and manage.

- (2) Except as may be permitted by its standing orders, a local government council shall not enter into any contract -

- (a) for the supply of any goods or materials;
- (b) for the execution of any works or provision of any services, other than professional services to or for the local government council;

except after publicly calling for tenders for the same.

- (3) A contract purporting to be made by a local government council which is -

- (a) sealed with the seal of the local government; or
- (b) signed by an officer of the local government council duly authorised in that behalf by any resolution or standing order of the local government council shall not be invalid by reason only of any failure to observe any standing order made under the provisions of this Act.

PART 8 - REGIONAL LAWS

Regional Laws.

- 26. (1) Subject to the provisions of this part and to subsection (2) a local government council may make regional laws for the good government of the region and the welfare of its people.

- (2) Regional Laws shall be such as may be necessary for or incidental to the carrying out of the direct powers referred to in Part 1 of the Schedule.

Conflict between regional laws and Acts etc.

- 27. (1) Where there is a conflict between the provision of a regional law which complies with Section 26 and an Act, Joint Regulation or order the provisions of the regional law shall prevail except, subject to subsection (2), where the Act, Joint Regulation or order specifically provides that it shall have general application throughout Vanuatu or the provisions thereof so imply.

- (2) The provisions of an Act, Joint Regulation or order shall not prevail over the provisions of a regional law if the consequences thereof would be to prevent a local government council from exercising its power to make laws in respect of any of its direct powers.

no procedure relating to regional laws.

- 28. (1) The following provisions of this section shall apply to all regional laws.
- (2) The local government council shall forward to the Minister -
 - (a) a copy of the proposed regional law;
 - (b) a memorandum giving the reasons for the making of the proposed law;
 - (c) copies of any minutes of the local government relating to the law.
- (3) The Minister shall either -
 - (a) approve the proposed regional law; or
 - (b) refer the law back to the local government council stating in writing that the proposed law -
 - (i) conflicts with the Constitution; or
 - (ii) is not made in compliance with Section 26; or
 - (iii) conflicts with an Act, Joint Regulation or Order which prevail and briefly giving his reasons for so stating.
- (4) On receipt of a law in accordance with subsection (3) (b) a local government council may either -
 - (a) return the proposed law with amendments made thereto in which case subsection (3) shall apply to the amended proposed law;
 - (b) return the proposed law to the Minister unamended stating in writing the reasons why it rejects the Ministers referral.
- (5) On receipt of a proposed regional law in accordance with subsection (4) (b) the Minister shall within 15 days either approve it or refer it to the Supreme Court together with any statements made in accordance with subsections (3) and (4).
- (6) On a referral to it in accordance with subsection (5) the Supreme Court shall either -
 - (a) direct the approval of the law by the Minister; or
 - (b) declare in what manner the proposed regional law -
 - (i) conflicts with the Constitution; or
 - (ii) is not made in compliance with Section 25; or
 - (iii) conflicts with an Act, Joint Regulation or Order,

and may give such directions as it may consider just and requisite.

(7) Every regional law shall be made under the seal of the local government council which shall be affixed in the presence of the President, the Secretary and one other member, all of whom shall sign the regional law.

29. (1) Every regional law shall be published by notification in the Gazette and issued as a supplement thereto and shall have the force of law in the local government region as from the date of such publication or if a later date is provided in such regional law, as from that date.

(2) A copy of the supplement to the Gazette containing any regional law shall be evidence of the due making of such regional law and of the contents thereof.

(3) A copy of all regional laws shall be deposited in the offices of the local government council and shall at all reasonable hours be open to public inspection without payment.

30. A regional law may provide that in respect of any contravention of or failure to comply with any of the provisions thereof the person convicted of such contravention or failure shall be liable to such fine, not exceeding FNH20,000 or to such period of imprisonment, not exceeding six months, as may be therein provided or to both such fine and imprisonment.

PART 9 - FINANCE

31. The financial year of a local government council shall be the same as the Government financial year.

32. (1) The budget of a local government council shall be divided into a recurrent and an extraordinary part for both revenue and expenditure.

(2) Items of revenue and expenditure which by their nature appear unlikely to recur each year shall be included in the extraordinary part of a local government council budget.

33. (1) The recurrent revenue of a local government council shall consist of :-

- (a) all local taxes lawfully levied by the local government council;
- (b) such part as the Minister may determine of any fees and charges payable in respect of licences and permits which have been lawfully issued or authorised for issue by the local government council, whether under this or any other Act or Joint Regulation.

Application of
Regional
Laws.

Penalty in
Regional
Law.

Financial
Year.

Division of
Local
Government
Council budget
into recurrent
and extraordinary
parts.

Recurrent
Revenue of
local
Government
Council.

- (c) all other fees, charges, rents and dues payable to or recoverable by the local government council or to which the local council is entitled under the provisions of this or any other law;
- (d) one-half of all fines imposed by a court of competent jurisdiction within the local government council in respect of any contravention of or failure to comply with the provisions of this Act or of any regional law in force in that local government region;
- (e) except as may be otherwise prescribed by the Minister, all charges or profits arising from any trade, service or undertaking carried on by the local government council in exercise of the powers vested in it;
- (f) interest on moneys invested by the local government council, except where other provision is made in respect thereof under the provisions of this or any other law;
- (g) all recurrent grants paid by the Government;
- (h) all rents from lands leased by the local government council;
- (i) such other revenues as the Minister responsible for finance may declare in writing to be revenues for the purposes of this section.

34. (1) The extraordinary revenue of a local government council shall consist of :-

- (a) special grants paid to it by Government;
- (b) loans;
- (c) gifts and legacies;
- (d) proceeds from the sale of local government council property;
- (e) any other unusual or temporary income.

(2) The Minister may after consultation with the Minister responsible for finance by order provide for the method of calculation of any special grants or classes of special grants.

35. A local government council may, subject to the provisions of this or any other law expend moneys in the proper exercise of its duties and powers and in the proper performance of matters necessarily incidental thereto or arising therefrom, and for the purpose of meeting its lawful debts and obligations.

36. (1) A local government council may from time to time, with the consent of the Minister responsible for finance raise loans by way of mortgage, issue of stock, or any other method, in such amounts and on such conditions as the Minister responsible for finance in each case, may approve and all such loans shall be charged upon the revenues and assets of the local government council and shall rank equally without priority.

(2) Any financial liability to the Government lawfully incurred by a local government council for the purpose of acquiring any interest in land or any works, schemes, undertakings or assets from the Government, and not discharged by immediate payment, shall be deemed to be a loan granted by the Government.

vestment of
funds.

37. Any of the moneys of a local government council may be -
- (a) deposited in a bank approved in writing by the Minister responsible for finance;
 - (b) invested in Vanuatu Government securities as provided for in the Central Bank of Vanuatu Act; or
 - (c) in such other manner as the Minister responsible for finance may approve.

Annual Estimates.

38. (1) Every local government council shall on a date which, in default of appointment by the Minister, is not later than two months before the commencement of the financial year, pass detailed estimates, in such form as the Minister after consultation with the Minister responsible for finance may approve, of the revenue and expenditure of the local government council for the ensuing year.
- (2) The estimates of a local government council shall be submitted to the Minister who, subject to the provisions of subsection (3) and after consultation with the Minister responsible for finance shall :-
- (a) approve such estimates without amendment; or
 - (b) disallow or amend any item or any part of any item therein which, in his opinion, is unlawful excessive or unnecessary; or
 - (c) disapprove such estimates.
- (3) The power of disallowance, amendment or disapproval conferred on the Minister by the provisions of subsection (2) shall not be exercised by the Minister until he has allowed the local government council the opportunity of making representations on any proposed disallowance, amendment or disapproval.
- (4) As soon as possible after the Minister has approved the estimates of the local government council, whether with or without amendment, a copy of such estimates shall be deposited in the office of the local government council and shall at all reasonable hours be open to public inspection without payment.
- (5) Where additional financial provision is required during the course of any year, supplementary estimates shall be passed, submitted and otherwise dealt with in the same manner as estimates.
- (6) A summary of the estimates and any supplementary estimates as approved by the Minister shall be recorded in the minutes of the local government council.

Expenditure
incurred not
in accordance
with estimates.

39. (1) No expenditure shall be incurred by a local government council unless it can be properly charged to an item in the approved estimates or in approved supplementary estimates.

- (2) Subject to the provisions of any order made under section 42 and notwithstanding the provisions of subsection (1) and section 38 (5) a local government council may by resolution authorise the expenditure of not more than FNH 200,000 or twenty-five per cent, whichever is the less of funds appropriated for any one purpose in approved estimates, on any other purpose therein contained.

Provided that no expenditure on such authorisation shall take place without the consent of the Minister -

- (a) for any purpose in respect of which provision has not been made in the approved estimates; or
- (b) for any purpose the proposed expenditure on which has been reduced by the Minister.
- (3) Notwithstanding the provisions of subsection (1), a local government council may -
- (a) prior to the approval of its estimates, authorise expenditure on recurrent items to an amount not exceeding half that provided in the approved estimates for the preceding year; and
- (b) prior to the approval of its estimates or of any supplementary estimates, grant to its officers, servants and employees any normal increase of salary or wages in accordance with approved scales.

PART 10 - ACCOUNTS AND AUDIT

Accounts.

40. (1) A local government council shall cause proper books and accounts to be kept and true regular records entered therein of all financial transactions of the local government council.
- (2) Subject to any directions of the Minister, such books and accounts shall be kept in such form and by such method as the local government council may approve.

Audit.

41. (1) A local government council may subject to the approval of the Auditor General appoint a fit and proper person to be the auditor of the local government council at such rate of remuneration as the local government council may determine for the purpose of auditing and reporting on the accounts of the local government council.
- (2) If the Auditor General directs, a local government council shall reimburse to the Government such sum in respect of the Auditor General's expenses as the Minister may fix.
- (3) A local government council shall -
- (a) produce to the auditor within three months of the conclusion of the year to which they relate all the books and accounts of the local government council together with all deeds,

contracts, documents, receipts and vouchers relating thereto;

- (b) permit the auditor to inspect all stores and other assets of the local government council as he may require; and
 - (c) give to the auditor such information, explanation and facilities as he may require to be given to enable him to perform the duties of an auditor.
- (4) It shall be the duty of the auditor to report to a local government council not less than once in each year separately in respect of each of the following matters, that is to say, whether or not -
- (a) he has obtained all such information, explanation and facilities as he may have required to be given to enable him to perform the duties of an auditor;
 - (b) the accounts of the local government council are in order and present a true view of the financial position of the local government council;
 - (c) separate accounts of all undertakings and other accounts required to be kept by the provisions of this Act have been kept;
 - (d) due provision has been made for redemption and repayment of all moneys borrowed by the local government council;
 - (e) due provision has been made for depreciation or renewal of the assets of the local government council.
- (5) In addition to the report required under subsection (4) the auditor shall report to the Minister and to the local government council any matter or thing which is discovered during the course of the audit and which appears to have been done or performed without due authority.
- (6) The Secretary shall -
- (a) within thirty days of the receipt of the auditor's report on the accounts of the local government council for any year submit the accounts together with such report to the Minister; and
 - (b) lay the accounts of the local government council for each year together with the auditor's report thereon before the local government council within thirty days of the receipt of such report, or if the council is not sitting, at its next meeting. Thereafter such extracts from such accounts and such reports as the Minister may approve shall be deposited in the offices of the local government council and shall at all reasonable hours be open to public inspection without payment.

financial and
tender board
orders.

42. (1) The Minister after consultation with the Minister responsible for finance may make orders not inconsistent with any of the provisions of this Act for the purpose of
- (a) controlling and managing the financial business of local government councils;
 - (b) regulating the procedure and duties of the treasurers, and accounting staff of local government councils;
 - (c) providing for the receipt, safe-handling, recording, safe custody and disposal of cash or stores;
 - (d) empowering local government councils to surcharge members of their staff responsible for loss of money or loss of or damage to stores and providing for the manner in which surcharges shall be made;
 - (e) regulating the procedure for dealing with tenders;
 - (f) requiring contracts made by local government councils to be in accordance with such orders and in particular requiring in the case of contracts for the supply of goods or materials or for the execution of works to the value of FNH 150,000 or more or such higher minimum value as the Minister may specify that notice of the intention of the council to enter into the contract shall be published and tenders invited and regulating the manner in which such notice shall be published and such tenders accepted; and
 - (g) generally carrying out the provisions of Part 9 and putting this Part into effect.
- (2) Orders made under this section may be applied either to local government councils generally or with respect to a particular local government council and shall be observed and obeyed by the local government council to which they apply.

PART 11 - MISCELLANEOUS

Representation of
a local government
council in court.

43. (1) In any prosecution by or on behalf of a local government council the local government council may, subject to any directions of the Public Prosecutor be represented by the Secretary or by any officer of the local government council authorised by him in writing so to do.
- (2) Where a local government council is a party to any civil cause or matter the local government council may be represented by the Secretary.

Indemnity of
Councillors and
other persons.

44. No act, matter or thing done or omitted by -
- (a) any member of a local government council;
 - (b) any officer or other persons in the service of a local government council; or

(c) by any person acting under the directions of a local government council;

shall if such act, matter or thing was done in good faith in the execution of his duty, render any such councillor, officer or person personally liable to any action, liability, claim or demand whatever.

General Penalty. 45. (1) Any person who contravenes or fails to comply with any of the provisions of this Act or of any order made hereunder shall be guilty of an offence and, except where any other penalty is specifically provided, shall be liable on conviction to a fine not exceeding FNH 20,000 or to imprisonment for a period not exceeding 6 months or to both such fine and imprisonment.

(2) Where any person is convicted of an offence under the provisions of subsection (1) and where such offence consists of -

- (a) failing to obtain a licence or permit; or
- (b) contravening or failing to comply with any condition, subject to which a licence or permit has been issued to such person;

under the provisions of this Act or of any regional law or any order made hereunder, the court may, in addition to or in substitution for any other penalty which it may impose, cancel the licence or permit in respect of which such offence was committed and may order that such person shall for a period not exceeding twelve months from the date of such conviction, be disqualified from holding or obtaining any such licence or permit.

Exclusion of Municipalities. 46. This Act shall not apply to or within the boundaries of any Municipalities which shall be considered not to be part of any local government region.

Commencement. 47. This Act shall come into operation on such date as the Minister shall declare by Order published in the Gazette.

SCHEDULE (word)

(Section 23)

PART 1 - DUTIES AND POWERS

DIRECT DUTIES AND POWERS

(a) Location, construction and maintenance of :-

- (1) Schools
- (2) Clinics, dispensaries, health and inoculation centres
- (3) bridges
- (4) roads not the responsibility of the Government or a Municipality
- (5) water supplies

SCHEDULE

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- (1) Schools
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 - (3) bridges
 - (4) roads not the responsibility of the Government or a Municipality
 - (5) water supplies
 - (6) wharves and jetties
 - (7) markets
 - (8) libraries, museums and cultural centres
- (b) Regulation and control of markets .
- (c) Licensing of cinemas.
- (d) Licensing of premises for the sale of alcoholic liquor. Such power shall not extend to the licensing of the sale of alcoholic liquor at aerodromes, on board ships or boats or on board aircraft.
- (e) Except those Local Government Councils administering the Island of Efate and Espiritu Santo the licensing of premises for the carrying on of businesses.
- (f) supervision and control of area and village councils.
- (g) control of dogs, pigs and other livestock.
- (h) subject to restriction on their number by the Minister the making of public holidays in the local government region.
- (i) Licensing of taxi boats and except for those Local Government Councils administering the Islands of Efate and Espiritu Santo the licensing of bus and taxi services which are established in and carry on business from the local government region.
- (j) Subject to any Act or Order made thereunder, the supervision and control of fishing within the Local Government region and seaward for 6 nautical miles from the low water line of any sea shore of the local government region.
- (k) the provision of information services.
- (l) the provision of clerical staff for village courts.

INDIRECT DUTIES AND POWERS

- (a) The levying and collection of the following local taxes in accordance with orders made by local government councils after consultation with the Minister and subject to the limits and conditions contained in Part 2 of this Schedule and to Acts of Parliament.
- (1) Head tax
 - (2) Liquor Licensing tax
 - (3) Business Licence tax
 - (4) Dog tax
 - (5) Cinema tax
 - (6) Entertainment tax other than cinema tax
 - (7) Gaming and Lottery tax
- (b) The preparation and implementation of regional development plans;
- (c) Social development particularly of women and youth ;
- (d) the organisation and encouragement of sport and other leisure time recreations;
- (e) the provision of rural radio services;
- (f) the allocation in co-operation with the Government of agricultural priority areas ;
- (g) the provision of agricultural extension services ;
- (h) the control of vehicular traffic;
- (i) the registration of births, deaths and marriages;
- (j) the maintenance of electoral rolls ;
- (k) the supervision of co-operative societies ;
- (l) public health ;
- (m) the location and maintenance of secondary airfields.

PART 2 - LIMITS AND CONDITIONS

RELATING TO LOCAL TAXES

(a) HEAD TAX

- (1) Head tax shall not be more than FNH 2,500.
- (2) Head tax shall be payable annually.
- (3) Any person of or above the age of 18 years and not above the age of 60 years shall on the 1st July in every year become liable unless generally or specifically exempted to pay head tax imposed by the local government council of the local government region in which he is ordinarily resident on that date.

- (4) Any person liable to pay head tax in accordance with paragraph (3) and who fails to do so by October 31st in the year it is due shall be liable to pay the local government council in addition to the tax due a surcharge calculated at a maximum rate of fifty per cent of the tax due.
- (5) A person who produces to the Treasurer of a local government council or an officer acting on his behalf a valid receipt of another local government council in evidence of payment of head tax for the current year shall not be liable to pay head tax to the former local government council.
- (6) A local government council may exempt persons from payment of head tax or a part thereof by reason of poverty or for any other good reasons.
- (7) A head tax may be at a different rate for men and women.
- (8) Notices requiring payment of head tax shall be given by the 1st June in respect of tax for the 1st July next except in the case of a person who becomes ordinarily resident in a local government region between the 1st June and 1st July when the notice shall be given as soon as practicable but not later than the 31st July after the person liable has become ordinarily resident.
- (9) A local government council shall give every person who pays head tax a receipt showing the amount paid, the year in respect of which payment has been made and the date of payment.
- (10) If a person fails to pay head tax to which he is liable the local government council may recover the tax due including any surcharge as a civil debt together with costs and in addition the court may impose a penalty in accordance with Section 45.

(b) LIQUOR LICENSING TAX

- (1) Until such time as a local government council makes a regional law for liquor licensing the licences provided for in the Joint Liquor Licensing Regulation No 18 of 1968 shall be issued in a local government region by the Treasurer of the local government council and the license fees payable in respect thereof shall be paid to the local government council in lieu of liquor licensing tax.
- (2) When a local government council has made a regional law replacing the Joint Liquor Licensing Regulation No 18 of 1968 the following limit and conditions shall apply to liquor licensing tax -
 - (a) Liquor Licensing Tax shall be a maximum of FNH 100,000 per annum.
 - (b) It shall be payable when licences for liquor trading are renewed.
 - (c) It shall be recoverable as a civil debt together with costs.

(c) Business Licence tax

- (1) Local Government Councils shall issue the business licences provided for in the Business Licence Regulation No 18 of 1978. For that purpose the Local Government Council administering the local government region where premises, for which a licence is required, are situate shall be substituted for the Government in the Regulation.
- (2) Licences shall be issued by the Treasurer of the local government council who shall receive on behalf of the local government council the fees provided for under the Business Licences Regulation No 18 of 1978.
- (3) For the purpose of this Regulation the business licence fees shall be known as Business Licence Tax.

(d) DOG TAX

- (1) Dog tax shall be a maximum of FNH 200 payable by the owner for each dog kept, and a maximum of FNH 500 for each unspeyed bitch kept.
- (2) Dog tax shall be payable annually.
- (3) Dog tax shall be recoverable as a civil debt together with costs.

(e) CINEMA TAX

- (1) Cinema tax shall be payable by persons who show films for payment in respect of payments taken for the showing of such films.
- (2) Cinema tax shall be at the maximum rate of 10 per cent of the charge made to each person.
- (3) Provision may be made in an order made by a local government council for the production of receipt books and accounts of persons liable to pay the tax.
- (4) Cinema tax shall be recoverable as a civil debt together with costs.

(f) ENTERTAINMENT TAX

- (1) Entertainment tax shall be payable by persons who provide entertainment including dances, musical shows, boxing and other sports for payment, in respect of payments taken for the provision of such entertainment.
- (2) Entertainment tax shall be at the maximum rate of 10 per cent of the charge made to each person.
- (3) Provision may be made in an order made by a local government council for the production of receipt books and accounts of persons liable to pay the tax.

(g) GAMING AND LOTTERY TAX

- (1) The power to provide for a gaming and lottery tax shall be subject to any Act or Order made thereunder.
- (2) Gaming and lottery tax shall be either -
 - (i) a fixed rate tax of a maximum of FNH 5000 payable in respect of each lottery or raffle; or
 - (ii) an annual tax of a maximum of FNH 24,000 payable by the proprietor of premises used for games of chance or for gaming machines.
- (3) The annual tax shall be recoverable as a civil debt together with costs.
- (4) This tax will be in addition to any tax leviable by the Central Government under Act of Parliament on the takings or profits of any casino or other place where games of chance are played.