

(Legislative Supplement No. 22)

LEGAL NOTICE No. 256

THE LOCAL GOVERNMENT REGULATIONS, 1963

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THE KENYA (LOCAL GOVERNMENT) ORDER IN COUNCIL,
1963

(L.N. 96 of 1963)

IN EXERCISE of the powers conferred by section 2 of the Kenya (Local Government) Order in Council, 1963, and of all other powers him thereunto enabling, the Governor hereby makes the following Regulations:—

THE LOCAL GOVERNMENT REGULATIONS, 1963

PART I—PRELIMINARY

1. These Regulations may be cited as the Local Government Regulations, 1963, and shall come into operation on the 30th April, 1963. Short title and commencement.

2. (1) In these Regulations, except where the context otherwise requires— Interpretation.

“annual meeting” means an annual meeting under regulation 74 of these Regulations;

“area” in relation to a local authority, means its area of jurisdiction;

“area council” means an area council established or deemed to have been established under regulation 4 of these Regulations;

“building” includes any erection in whatsoever manner constructed, and any part of a building;

“chief financial officer” means the chief financial officer under regulation 130 (1) of these Regulations;

“the City Council of Nairobi” means the City Council of Nairobi incorporated by Royal Charter dated the 20th day of March, 1950, and any reference in these Regulations or in any other written law to a municipality or municipal council shall be construed as including a reference to the City of Nairobi or the City Council of Nairobi, as the case may require;

“clerk” includes the town clerk of a municipal council or the clerk of a county council;

“contributory place” means such area as the Minister may specify under regulation 259 (3) of these Regulations;

“control” includes regulate, inspect, supervise and license;

“council” means municipal council, county council, urban council, area council and local council;

“councillor” includes aldermen;

“county” means an area deemed under regulation 4 or declared under regulation 5 of these Regulations to be a county;

“county council” means a county council established or deemed to have been established under regulation 27 of these Regulations;

“county division” means a county division established or deemed to have been established under these Regulations;

“establish” includes acquire, erect, build, construct, hire, equip and furnish;

“financial year” means the period provided in regulation 283 of these Regulations;

“forest area” and “demarcated forest” have the respective meanings assigned to them in the Forest Ordinance;

“function” includes powers and duties;

“hawker” means any person who, whether as principal, agent or employee, carries on the business of offering or exposing goods for sale, barter or exchange elsewhere than at a fixed place, but does not include a wholesale hawker;

“health inspector” includes a chief health inspector, a deputy health inspector and a senior health inspector;

“inspector” means an inspector appointed under regulation 231 of these Regulations;

“land” includes any interest in land, any buildings on land, land covered with water and any easement or right in, to or over land;

“licence” includes a permit;

“local authority” means a municipal council, county council, urban or area council, and in respect of any function delegated to or conferred upon a local council, such local council;

“local council” means a local council established or deemed to have been established under regulation 48 of these Regulations;

“local council area” means a local council area established under these Regulations or an area by these Regulations deemed to be a local council area;

“maintain” includes carry on, manage, operate and keep in repair;

“medical officer of health” includes a deputy medical officer of health and an assistant medical officer of health;

“municipal council” means a municipal council established or deemed to have been established under regulation 12 of these Regulations;

“municipality” means an area deemed under regulation 4 or declared under regulation 5 of these Regulations, to be a municipality;

“occupier” includes any person in actual occupation of land or premises without regard to the title under which he occupies, and, in the case of premises subdivided and let to lodgers or various tenants, includes also the person receiving the rent payable by the lodgers or tenants whether on his own account or as agent for any person entitled thereto or interested therein;

“officer” includes a servant;

“official language” means English and such other language as the Minister may declare to be an official language either generally or in respect of any particular local authority or group or class of local authorities;

“owner” means—

(a) in the case of freehold land, the person (other than Her Majesty) owning such land;

(b) in the case of any land held under a lease—

(i) for a period of not less than ten years, or

(ii) for the natural life of any person, or

(iii) which is renewable from time to time at the will of the lessee indefinitely, or

(iv) which is renewable from time to time at the will of the lessee for periods which together with the first period thereof amount in all to not less than ten years,

means the person holding such land under such lease and includes any agent who receives rents or profits from any such person and also any superintendent, overseer or manager of any such lessee in respect of the holding on which he resides as such superintendent, overseer or manager;

“premises” includes any land, building, room, structure, tent, van, vehicle, stream, lake, dam, pool, drain or ditch (open or enclosed) whether public or private;

“public place” includes any road, street, thoroughfare, foot-pavement, footpath, sidewalk, lane, square, open space, garden, park or enclosed space vested in a local authority under these Regulations;

“public road” has the meaning assigned to it in the Public Roads and Roads of Access Ordinance;

Cap. 399.

“public street” means an adopted street as defined in section 3 (1) of the Streets Adoption Ordinance, 1963, and includes a public street as defined in section 16 (9) of that Ordinance;

5 of 1963.

“revenues” in relation to a local authority includes the county fund or general rate fund as the case may be, and all rates, Government contributions and other revenues, whether arising from land or undertakings or from any other source, receivable by the local authority;

“street trading” includes the selling of newspapers, matches, flowers, food and drink and other articles, the distribution of handbills or other advertisements, and shoe-cleaning and any other like occupation carried on in any public place;

“township” means an area administered by a township authority;

“township authority” means a township authority established by regulation 50 of these Regulations;

“urban council” means an urban council established or deemed to have been established under regulation 41 of these Regulations.

(2) Subject to the foregoing provisions of this regulation the Interpretation and General Provisions Ordinance shall apply for the purpose of interpreting and in relation to these Regulations as it applies for the purpose of interpreting and in relation to an Ordinance.

Cap. 2.

PART II—LOCAL GOVERNMENT AREAS

Classification
of local
government
areas.

3. For the purpose of local government, any area may, as hereinafter provided, be declared to be a municipality, a county or a township, and, in the manner hereinafter provided—

- (a) one or more local council areas may be established in any municipality;
- (b) one or more county divisions may be established in any county; and
- (c) one or more local council areas may be established in any county or county division.

Preservation
of existing
local
government
areas.

4. Subject to any alteration of boundaries, the establishment of new local government areas or the constitution of new local authorities which may take effect after the coming into operation of these Regulations—

Cap. 136
(1948).

- (a) every municipality (including the City of Nairobi) existing under the Municipalities Ordinance (hereby repealed) immediately before the coming into operation of these Regulations shall be deemed to be a municipality under these Regulations;

30 of 1952.

- (b) every administrative county existing under the Local Government (County Councils) Ordinance, 1952 (hereby repealed), immediately before the coming into operation of these Regulations shall be deemed to be a county under these Regulations;

12 of 1950
(R.E. 1959).

- (c) every area which, immediately before the coming into operation of these Regulations, was an area under the jurisdiction of an African District Council established or deemed to have been established under the African District Councils Ordinance, 1950 (hereby repealed) shall be deemed to be a county under these Regulations;

Cap. 133
(1948).

- (d) every township existing under the Townships Ordinance (hereby repealed) immediately before the coming into operation of these Regulations shall be a township under these Regulations:

30 of 1952.

Provided that, for the purpose of this paragraph, the expression "township" shall not include any township to which, by virtue of section 9 (b) of the Local Government (County Councils) Ordinance, 1952 (hereby repealed), the Townships Ordinance (hereby repealed) did not, immediately before the coming into operation of these Regulations, apply;

- (e) every county district existing immediately before the coming into operation of these Regulations in any county to which paragraph (b) of this regulation applies, shall be deemed to be a county division established in that county under these Regulations;

12 of 1950
(R.E. 1959).

- (f) every area which, immediately before the coming into operation of these Regulations, was an area under the jurisdiction of an African Locational Council established under the African District Councils Ordinance, 1950 (hereby repealed), shall be deemed to be a local council area in the county in which it is situate.

5. (1) Subject to regulation 7 of these Regulations the Governor in Council may, from time to time, either on receipt of representations under regulation 6 of these Regulations or without any such representations, by order, exercise all or any of the following powers, that is to say, he may—

Powers of Governor in Council in regard to municipalities, etc.

- (a) declare any area to be, or to cease to be a municipality or a county;
- (b) assign a name to any such municipality or county;
- (c) define the boundaries of any such municipality or county;
- (d) from time to time alter the boundaries of any municipality or any county, whether by adding to or subtracting from the area thereof, or otherwise;
- (e) from time to time alter the name of any municipality or any county;
- (f) amalgamate two or more counties into one county;
- (g) divide any county into two or more counties;
- (h) transfer any part of a county to another county or to a municipality; and
- (i) transfer any part of a municipality to a county.

(2) There shall be made, in every order under this regulation, such provision for protecting the interests of any officers of any council affected by the order as to the Governor in Council may seem fit.

6. (1) A municipal council or a county council may at any time make a representation to the Governor in Council through the Minister for the purpose of effecting any of the changes which the Governor in Council may effect under regulation 5 of these Regulations.

Power of councils to submit proposals for alterations.

(2) Upon receipt of any representations under this regulation, the Governor in Council unless for special reasons he considers that the representation ought not to be entertained, or that no inquiry is necessary, shall appoint a public officer or any other person to inquire into and report as to the advisability of the exercise of any of the powers conferred by regulation 5 of these Regulations, whether to give effect to the representation or otherwise, and for the purposes of such inquiry the Governor in Council may confer upon such officer or other person all or any of the powers vested in a commissioner under the Commissions of Inquiry Ordinance, 1962.

11 of 1962.

(3) Notice of such appointment and particulars of the representation shall be published in the Gazette and in at least one local newspaper circulating in the area to which the representation relates.

7. (1) Prior to the exercise of any of the powers conferred by regulation 5 of these Regulations, the Governor in Council unless for special reasons he considers that no inquiry is necessary, shall appoint a public officer or any other person to inquire into and report as to the advisability of the exercise of any of the powers so conferred, and for the purpose of such inquiry the Governor in Council may confer upon such officer or other person all or any of the powers vested in a commissioner under the Commissions of Inquiry Ordinance, 1962:

Powers in regulation 5 exercisable only after inquiry.

11 of 1962.

Provided that any power or powers conferred by regulation 5 of these Regulations, the advisability of the exercise of which has been the subject of inquiry and report under regulation 6 of these Regulations, may be exercised without any inquiry under this regulation.

(2) Notice of such appointment and particulars of the power or powers proposed to be exercised shall be published in the Gazette and in at least one local newspaper circulating in the area to which the proposal relates.

Powers with respect to townships.

8. (1) The Minister may, from time to time, by order—

- (a) declare any area or place to be or to cease to be a township;
- (b) assign a name to any township and from time to time alter the name of any township;
- (c) define the boundaries of any township, and from time to time alter or amend the boundaries of any township, whether by adding to or subtracting from the area thereof, or otherwise.

(2) Prior to the exercise of any of the powers conferred by paragraph (1) of this regulation, the Minister may, in his discretion, appoint a public officer or any other person to inquire into and report as to the advisability of the exercise of any of the powers so conferred; and where a public officer or other person is so appointed, notice of the appointment and particulars of the power or powers proposed to be exercised shall be published in the Gazette and in at least one local newspaper circulating in the area to which the proposals relate.

Powers of Governor in Council with respect to counties.

9. (1) The Governor in Council may, from time to time, by order—

- (a) establish one or more county divisions in any county;
- (b) assign a name to any county division and from time to time alter the name of any county division;
- (c) define the boundaries of any county division and from time to time alter or amend the boundaries of any county division, whether by adding to or subtracting from the area thereof, or otherwise;
- (d) amalgamate two or more county divisions within the same county into one county division;
- (e) divide any county division into two or more county divisions;
- (f) transfer any part of a county division to another county division within the same county.

(2) Prior to the exercise of any of the powers conferred by paragraph (1) of this regulation, the Governor in Council may, in his discretion, appoint a public officer or any other person to inquire into and report as to the advisability of the exercise of any of the powers so conferred; and where a public officer or other person is so appointed, notice of the appointment and particulars of the power or powers proposed to be exercised shall be published in the Gazette and in at least one local newspaper circulating in the area to which the proposals relate.

10. (1) If the Minister is satisfied that a substantial number of the registered voters residing in any area within a municipality or a county so desires, or if he is satisfied, in respect of any area in a municipality or a county, that the council in that municipality or county, as the case may be, so desires, he may appoint a public officer or other person to inquire into and report to him upon the advisability of declaring that area, or any part of that area, together with any adjoining area in the municipality or county, as the case may be, to be a local council area.

Establishment, etc., of local council areas in municipalities, counties and county divisions.

(2) Notice of such appointment shall be published in the Gazette and in at least one local newspaper circulating in the area, and any person interested in the matters to be inquired into, including the municipal council in the case of an area in a municipality, and including the council of a county and a county division, in the case of an area in such county or county division, shall be entitled to be heard by the person so appointed, and the public officer or other person appointed shall be given all the necessary facilities by the council concerned for making the inquiry.

(3) Where the public officer or other person appointed under this regulation recommends the declaration of any area to be a local council area, the Minister may, in his discretion reject the recommendation or by notice in the Gazette, declare that area to be a local council area, and define the boundaries thereof:

Provided that—

- (i) the Minister may, if he thinks fit, adopt boundaries for the area other than those recommended in the report; and
- (ii) no area which is partly situate inside the boundaries of a local authority area and partly outside such boundaries shall be declared to be a local council area.

(4) The Minister may, from time to time, on the recommendations of a public officer or other person appointed by him by notice in the Gazette to inquire into and report upon the advisability of exercising any of the powers conferred by this paragraph, or on the proposals of a municipal council in respect of a municipality, or a county council in respect of a county, arising out of a review held under regulation 11 of these Regulations, or without any such recommendation or proposal, by order—

- (a) alter the name of any local council area;
- (b) alter or amend the boundaries of any local council area, whether by adding to or subtracting from the area, or otherwise;
- (c) amalgamate two or more contiguous local council areas within the same municipality or within the same county division;
- (d) transfer any part of a local council area to another local council area within the same municipality or within the same county division; and
- (e) amalgamate two or more contiguous local council areas within the same county or transfer any part of a local council area to another local council area within the same county:

Provided that no such amalgamation or transfer shall create a local council area which is partly within the boundaries of a county division and partly outside such boundaries.

Periodical
review in
counties and
municipalities.

11. (1) At any time after the expiration of five years from the coming into operation of these Regulations, and thereafter at any time after the expiration of ten years from the completion of the last review under these Regulations, the county council in the case of a county, and the municipal council in the case of a municipality, may, whenever the council thinks it desirable, and shall, if so required by the Minister, within such time as the Minister may allow—

(a) in the case of a county council, review the circumstances of the county and every county division situate therein and every local council area in any such county or county division;

(b) in the case of a municipal council, review the circumstances of the municipality and every local council area situate therein,

for the purpose of considering whether it is desirable to request the Minister, in the case of a county, to exercise any of the powers conferred by regulations 9 and 10 of these Regulations, or, in the case of a municipality, to exercise any of the powers conferred by regulation 10 of these Regulations; and shall send to the Minister a report of the review together with proposals, if any, as to the exercise of any of the powers conferred as aforesaid.

(2) (a) The review under this regulation by the council of a county shall be conducted in consultation with the council of every county division (if any) situate in the county and with the local council of every local council area (if any) situate in the county or any county division therein and, if the county council thinks fit, with any municipal council.

(b) The review under this regulation by a municipal council shall be conducted in consultation with the local council of every local council (if any) situate in the municipality and, if the municipal council thinks fit, with any county council or any urban or area council.

(3) As soon as any proposals are made to the Minister under paragraph (1) of this regulation, the council making the proposals shall send copies thereof to the councils of the several local government areas appearing to the council to be concerned, and shall publish in one or more local newspapers circulating in those local government areas a notice stating that proposals have been made and that a copy thereof is open to inspection at a specified place within the area of jurisdiction of the council making the proposals.

(4) (a) The Minister shall consider the proposals and any representations with respect to the proposals, or any of them, which may have been made by any local authority or local government voters affected thereby, and either may make an order under regulation 9 or regulation 10 of these Regulations giving effect to the proposals, or any of them, with or without modifications, or may refuse to make such an order.

(b) In respect of an order under regulation 9 of these Regulations made consequent upon a review under this regulation, an inquiry under paragraph (2) of regulation 9 shall be necessary if an objection with respect to the proposal to be effected by the order is made by a local authority affected thereby, and is not withdrawn.

PART III—CONSTITUTION OF LOCAL AUTHORITIES

Municipal Councils

12. (1) For every municipality there shall be a municipal council of the first or second class established or deemed to have been established under these Regulations and every municipal council shall consist of such number of councillors as may be elected, nominated or appointed under regulation 26 of these Regulations and, in the case of a municipal council of the first class, of such number of aldermen (if any) as may be resolved under regulation 22 and elected under regulation 23 of these Regulations.

Establishment and incorporation of municipal councils.

(2) The Governor in Council shall, by order, establish a municipal council of the first or second class in respect of any municipality for which there is not in existence a municipal council established or deemed to have been established under these Regulations.

(3) Every municipal council shall, under the name of "The Municipal Council of", by each and severally a body corporate with perpetual succession and a common seal (with power to alter such seal from time to time), and shall by such name be capable in law of suing and being sued, and of acquiring, holding and alienating land.

(4) On the coming into operation of these Regulations—

(a) the City Council of Nairobi shall be deemed to be a municipal council of the first class established under these Regulations for the City of Nairobi; and

(b) every municipal council established by or under the Municipalities Ordinance (hereby repealed) for any municipality which is, by virtue of regulation 4 (a) of these Regulations, a municipality shall, under the same name, be deemed to be a municipal council of the first class established under these Regulations for that municipality; and

Cap. 136 (1948).

(c) the Municipal Board of Kitale established under the Municipalities Ordinance (hereby repealed) for the Municipality of Kitale, shall, under the name of the Municipal Council of Kitale, be deemed to be a municipal council of the second class established under these Regulations for that Municipality.

Cap. 136 (1948).

13. (1) The mayor of every municipal council of the first class shall be elected annually by the council from among the aldermen (if any) and councillors of the council.

Qualification of mayor and tenure of office.

(2) Subject to regulation 16 of these Regulations, the mayor shall, unless he resigns or ceases to be qualified or becomes disqualified, continue in office until his successor is elected and assumes office.

(3) During his term of office, the mayor shall continue to be a member of the council, notwithstanding the provisions of these Regulations and any rules made thereunder relating to the retirement of members of the Council.

(4) A retiring mayor may be re-elected to the office which he is vacating.

Election of
mayor.

14. (1) The mayor shall be elected by the aldermen (if any) and councillors present, by secret ballot, and such election shall be the first business transacted at the first meeting of the council, and thereafter at each annual meeting of the council.

(2) On the election of the mayor the outgoing mayor shall preside:

Provided that at the first meeting of the council after its constitution, and subsequently if the office of the outgoing mayor is vacant from any cause, or if the outgoing mayor is a candidate for re-election as mayor, or if the mayor is for any reason unable to attend, the aldermen (if any) and councillors present shall elect a chairman from among themselves (other than a candidate for the office of mayor) who shall preside for the purposes of such election.

(3) The person presiding at the election of the mayor shall have a deliberative vote only, and, in the case of equality of votes for two or more candidates, the election shall be determined by lot between those candidates.

(4) Notwithstanding paragraph (1) of this regulation, no person who is a candidate for election to the office of mayor shall be entitled to speak or vote in the election.

Deputy mayor.

15. (1) Immediately after the election of the mayor of a municipal council of the first class there shall be elected from amongst the aldermen (if any) and councillors of the council a deputy mayor, who shall be elected by the aldermen and councillors present at the meeting, by secret ballot.

(2) Subject to regulation 16 of these Regulations, the deputy mayor shall, unless he resigns or ceases to be qualified or becomes disqualified, continue in office until his successor is elected and assumes office.

(3) During his term of office, the deputy mayor shall continue to be a member of the council, notwithstanding the provisions of these Regulations and any rules made thereunder relating to the retirement of members of the council.

(4) A retiring deputy mayor may be re-elected to the office which he is vacating.

(5) On the election of the deputy mayor, the newly elected mayor or, in his absence, an alderman or councillor elected as chairman by the aldermen and councillors present, shall preside, but he shall have a deliberative vote only, and in the case of equality of votes for two or more candidates, the election shall be determined by lot between those candidates.

(6) Notwithstanding paragraph (1) of this regulation, no person who is a candidate for election to the office of deputy mayor shall be entitled to speak or vote in the election.

16. (1) In the event of the office of mayor or deputy mayor becoming vacant from any cause whatsoever during the term of office of such mayor or deputy mayor, a successor shall, at the next meeting but one of the council after such vacancy occurs, be elected by the aldermen (if any) and councillors from amongst themselves, by secret ballot, and the person so elected shall subject to regulation 18 of these Regulations, forthwith enter upon his office and shall serve as mayor or deputy mayor, as the case may be, for the remainder of the period for which the mayor or deputy mayor whose office became vacant, had been elected.

Filling vacancy in office of mayor and deputy mayor.

(2) Paragraphs (2), (3) and (4) of regulation 14 of these Regulations shall apply *mutatis mutandis* with respect to any election under this regulation.

17. The deputy mayor shall, whenever it shall be necessary owing to the death, resignation, absence, illness or incapacity of the mayor, have authority to exercise all the powers and discharge all the duties vested in and imposed upon the mayor under and by virtue of these Regulations.

Functions of deputy mayor.

18. (1) A person who has been elected mayor or deputy mayor shall, within seven days after the day of election and before he acts in such office make before and deliver to the clerk a declaration of acceptance of office in form A in the First Schedule to these Regulations.

Mayor and deputy mayor to make declaration of acceptance.

(2) Where the declaration of office is not made or delivered as aforesaid the office of mayor or deputy mayor, as the case may be, shall thereupon become vacant.

19. (1) A municipal council of the first class may vote out of the revenues of the council as a personal allowance to the mayor such sum, not exceeding such maximum as the Minister may determine, as it thinks reasonable.

Allowance to mayor.

(2) The amount of the allowance shall be fixed at the commencement of the mayor's term of office and shall not be altered during the said term.

(3) The expenditure out of such allowance shall not be subject to any audit, but the mayor's signature therefor shall be sufficient.

(4) Whenever the duties of the office of mayor are performed, for any continuous period not being less than one month, by the deputy mayor under any of the circumstances mentioned in regulation 17 of these Regulations, the allowance under this regulation shall be paid for such period to the deputy mayor.

20. At the first meeting of a municipal council of the second class and thereafter at each annual meeting of the council, the chairman and vice-chairman of the council shall be elected in the manner provided in regulation 14 and regulation 15, respectively, of these Regulations for the election of the mayor and the deputy mayor of a municipal council of the first class and regulations 13, 14, 16, 17 and 18 shall apply to the office of chairman of a municipal council of the second class and regulations 15, 16, 17 and 18 shall apply to the office of vice-chairman of such a municipal council, equally as to the respective offices of mayor and deputy mayor of municipal councils of the first class.

Chairman and vice-chairman of municipal council.

Allowance to chairman of municipal council.

21. A municipal council of the second class may, with the consent of the Minister, vote out of the revenues of the council as a personal allowance to the chairman such sum as the Minister may approve, whereupon paragraphs (2), (3) and (4) of regulation 18 of these Regulations shall apply *mutatis mutandis* in respect thereof.

Resolution as to aldermen.

22. A municipal council of the first class may, with the approval of the Minister, by resolution of at least two-thirds of its councillors, resolve to have such number of aldermen, not exceeding in number one-third of the elected councillors of the council, as it may specify in the resolution.

Election of aldermen.

23. (1) The aldermen of a municipal council of the first class shall be elected by the councillors of the council, by secret ballot.

(2) An alderman shall not vote in the election of an alderman.

(3) In the case of equality of votes upon an election of aldermen, the election shall be determined by lot between those candidates having equal votes.

(4) Aldermen elected under these Regulations shall be elected during the month of May but shall not enter upon their offices as aldermen until the annual meeting of the council next following their election.

Qualifications and term of office of alderman.

24. (1) A person shall not be qualified to be elected or to be an alderman unless he is a councillor, or qualified to be elected as an elected councillor, of the council.

(2) If a councillor is elected to, and accepts, the office of alderman of the council, his office of councillor shall thereupon become vacant.

(3) The term of office of an alderman shall be six years but of the first aldermen to be elected under these Regulations one-half or as near as may be shall retire on the expiration of three years from election, and those to retire shall, in the absence of agreement between the aldermen, be determined by lot.

(4) Retiring aldermen shall be eligible for re-election.

Casual vacancies among aldermen.

25. In the event of a casual vacancy in the office of alderman occurring, an election shall be held by the same persons and in the same manner as an election to fill an ordinary vacancy; and the person elected shall hold office until the time when the person in whose place he is elected would have ceased to hold office.

Number of councillors.

26. The number of councillors of a municipal council shall be as follows—

(a) such number of councillors as the Governor in Council may, by order determine, elected for each electoral area by the electorate thereof, and the Governor in Council, may, by order, determine that not more than one-third of the total number of elected councillors shall have such qualifications or special interests as the Governor in Council may determine; and

- (b) such number of councillors nominated by the Minister to represent the Government, the Organization or any other special interests, as the Governor in Council may, by order, determine; and
- (c) where the municipal council in its discretion so agrees with the council of any contiguous county, one councillor from amongst the councillors of each such council:

Provided that—

- (i) at least one elected councillor elected by each electoral area shall not be required to possess any qualifications or special interests determined under paragraph (a) of this regulation; and
- (ii) the total number of councillors under paragraph (b) and paragraph (c) of this regulation shall not exceed one-third of the number of elected councillors under paragraph (a) of this regulation.

27. (1) The term of office of the elected councillors specified in regulation 26 (1) (a) of these Regulations shall be three years.

Terms of office of councillors.

(2) The term of office of every councillor nominated under regulation 26 (1) (b) of these Regulations shall be three years or such shorter period as the Minister may, at the time of nomination, specify.

(3) The term of office of every councillor appointed under regulation 26 (1) (c) of these Regulations shall be three years or such shorter period as may, at the time of appointment, be specified by the council which appoints such councillor:

Provided that, where any such councillor ceases to be a councillor of the county council which appointed him, he shall forthwith cease to be a councillor of the municipal council.

County Councils

28. (1) For every county there shall be a county council of the first or second class established or deemed to have been established under these Regulations, and every county council shall consist of such number of councillors as may be elected, nominated or appointed under regulation 39 of these Regulations and, in the case of a county council of the first class, of such number of aldermen (if any) as may be resolved under regulation 35 and elected under regulation 36 of these Regulations.

Establishment and incorporation of county councils.

(2) The Governor in Council shall, by order, establish a county council of the first or second class in respect of any county for which there is not in existence a county council established or deemed to have been established under these Regulations.

(3) Every county council shall, under the name of "The County Council of " be each and severally a body corporate with perpetual succession and a common seal (with power to alter such seal from time to time) and shall by such name be capable in law of suing and being sued, and of acquiring, holding and alienating land.

(4) On the coming into operation of these Regulations—

- 30 of 1952.
- (a) the county council of every administrative county existing under the Local Government (County Councils) Ordinance, 1952 (hereby repealed), which is, by virtue of paragraph (b) of regulation 4 of these Regulations, a county under these Regulations shall, under the same name be deemed to be a county council of the second class established under these Regulations for that county; and
- 12 of 1950
(R.E. 1959).
- (b) every African District Council established or deemed to have been established under the African District Councils Ordinance, 1950 (hereby repealed) for any area which is, by virtue of paragraph (c) of regulation 4 of these Regulations, a county under these Regulations, shall, under the same name (save only that the words "County Council" shall be substituted for the words "African District Council") be deemed to be a county council of the second class established under these Regulations for that county.

Election of
chairman
of county
council.

29. (1) The chairman of every county council shall, unless he is nominated under paragraph (7) of this regulation be elected at the first meeting of the council and thereafter at the annual meeting of the council in each year, by the council from amongst the aldermen (if any) and councillors.

(2) A retiring chairman may be re-elected or renominated to the office which he is vacating.

(3) The chairman, if elected, shall be elected by the aldermen (if any) and councillors present at the meeting by secret ballot and such election shall be the first business transacted at that meeting.

(4) On the election of the chairman, the outgoing chairman shall preside:

Provided that at the first meeting of the council after its constitution, and subsequently if the office of the outgoing chairman is vacant from any cause, or if the outgoing chairman is a candidate for re-election as chairman, or the chairman is for any reason unable to attend, those present and entitled to vote at the election shall elect a person from amongst themselves (other than a candidate for the office of chairman) who shall preside for the purpose of such election.

(5) The person presiding at the election of the chairman shall have a deliberative vote only, and, in the case of equality of votes for two or more candidates, the election shall be determined by lot between those candidates.

(6) Notwithstanding paragraph (3) of this regulation no person who is a candidate for election to the office of chairman shall be entitled to speak or vote in the election.

(7) The Minister may, in respect of any county council of the second class nominate the chairman thereof from amongst the members of the council or persons qualified to be members of the council.

30. (1) Immediately after the election of the chairman of a county council there shall be elected by the council a vice-chairman from amongst the aldermen (if any) and councillors:

Vice-chairman of county council.

Provided that where the Minister has nominated the chairman of a county council, the election of the vice-chairman shall be the first business transacted at the first meeting of the council or at the annual meeting of the council, as the case may be.

(2) A retiring vice-chairman may be re-elected to the office which he is vacating.

(3) Paragraphs (3), (5) and (6) of regulation 29 of these Regulations shall, *mutatis mutandis*, apply in respect of the election of the vice-chairman.

31. (1) Subject to regulation 32 of these Regulations, the chairman and the vice-chairman of a county council shall, unless he resigns or ceases to be qualified or becomes disqualified, continue in office until his successor is nominated or elected, as the case may be.

Terms of office of chairman and vice-chairman of county council.

(2) During their terms of office the chairman and vice-chairman shall continue to be members of the council notwithstanding the provisions of these Regulations and any rules made thereunder, relating to the retirement of members.

32. (1) In the event of the office of chairman or vice-chairman of a county council becoming vacant from any cause whatsoever during the term of office of such chairman or vice-chairman, then, unless a successor is nominated under paragraph (2) of this regulation, a successor shall, at the next meeting but one of the council after such vacancy occurs, be elected by the council from amongst the aldermen (if any) and councillors and the person so elected shall, subject to paragraph (4) of this regulation, forthwith enter upon his office and shall serve as chairman or vice-chairman, as the case may be, for the remainder of the period for which the chairman or vice-chairman had been elected or nominated.

Filling vacancy in office of chairman and vice-chairman.

(2) In the event of the office of chairman of a county council of the second class becoming vacant as aforesaid, the Minister may nominate a successor from amongst the members or persons qualified to be members of that council, and the person so nominated shall, subject to paragraph (4) of this regulation, forthwith enter upon his office and shall serve as a chairman for the remainder of the period for which the chairman had been elected or nominated.

(3) Paragraphs (3), (5) and (6) of regulation 29 of these Regulations shall, *mutatis mutandis*, apply in respect of the election of a chairman and a vice-chairman under this regulation.

(4) Regulation 18 of these Regulations shall apply to a person elected or nominated to be chairman or vice-chairman equally as it applies to a person elected to be mayor or deputy mayor.

33. The vice-chairman of a county council shall, whenever it is necessary owing to the death, resignation, absence, illness or incapacity of the chairman, have authority to exercise all the powers and discharge all the duties vested and imposed upon the chairman under and by virtue of these Regulations.

Functions of vice-chairman.

Allowance to
chairman.

34. (1) A county council of the first class in its discretion, and a county council of the second class with the consent of the Minister, may vote out of its revenues as a personal allowance to the chairman such sum, not exceeding such maximum as the Minister may determine, as it thinks reasonable.

(2) The amount of the allowance shall be fixed at the commencement of the chairman's term of office and shall not be altered during the said term.

(3) The expenditure of such allowance shall not be subject to any audit, but the chairman's signature therefor shall be sufficient.

(4) Whenever the duties of the office of chairman are performed, for a continuous period not being less than one month, by the vice-chairman under any of the circumstances mentioned in regulation 23 of these Regulations, the allowance under this regulation shall be paid for such period to the vice-chairman.

Resolution
as to
aldermen.

35. A county council may, subject to the approval of the Minister, by resolution of at least two-thirds of its councillors, resolve to have such number of aldermen, not exceeding in number one-third of the councillors elected or appointed under paragraphs (a) and (b) of regulation 39 of these Regulations, as it may specify in the resolution.

Election of
aldermen.

36. (1) The aldermen of a county council shall be elected by the councillors of the council, by secret ballot.

(2) An alderman shall not vote at the election of an alderman.

(3) In the case of an equality of votes upon an election of aldermen, the election shall be determined by lot between those candidates having equal votes.

(4) The first aldermen shall be elected during the month of May but shall not enter upon their offices as aldermen until the annual meeting of the council next following their election.

Qualifications
and term of
office of
aldermen.

37. (1) A person shall not be qualified to be elected or to be an alderman unless he is a councillor, or qualified to be elected as an elected councillor of the council.

(2) If a councillor is elected to, and accepts the office of, alderman of the council, his office of councillor shall thereupon become vacant.

(3) The term of office of an alderman shall be six years, but of the first aldermen to be elected under this regulation one-half or as near as may be shall retire on the expiration of three years from election, and those to retire shall, in the absence of agreement between the aldermen, be determined by lot.

(4) Retiring aldermen shall be eligible for re-election.

Casual
vacancies
amongst
aldermen.

38. In the event of a casual vacancy in the office of alderman occurring, an election shall be held by the same persons and in the same manner as an election to fill an ordinary vacancy; and the person elected shall hold office until the time when the person in whose place he is elected would have ceased to hold office.

39. (1) The number of councillors of a county council shall be as follows—

Number of
councillors.

- (a) such number of councillors (if any), as the Governor in Council may, by order, determine, elected for each electoral area by the electorate thereof and the Governor in Council may, by order, determine that not more than one-third of the total number of elected councillors shall have such qualifications or special interests, as the Governor in Council may determine;
- (b) such number of councillors (if any) appointed by the councils of such county divisions situate within the county, from amongst their respective councillors, as the Governor in Council may, by order, determine;
- (c) such number of councillors nominated by the Minister to represent the Government, the Organization or any other special interests, as the Governor in Council may, by order, determine;
- (d) where the county council in its discretion so agrees with the council of any contiguous municipality or county, one councillor from amongst the councillors of each such council:

Provided that—

- (i) at least one elected councillor elected by each electoral area shall not be required to possess any qualifications or special interests determined under subparagraph (a) of this regulation; and
- (ii) the total number of councillors under paragraph (c) and paragraph (d) of this regulation shall not exceed one-third of the total number of councillors under paragraph (a) and paragraph (b) of this regulation.

(2) Every councillor appointed under subparagraph (b) of the preceding paragraph shall, for all the purposes of these Regulations, be deemed to be an elected councillor of the county council.

40. (1) The term of office of every councillor nominated under regulation 39 (1) (c) of these Regulations shall be three years or such shorter period as the Minister may, at the time of nomination, specify.

Term of
office of
councillors.

(2) The term of office of every councillor appointed under paragraphs (b) or (d) of regulation 39 of these Regulations shall be three years or such shorter period as may, at the time of appointment, be specified by the council which appoints such councillor:

Provided that, where any such councillor ceases to be a councillor of the urban or area council or, as the case may be, of the municipal council which appointed him, he shall forthwith cease to be a councillor of the county council.

(3) The term of office of the elected councillors specified in regulation 39 (1) (a) of these Regulations shall be three years.

Urban and Area Councils

Establishment and incorporation of urban and area councils.

41. (1) For every county division there shall be an urban council or an area council established or deemed to have been established under these Regulations, and every such council shall consist of—

(a) the chairman;

(b) the vice-chairman;

(c) such number of councillors as may be elected, nominated and appointed under regulation 46 of these Regulations.

(2) The Governor shall by order establish an urban or area council in respect of any county division for which there is not in existence such a council established or deemed to have been established under these Regulations.

(3) Every urban council and area council shall under the name of "The Urban Council" or "The Area Council" as the case may be, shall be each and severally a body corporate with perpetual succession and a common seal (with power to alter such seal from time to time), and shall by such name be capable in law of suing and being sued, and of acquiring, holding and alienating land:

Provided that the Minister may in any particular case approve the use of any other name.

(3) On the coming into operation of these Regulations the county district council of every county district existing under the Local Government (County Councils) Ordinance, 1952 (hereby repealed), which is, by virtue of regulation 4 (c) of these Regulations, a county division under these Regulations, shall, under the same name (save only that the word "Urban" or the word "Area" shall be substituted for the words "Urban District" or "Rural District" respectively) be deemed to be an urban or area council, as the case may be, established under these Regulations for that county division.

Chairman and vice-chairman of urban or area councils.

42. (1) At the first meeting of an urban or area council and thereafter in each year at the annual meeting of the council, the chairman and vice-chairman of the council shall, unless the chairman is nominated under paragraph (2) of this regulation, be elected in the manner provided in regulation 29 and regulation 30, respectively, of these Regulations, for the election of the chairman and vice-chairman of a county council and regulations 29 and 30 of these Regulations shall apply to the offices of the chairman and vice-chairman of an urban or area council equally as to the offices of the chairman and vice-chairman of a county council.

(2) The Minister may nominate the chairman of any urban or area council from amongst the councillors thereof or persons qualified to be councillors.

Term of office of chairman and vice-chairman.

43. (1) Subject to regulation 44 of these Regulations, the chairman and the vice-chairman of an urban or area council shall, unless he resigns or ceases to be qualified or becomes disqualified, continue in office until his successor is nominated or elected, as the case may be.

(2) During their terms of office, the chairman and vice-chairman shall continue to be members of the council, notwithstanding the provisions of these Regulations and any rules made thereunder relating to the retirement of members.

44. (1) In the event of the office of chairman or vice-chairman of an urban or area council becoming vacant from any cause during the term of office of such chairman or vice-chairman, then, unless a successor is nominated under paragraph (2) of this regulation, a successor shall, at the next meeting but one of the council, after such vacancy occurs, be elected by the council from amongst the councillors, and the person so elected shall enter upon his office and shall serve as chairman or vice-chairman, as the case may be, for the remainder of the period for which the chairman or vice-chairman had been elected or nominated.

Filling vacancy in office of chairman and vice-chairman.

(2) In the event of the office of chairman of an urban or area council becoming vacant, the Minister may nominate a successor from amongst the councillors or persons qualified to be councillors of such a council.

(3) Paragraphs (3), (5) and (6) of regulation 29 of these Regulations shall, *mutatis mutandis*, apply in respect of the election of a chairman and vice-chairman under this regulation.

45. The vice-chairman of an urban or area council shall, whenever it is necessary owing to the death, resignation, absence, illness or incapacity of the chairman, have authority to exercise all the powers and discharge all the duties vested and imposed upon the chairman under and by virtue of these Regulations.

Functions of vice-chairman.

46. The number of councillors of an urban or area council, shall be as follows—

Number of councillors.

(a) such number of councillors elected for each electoral area by the electorate thereof and the Minister may, by order, determine that not more than one-third of the total number of elected councillors shall have such qualifications or special interests as the Minister may determine; and

(b) such number of councillors nominated by the Minister to represent the Government, the Organization or any other special interests; and

(c) such number of councillors (if any) appointed from amongst its councillors by the county council in whose area the urban or area council is situate,

as the Minister may, by order, determine:

Provided that—

(i) at least one elected councillor elected by each electoral area shall not be required to possess any qualifications or special interests determined under paragraph (a) of this regulation; and

(ii) the total number of councillors under paragraph (b) and paragraph (c) of this regulation shall not exceed one-third of the number of councillors under paragraph (a) of this regulation.

Term of office of
councillors.

47. (1) The term of office of every councillor nominated under regulation 46 (b) of these Regulations shall be three years or such shorter period as the Minister may, at the time of nomination specify.

(2) The term of office of every councillor specified in regulation 46 (a) of these Regulations shall be three years.

(3) The term of office of every councillor specified in regulation 46 (c) of these Regulations shall be three years or such shorter period as may, at the time of appointment, be specified by the council which appoints such councillor:

Provided that, where any such councillor ceases to be a councillor of the county council which appointed him, he shall forthwith cease to be a councillor of the county division council.

Local Councils

Establishment
and
incorporation
of local
councils.

48. (1) For every local council area the Minister shall, after consultation with the council of the county and with the council of the county division (if any) in which is situate the area or, as the case may be, after consultation with the council of the municipality in which is situate the area, establish, by order, a local council in the area, and shall in the order specify the constitution of the local council, including the number of councillors to be elected, appointed or nominated, and in particular—

(a) in the case of a local council area situate in the county division of a county, the number of councillors (if any) of the county council and the number of councillors (if any) of the council of the county division, who shall be appointed members of the local council; and

(b) in the case of a local council area situate in a municipality, the number of municipal councillors (if any) who shall be appointed members of the local council.

(2) Every local board shall, under the name of "The Local Council of", be a body corporate with perpetual succession, and shall by such name be capable in law of suing and being sued, and of acquiring, holding and alienating land.

(3) Any act of a local council may be signified by an instrument under the hands, or, if an instrument under seal is required, under the hands and seals, of two members of the local council, and any instrument purporting to be so executed shall, until the contrary is proved, be deemed to have been so executed.

Term of office of
councillors of
local councils.

49. The terms of office of the elected, nominated and appointed councillors of a local council shall be the same as those prescribed by these Regulations for such councillors respectively of a county division council and regulations 42, 43, 44 and 45 of these Regulations shall apply, *mutatis mutandis*, to the chairman and vice-chairman of every local council.

Township Authorities

Constitution of
township
authorities.

50. (1) In every township there shall be a township authority which shall have all the functions as are respectively vested in a township authority by these Regulations or otherwise.

(2) The township authority shall be the District Commissioner of the district in which is situate the township, acting on the advice of a township committee appointed by the Minister and consisting of such number of members as the Minister shall think fit:

Provided that every such committee shall include—

- (i) persons resident in the township; and
- (ii) in respect of a township surrounded by or bordering upon a county, not less than one person nominated by the council of that county.

(3) On the coming into operation of these Regulations in every township which, by virtue of regulation 4 (d) of these Regulations, is a township under these Regulations, the township authority existing under the Township Ordinance shall, under the same name, be deemed to be a township authority established under these Regulations for that township.

51. The Minister may, in his discretion, from time to time, by order alter the constitution of any township committee.

Alteration of constitution of township committees.

PART IV—LOCAL GOVERNMENT ELECTIONS AND MEMBERSHIP

Electoral Areas

52. This part of these Regulations shall be subject to the Kenya (Electoral Provisions) (Registration of Voters) Order in Council, 1962, and shall not affect any regulations or thing made or done thereunder.

Part subject to L.N. 407/62.

53. (1) For the purpose of elections to any municipal, county, urban, area and local council, the Governor in Council may, by order, divide the area thereof into electoral areas and may from time to time alter the boundaries of such areas.

Establishment of electoral areas.

(2) The division into electoral areas may be made by reference to maps or otherwise as may be convenient and practicable.

(3) If the Governor in Council or the Minister, as the case may be, has not divided the area of any such local authority into electoral areas, then the whole of the area of such local authority shall be one electoral area.

(4) Any order made under this regulation shall specify the number of councillors to be elected for each electoral area.

54. (1) A county council or municipal council may, at any time make a representation to the appropriate authority for the alteration of the boundaries of any electoral area, or the alteration of the number of electoral areas, in its area.

Alteration of electoral areas.

(2) Where an urban, area or local council has made proposals to the county council and is aggrieved by the refusal or neglect of that council to make a representation to the appropriate authority under paragraph (1) of this regulation the urban, area or local council may itself make a representation to the appropriate authority as to the whole or any part of the proposals.

(3) In the case of a representation relating to electoral areas of a county or of a county division or of a local council area, the council making the representation shall as soon as the representation has been made—

- (a) in the case of a representation relating only to the alterations of the boundaries of electoral areas, send a copy thereof to the council of every county division in the county which is wholly or in part comprised in any of the electoral areas proposed to be altered; and
- (b) in every other case, send a copy thereof to the council of every county division in the county; and
- (c) if the representation is made by an urban, area or local council, send a copy thereof to the county council.

(4) The council making the representation shall forthwith publish in one or more local newspapers circulating in the area concerned a notice stating that the representation has been made and that a copy thereof is open to inspection at a specified place within the municipality or county and that petitions with respect thereto may be made to the appropriate authority within six weeks after the publication of the notice.

(5) Where any such representation has been made, the appropriate authority shall, except as provided in paragraph (7) of this regulation, appoint a public officer or other person to inquire into and report as to the advisability of the exercise of any of the powers specified in paragraph (6) of this regulation, and for the purposes of such inquiry the appropriate authority may confer upon him all or any of the powers vested in a commissioner under the Commissions of Inquiry Ordinance, 1962.

11 of 1962.

(6) Upon any such representation being made, the appropriate authority may either—

- (a) make such order as it may think fit for altering the boundaries of any electoral area or altering the number of the electoral areas; or
- (b) refuse to make an order.

(7) The appropriate authority may exercise any of its powers under the preceding paragraph without any inquiry as aforesaid being held—

- (a) if the appropriate authority for special reasons considers that the representation ought not to be entertained; or
- (b) if within six weeks after the publication of the notice referred to in paragraph (4) of this regulation a petition against the representation has not been received from any local authority in or for the municipality or county, as the case may be, or from at least one hundred or one-sixth of the local government electors for any electoral area in the municipality, the county, the county division or the local council area, as the case may be, whichever number is the smaller; or
- (c) if all petitions so received have been withdrawn.

(8) For the purposes of this regulation, the appropriate authority shall be—

- (a) in the case of the electoral areas of a county or municipality, the Governor in Council; and
- (b) in all other cases the Minister.

Voters and Electoral Rolls

55. For the purpose of elections to local authorities there shall be an electoral roll or rolls in respect of each such local authority, compiled and revised in accordance with these Regulations and any rules made under regulation 72 of these Regulations.

Preparation of electoral rolls.

56. The persons entitled to vote at an election shall be those persons whose names appear on the electoral roll in force for that election.

Only those on electoral rolls may vote.

Elections and Membership

57. The elected councillors of every local authority under these Regulations shall be elected as councillors as by these Regulations is prescribed or directed, whether by rules or otherwise.

Elections to be in accordance with Regulations and rules.

58. A person shall, unless disqualified by virtue of these Regulations or any other written law, be qualified to be elected and to be a councillor of a local authority if he is of full age and is entitled to be enrolled as a voter for the area of that local authority, or, in the case of an election to the council of a county division, is entitled to be enrolled as a voter for the area of the county within which such county division is situate:

Qualifications for election and holding office.

Provided that, where the constitution of a local authority prescribes that certain councillors shall have any special qualification or interest, then no person shall be nominated for election as such councillor unless he has such special qualification or interest.

59. A councillor of any local authority ceasing to hold any office to which he is elected, nominated or appointed under these Regulations shall, unless he is not qualified or is disqualified, be eligible for re-election, renomination or re-appointment.

Councillors may be re-elected, etc.

60. (1) Subject to the provisions of this regulation a person shall be disqualified from being elected or being a councillor of a local authority if he—

Disqualification of candidates and councillors.

- (a) holds any paid office or other place of profit (other than that of mayor or chairman) wholly or partly in the gift or disposal of the local authority or of any committee thereof; or
- (b) has within five years before the day of his election or since his election been surcharged under regulation 236 of these Regulations in respect of an amount exceeding one thousand shillings by an inspector; or
- (c) has within twelve months next before the day of his election or since his election been convicted of any criminal offence, whether in Kenya or elsewhere, and has been sentenced to imprisonment for a period of not less than two years and has not received a free pardon:

Provided that the Governor may by order in any particular case remove such disqualification; or

- (d) cannot read, write and speak the official language, or at least one of the official languages if there is more than one official language, of the local authority; or
- (e) is disqualified for being elected or for being a councillor or member of that authority under or by virtue of any of the provisions of the Election Offences Ordinance; or
- (f) has within three years from the date of his election or since his election been convicted of an offence against regulation 89 of these Regulations; or
- (g) is in default of payment of any charges or debts, other than rates, due to the local authority for a period exceeding two months after the same shall have become due:

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Provided that—

- (i) for the purposes of subparagraphs (b) and (c) of this paragraph, the ordinary date on which the period allowed for making an appeal or application with respect to the surcharge or conviction expires, or if such an appeal or application is made, the date on which the appeal or application is finally disposed or abandoned or fails by reason of the non-prosecution thereof, shall be deemed to be the date of the surcharge or conviction, as the case may be; and
- (ii) the Minister may direct that the disqualification attaching to a person by reason of his being unable to read, write and speak the official language need not apply to the members of any particular county council, urban, area or local council.

(2) A paid officer of a local authority who is employed under the direction of a committee or subcommittee of the authority, any member of which is appointed by or on the nomination of some other local authority, shall be disqualified for being elected or being a councillor or member of that other local authority.

Disputes as to
validity of
elections.

61. (1) If the validity of an election to a municipal council or a county council under these Regulations is brought into question by any person qualified either to be elected or to vote at such election, on any ground or for any cause whatsoever, such person may, at any time within fifteen days after the publication of the result of such election in the Gazette, apply to the Governor in Council to set the election aside.

(2) The Governor in Council shall, after such inquiry, if any, as he may consider necessary, declare by notice in the Gazette whether the candidate whose election is questioned, or any and what other person, is duly elected, or whether the election is void.

(3) If the election is declared void, a new election shall be held.

(4) The Governor in Council may appoint any person to be a commissioner to inquire into and report on the grounds on which the validity of any election is brought into question as aforesaid; and every such commissioner shall have all the powers of a commissioner appointed under the Commissions of Inquiry Ordinance, 1962.

11 of 1962.

(5) The Governor may make rules or give directions for regulating the practice and procedure to be observed in connexion with disputes as to the validity of elections to any local authority other than a municipal council or county council, and for the appointment of public officers or other persons as commissioners to inquire into such disputes.

62. (1) A person who is elected, nominated or appointed as a councillor of a local authority shall, before attending a meeting or otherwise acting as a councillor of the authority and within two months of his election, nomination or appointment, as the case may be, sign a declaration in the form B in the First Schedule to these Regulations before the clerk of the local authority, or before such other person as the Minister may specify, and any person attending a meeting or otherwise acting as a member of the authority before signing such a declaration, and any person who signs such a declaration knowing any statement therein to be false, shall be guilty of an offence and shall be liable to a fine not exceeding two thousand shillings or to imprisonment for a period not exceeding two months or to both such fine and such imprisonment.

Declaration by councillors.

(2) If such a declaration is not made within two months after the election, nomination or appointment, as the case may be, the office of the person elected, nominated or appointed shall at the expiration of that time become vacant.

63. (1) A councillor elected, nominated or appointed to any office under these Regulations may at any time resign his office by writing signed by him and delivered to the clerk of the council, and his resignation shall take effect upon the receipt by that officer of such notice of resignation.

Resignation of councillors and filling of vacancies among nominated and appointed councillors.

(2) Whenever a vacancy is caused by the death, retirement, disqualification or resignation of a nominated or appointed councillor, the clerk shall forthwith notify the person by whom the nomination or appointment was made and such person may nominate or appoint another duly qualified person to fill the vacancy.

64. (1) If a councillor of a local authority, without having obtained leave from the local authority, fails throughout a period of four consecutive months to attend any meeting (including committee meetings) of the local authority he shall, unless the failure was due to some reason approved by the local authority, become disqualified from continuing to be a councillor of the local authority.

Absence of councillors from meetings.

(2) For the purposes of paragraph (1) of this regulation, the period of four months shall be calculated from, and include, the date of the first meeting of the local authority or the committee, as the case may be, next after the last meeting at which the councillor was present.

(3) Where any councillor of a local authority other than a councillor nominated by the Minister, leaves Kenya for a period of not less than two nor more than eight months, the local authority may co-opt a fit and proper person to discharge the duties of such councillor during his absence:

Provided that if a councillor or member of a local authority is absent from Kenya for a period exceeding eight months his seat shall become vacant.

Circumstances in which councillors *ipso facto* vacate office.

65. Any elected councillor who ceases to possess the qualifications prescribed by these Regulations or any rules made thereunder or any other written law or who is a paid agent for any candidate at an election under these Regulations, or who becomes disqualified under these Regulations or any rules made thereunder or any other written law shall, *ipso facto*, vacate his office, and the local authority shall at the next meeting declare the seat of such councillor to be vacated and shall forthwith notify the Minister of such vacancy; and such vacancy shall be a casual vacancy.

Appeal against declaration under regulation 65.

66. (1) Any councillor whose seat has been declared vacant by any local authority under regulation 65 of these Regulations, may appeal against such declaration to a magistrate with power to hold a subordinate court of the first class in the area of that local authority, and the magistrate may reject the appeal or may set aside the declaration, and subject to any rules made under this regulation, may make such order as to costs as he may deem just.

(2) Every such appeal shall be made in the form of a petition in writing and shall be entered within fourteen days of the day on which the declaration is made, and a copy thereof shall within the same period be served upon the clerk to the local authority.

(3) The local authority or councillor may within seven days of the magistrate's decision or order, appeal to the Supreme Court against such decision or order and the Supreme Court's decision thereon, including any order as to costs, shall be final.

(4) The Minister, after consultation with the Chief Justice, may make rules regulating appeals under this regulation, and for matters incidental thereto and connected therewith.

Date of casual vacancies.

67. For the purpose of filling a casual vacancy in any office for which an election is held under these Regulations or any rules made thereunder, the date on which the vacancy shall be deemed to have occurred shall be—

(a) in the case of non-acceptance of office by any person who is required to sign a declaration under regulation 62 of these Regulations, upon the expiration of the period appointed for the signing of the declaration;

(b) in the case of resignation, upon the receipt of the notice of resignation by the clerk;

(c) in the case of death, upon the date of the death;

- (d) in the case of disqualification by reason of a surcharge or conviction, upon the expiration of the ordinary period allowed for making an appeal or application with respect to the surcharge or conviction or, if an appeal or application is made, upon the date on which the appeal or application is finally disposed of or abandoned or fails by reason of non-prosecution thereof;
- (e) in the case of an election being declared void under regulation 61 of these Regulations, upon the date of publication in the Gazette of the notice declaring the election to be void;
- (f) in the case of a person ceasing to be qualified to be a councillor of a local authority, or becoming disqualified for any reason other than those mentioned in paragraphs (a) to (e) of this regulation, or ceasing to be a councillor of the local authority under or by virtue of regulation 65 of these Regulations, upon the date on which his office is declared by the local authority to be vacated;
- (g) in the case of a municipal councillor or county councillor accepting the office of alderman of the municipal council or county council, as the case may be, upon the date on which he accepts the office.

68. (1) Subject to the provisions of this regulation, on a casual vacancy occurring in the office of an elected councillor of a local authority, an election to fill the vacancy shall be held—

Filling of casual vacancies.

- (a) in a case in which the local authority has declared the office to be vacant, within thirty days from the date of the declaration; and
- (b) in any other case within thirty days, or such longer period as the Minister may in any particular case allow, after the date on which the vacancy is deemed to have occurred under regulation 67 of these Regulations or notice in writing of the vacancy has been given to the clerk of the local authority by two persons who are or who are entitled to be enrolled as voters for that local authority;

and shall be conducted in the same manner as an ordinary election.

(2) Where a casual vacancy occurs within six months before the ordinary day of retirement from the office in which the vacancy occurs, an election under this regulation shall not be held to fill the vacancy, but the vacancy shall be filled at the next ordinary election:

Provided that—

- (i) if upon a vacancy or a number of simultaneous vacancies so occurring, the total number of unfilled vacancies in the membership of the local authority exceeds one-third of the whole number of members, then unless the local authority proceeds or has proceeded under paragraph (ii) of this proviso, the provisions of this paragraph shall not apply to that vacancy or to those vacancies;
- (ii) the local authority may co-opt a fit and proper person to discharge the duties of the member to whose office he is co-opted; and for the purpose of these Regulations and any

rule made thereunder, such person shall be deemed to have been duly elected on an election to fill a casual vacancy to the office.

(3) (a) Where more than one casual vacancy in the office of a councillor in any electoral area is filled at the same election, the person elected by the smallest number of votes shall be deemed to be elected in place of the councillor who would regularly have retired first, and the person elected by the next smallest number of votes shall be deemed to be elected in place of the councillor who would regularly next have retired, and so with respect to the others; and if there has not been a contested election, or if any doubt arises, the order of retirement shall be determined by lot.

(b) Where more than one casual vacancy in any electoral area is filled at the same time by co-option under paragraph (ii) of the proviso to paragraph (2) of this regulation, the local authority shall stipulate, at the time of such co-option, the vacancy which each co-opted councillor shall fill.

(4) Where an election to fill one or more casual vacancies in the office of councillor of a local authority is combined with an ordinary election of councillors, the following provisions shall apply—

(a) where the election is contested—

- (i) the persons who are elected by the smallest number of votes shall be deemed elected to fill the casual vacancies;
- (ii) in the case of an equality of votes between the persons who are elected by the smallest number of votes, the persons who shall be deemed elected to fill the casual vacancies shall be determined by lot;
- (iii) if the persons elected to fill the casual vacancies will hold office for different periods, the person elected by the smallest number of votes, or, if the votes are equal, such person as is determined by lot, shall hold office for the shorter period;

(b) where the election is not contested, the persons who shall be deemed to be elected to fill the casual vacancies shall be determined by lot.

(5) Where under this regulation any question is required to be determined by lot, the lots shall be drawn at the next practicable meeting of the local authority after the question has arisen, and the drawing of lots shall be conducted under the direction of the person presiding at the meeting.

(6) This regulation shall not apply in respect of a casual vacancy among the members of a local council.

Vacancy on local councils.

69. A casual vacancy among the members of a local council shall be filled by the local council and the local council shall forthwith be convened for the purpose of filling the vacancy.

Term of office of person filling a casual vacancy.

70. A person elected or co-opted under these Regulations to fill a casual vacancy shall hold office until the date upon which the person in whose place he is elected or co-opted would regularly have retired, and he shall then retire.

71. (1) If a municipal council or a county council becomes unable to act, whether from there being a failure to elect or otherwise, the Minister may appoint persons to form the council, until the newly elected councillors come into office or until the council becomes able to act.

Inability to act.

(2) If any local authority other than a municipal or county council becomes unable to act, whether from failure to elect or otherwise, the municipal or county council within whose area such local authority is situate may appoint persons to form the council of that local authority, until the newly elected councillors come into office or until the council becomes able to act.

Rules Respecting Elections

72. (1) As soon as possible after the coming into operation of these Regulations, the Minister shall make rules for the carrying out of elections to any local authority which, under regulation 55 of these Regulations, is required or directed to prepare an electoral roll for the purposes of elections, and particularly, but without prejudice to the generality of the foregoing, such rules may provide for all or any of the following matters, that is to say—

Rules for elections.

- (a) the term of office of elected councillors and the annual retirement of one-third, or as near as may be, of their number in each electoral area, and the method by which such retirements shall be effected, and annual elections to elect a corresponding number of councillors;
- (b) the authority or person responsible for, and generally the procedure in regard to, the preparation and revision of electoral rolls, and the making and disposing of claims and objections and appeals;
- (c) the appointment of returning and other officers, their powers and duties;
- (d) the giving of notice of elections;
- (e) procedure in regard to the taking of polls at contested elections;
- (f) forms to be used in connexion with the matters dealt with in this regulation or in any rules made under this regulation;
- (g) the nomination of candidates for election;
- (h) voting by post;
- (i) generally, for the better carrying out of elections and for all matters connected therewith.

(2) Different rules may be made under any of the provisions of paragraph (1) of this regulation in respect of different classes of local authorities and in respect of different local authorities of the same class.

PART V—MEETINGS AND PROCEEDINGS

73. This Part of these Regulations shall apply to every local authority and the terms "chairman" and "vice-chairman" shall, in respect of a municipal council of the first class, be deemed to refer, respectively, to the mayor and deputy mayor.

Application and interpretation.

Annual and ordinary meetings.

74. (1) A local authority shall in every year hold an annual meeting and, in addition, in the case of a local council, at least one other meeting, and, in the case of every other local authority, at least three other meetings, which shall be as near as may be at regular intervals, for the transaction of general business:

Provided that any local authority other than a county council of the first class or a municipal council, may hold such lesser number of meetings as the Minister may approve.

(2) The annual meeting shall be held as soon as may be after 30th June, but not later than 15th August, in every year on such day and at such hour as may be appointed by the local authority or, if no hour is so appointed, at twelve noon.

(3) The other meetings shall be held on such days and at such hours as the local authority may from time to time appoint.

Special meetings.

75. (1) The chairman may at any time, and shall within five days of receiving a request in writing signed by not less than one-third of the members of the local authority, call a special meeting of the local authority to be held not later than fourteen days from receipt of the request.

(2) If the chairman, upon receipt of a request as aforesaid, refuses or neglects within five days to call a meeting to be held not later than fourteen days from receipt of the request, the clerk shall forthwith call a special meeting of the council.

Notice of meetings.

76. (1) Notice in writing of the time and place, and the business proposed to be transacted at, every meeting of a local authority shall be published at the offices of the local authority and be served by the clerk of the local authority on every member thereof, and, in the case of an urban or area council, on such persons as the Minister may specify, either personally or by post or by leaving the same at his usual place of residence or at his business address; and every such notice shall be served in the case of a meeting of a municipal council, not less than twenty-four hours before the meeting and, in the case of a meeting of any other local authority, not less than seven days before the meeting.

Provided that the accidental omission to serve notice of any meeting required to be served under this paragraph shall not affect the validity of that meeting.

(2) Except in the case of business required by these Regulations or any other written law to be transacted at the annual meeting of a local authority or as provided by the standing orders of the local authority, no business shall be transacted at a meeting of a local authority other than that specified in the notice relating thereto.

Chairman to preside and have a casting vote.

77. (1) Save where otherwise in these Regulations provided, at every meeting of a local authority the chairman, or in his absence the vice-chairman, shall preside; and in the absence of both the chairman and the vice-chairman, the members present shall elect a chairman from amongst themselves to preside at such meeting, and such election shall, in the event of equality of votes for two or more candidates, be determined by lot between those candidates.

(2) Save where otherwise provided in these Regulations or in any other written law, the chairman of the meeting shall have a second or casting vote.

78. (1) The names of the members present at a meeting of a local authority shall be recorded.

Record of attendance and quorum.

(2) Save as otherwise provided by these Regulations or any other written law, all acts, matters and things authorized or required to be done by a local authority, and all questions that may come before a local authority, shall be done and decided by the majority of the members present and voting thereon at any meeting of the local authority at which there are present not less than one-half of the members of such larger proportion thereof as such local authority may from time to time by standing order fix.

79. A public officer appointed by the Minister under regulation 245 of these Regulations shall be entitled to attend any meeting, including a committee meeting, of a local authority and to take part in the proceedings thereof but not to vote at the meeting.

Public officer may attend meetings.

80. (1) Minutes of the proceedings of every meeting of a local authority shall be regularly entered in books kept for that purpose, and such minutes shall be confirmed at the same or the next meeting.

Minutes to be kept and signed.

(2) The minutes of the proceedings of a meeting of a local authority, when signed by a member describing himself as or appearing to have been chairman of the meeting at which the minutes are confirmed, shall, in the absence of proof of error, be deemed to be a correct record of the proceedings of the meeting of which they purport to be the minutes.

81. Whenever the minutes of the proceedings of a meeting of a local authority have been recorded and confirmed, such meeting shall, until the contrary is proved, be deemed to have been duly convened and held, and all the members present at such meeting shall be deemed to have been duly qualified.

Meetings deemed to have been duly held.

82. The minutes of the proceedings of a local authority shall at all reasonable times be open to the inspection of any ratepayer or voter of the area of the local authority, and any such ratepayer or voter may obtain a copy thereof or an extract therefrom; and for the purposes of this regulation the minutes of any committee which have been formally adopted shall be deemed part of the minutes of the proceedings of the local authority.

Minutes open to inspection.

83. The members present at any meeting of a local authority may from time to time adjourn such meeting and, if at any meeting a sufficient number of members are not present to exercise the powers vested in the local authority, the members present, or if there are no members present, the clerk, shall adjourn the meeting and may appoint for the adjourned meeting such day and time as may be considered suitable.

Adjournment of meetings.

84. (1) Every meeting of a council shall, within the limits of available accommodation, be open to the public and to duly accredited representatives of any newspaper.

Admission of Press and public.

(2) The proceedings of any committee, including a committee of the whole council, or a joint committee shall not be open to the public or the press unless the council or councils appointing the committee or joint committee resolve to admit the public and the press or one or other of them.

Standing Orders.

85. (1) The standing orders contained in Part I of the Second Schedule to these Regulations shall, so far as applicable, be standing orders of every local authority, and, where so provided therein, of every committee and subcommittee of a local authority and of every joint committee established under regulation 93 of these Regulations and of every joint board constituted under regulation 104 of these Regulations, for and in respect of the matters, proceedings and business to which they relate in the same manner and to the same extent as if they were duly made under this regulation but shall not be capable of any revocation, exclusion or variation by a local authority; and any resolution, by-law or standing order of a local authority purporting to exclude, revoke or vary any such standing order shall, to that extent, and any resolution, by-law or standing order of a local authority inconsistent with any such standing order shall, to the extent of such inconsistency, be void and of no effect.

(2) Subject as aforesaid and to the provisions of these Regulations, a local authority may with the approval of the Minister make standing orders for the regulation of its proceedings and business and the proceedings and business of any committee appointed by it and of any subcommittee appointed by any of its committees, and, jointly with the local authority or authorities which concur in appointing a joint committee or in constituting a joint board, for regulating the proceedings and business of that joint committee or joint board, and may in like manner, from time to time vary or revoke any such standing orders.

(3) A local authority may, with the approval of the Minister, adopt, with or without modifications, all or any of the standing orders contained in Part II of the Second Schedule to these Regulations, and may from time to time vary or revoke with the approval of the Minister any such standing order adopted as aforesaid.

(4) If no standing orders are made by a local authority, or, if standing orders are made by a local authority, then, in so far as those standing orders do not exclude or modify the standing orders contained in Part II of the said Schedule, the standing orders contained in Part II of the said Schedule shall, so far as applicable, be the standing orders of the local authority for and in respect of the matters, proceedings and business to which they relate in the same manner and to the same extent as if they were duly made by the local authority under this regulation.

(5) The Governor in Council in respect of Part I of the Second Schedule to these Regulations, and the Minister in respect of Part II of the said Schedule, may from time to time, by order, amend such respective Parts whether by adding thereto or inserting therein any new standing order or by amending, varying or revoking any standing order contained therein or otherwise; and any such amendment may be in respect of any particular local authority or any class of local authorities or of local authorities generally:

Provided that no amendment shall be made to Part I of the said Schedule except after consultation with the local authority or local authorities affected thereby.

86. (1) The chairman of a local authority may, from time to time summon at such place and time as he may determine, public meetings of the inhabitants of the area of jurisdiction of the local authority for the discussion of any local government matter affecting the inhabitants which he considers to be of public importance:

Summoning of public meetings.

Provided that no such meeting shall be summoned for the purpose of promoting, opposing or discussing the election of any person as a member of that local authority or as a member of the Legislature.

(2) Nothing in this regulation shall be construed as derogating from the provisions of any other written law respecting the holding of public meetings.

87. No matter or thing done or omitted to be done and no contract entered into by a local authority, and no matter or thing done or omitted to be done by any member or officer of a local authority, shall, if the matter or thing were done or omitted to be done or the contract were entered into in good faith for the purpose of these Regulations, or of any other written law conferring powers or imposing duties on the local authority, its members or officers, subject any such person personally to any action, liability, claim or demand whatsoever; and any expense incurred by a local authority or any such person in consequence of such action shall be paid by the local authority out of its revenues:

Exemption of members, etc., from personal liability.

Provided that nothing in this regulation shall exempt any such member, officer or other person aforesaid from liability to be surcharged by the inspector under regulation 236 of these Regulations.

88. All otherwise lawful acts of a local authority or of any person acting as chairman, vice-chairman or member of a local authority or as clerk or any other officer of a local authority shall, notwithstanding that it be discovered that there was some defect in the election, nomination or appointment of any such person or that he was disqualified or not qualified, be as valid and effectual as if such person had been duly elected, nominated or appointed and had been qualified.

Validity of acts of local authorities members and officers.

89. (1) If a member of a local authority has any pecuniary interest, direct or indirect, in any contract or proposed contract or other matter, and is present at a meeting of the local authority at which the contract, proposed contract or other matter is the subject of consideration, he shall at the meeting, as soon as practicable after the commencement thereof, disclose the fact, and shall not take part in the consideration or discussion of, or vote on any question with respect to, the contract, proposed contract or other matter.

Disability of members for voting on account of interest in contracts, etc.

Provided that—

- (i) this regulation shall not apply to an interest in a contract, proposed contract, or other matter which a member of the local authority may have as a ratepayer or inhabitant of the area under the jurisdiction of the local authority, or as an ordinary

consumer of water, or to an interest in any matter relating to the terms on which the right to participate in any service, including the supply of goods, is offered to the public; and

- (ii) a member shall be deemed to have disclosed, at a meeting of the local authority, any pecuniary interest in a contract, proposed contract or other matter if—
- (a) he had disclosed that interest at a meeting of any committee or subcommittee of the local authority, or at a meeting of any joint committee appointed by the local authority jointly with another local authority or authorities, at which that contract, proposed contract or other matter was the subject of consideration; and
 - (b) such disclosure is recorded in the minutes of the proceedings of that meeting of the committee, subcommittee or joint committee; and
 - (c) those minutes are before the local authority at that meeting of the local authority,

but whether he discloses or is deemed to have disclosed such interest, he shall not take part in the consideration or discussion of, or vote on any question with respect to, the contract, proposed contract or other matter in which he has that interest.

(2) For the purposes of this regulation, a person shall (subject as hereafter in this regulation provided) be treated as having indirectly a pecuniary interest in a contract, proposed contract or other matter, if—

- (a) he or any nominee of his is a member of a company or other body with which the contract is made or is proposed to be made or which has a direct pecuniary interest in the other matter under consideration; or
- (b) he is a partner, or is in the employment, of a person with whom the contract is made or is proposed to be made or who has a direct pecuniary interest in the other matter under consideration:

Provided that—

- (i) this paragraph shall not apply to membership of, or employment under, any public body;
- (ii) a member of a company or other body shall not, by reason only of his membership, be treated as being so interested if he has no beneficial interest in any shares or stock of that company or other body.

(3) In the case of married persons living together the interest of one spouse shall, if known to the other, be deemed for the purpose of this regulation to be also an interest of that other spouse.

(4) The clerk shall record, or cause to be recorded, in the minutes of the proceedings of every meeting of the local authority particulars of every disclosure made under this regulation.

(5) If any person fails to comply with paragraph (1) of this regulation he shall be guilty of an offence and shall for each offence be liable to a fine not exceeding two thousand shillings, unless he

proves that he did not know that a contract, proposed contract, or other matter in which he had a pecuniary interest was the subject of consideration at the meeting.

(6) A prosecution for an offence against this regulation shall not be instituted except by or on behalf of the Attorney-General.

(7) The Minister may, subject to such conditions as he may think fit to impose, remove any disability imposed by this regulation in any case in which the number of members of a local authority so disabled at any one time would be so great a proportion of the whole as to impede the transaction of business by that local authority, or in any other case in which it appears to the Minister that it is in the interests of the inhabitants of the area under the jurisdiction of the local authority that the disability should be removed.

90. (1) No member of a local authority shall act as an advocate against any of the following local authorities, that is to say—

- (a) against the local authority of which he is a member;
- (b) if he is a member of the council of a county, against the council of any county division within that county or against the local council of any local council area within that county or any such county division;
- (c) if he is a member of the council of a county division, against the council of any county or county division situate in the same county or against the local council of any local council area situate in the county or in the area of the council of which he is a member or in any other county division in that county;
- (d) if he is a member of the local council of a local council area situate within a county or county division, against the council of that county or the county in which that county division is situate or against the council of any county division in that county or against the local council of any local council area situated within that county or any such county division;
- (e) if he is a member of a municipal council against the local council of any local council area within the area of that municipal council;
- (f) if he is a member of the local council of a local council area situate within any municipality, against the municipal council of that municipality or against the local council of any other local council area situate in that municipality.

Restriction on advocacy of act against, and acting as auditor for, local authorities and committees.

(2) No member of a local authority shall by himself or his partner or his agent act as an advocate of any other person or in any professional capacity represent any other person—

- (a) before any Valuation Court appointed by any local authority against which he is prohibited by paragraph (1) of this regulation from acting as an advocate; or
- (b) before any committee of any such local authority appointed to consider or deal with any application which the local authority is empowered to consider and deal with.

(3) No member of a local authority or his partner or his employer or employee, and no company of which a member of a local authority is a director, shall act for reward as an auditor for any local authority against which that member if he were an advocate, would be prohibited by paragraph (1) of this regulation from acting as an advocate.

PART VI—COMMITTEES, JOINT COMMITTEES AND SUBCOMMITTEES

Committees

General power of local authorities to appoint committees.

91. (1) A local authority may appoint a committee for any such general or special purpose as in its opinion would be better regulated and managed by means of a committee, and may delegate to a committee so appointed, with or without restrictions or conditions, as the local authority thinks fit, any function exercisable by the local authority either with respect to the whole or any part of the area under the jurisdiction of the local authority, except the power of levying a rate, or of borrowing money or of making by-laws.

(2) Every councillor shall be elected by the council to serve on at least one committee and in appointing its committees a local authority shall, where political parties have taken part in an election, or where special interests have been nominated to the local authority under these Regulations, make its appointments in such a manner that each committee represents, so far as possible and reasonably practicable, the representation of the political parties or such special interests in the council.

(3) The chairman and the vice-chairman of a local authority shall be *ex officio* members of every committee appointed by that local authority under this regulation.

(4) The number of members of a committee appointed under this regulation, their term of office, and the area, if any, within which the committee is to exercise its authority, shall be fixed by the local authority appointing it.

(5) A committee appointed under this regulation may include persons who are not members of the local authority:

Provided that at least two-thirds of the members of every committee shall be members of the local authority.

(6) Where the local authority has not appointed a chairman and a vice-chairman, each committee appointed under this regulation shall at its first meeting, before proceeding to any other business, elect its own chairman and may elect a vice-chairman, and such election shall, in the event of equality of votes for two or more candidates, be determined by lot between those candidates.

(7) Every member of a committee appointed under this regulation who at the time of his appointment was a member of the local authority by which he was appointed shall, upon ceasing to be a member of that authority, also cease to be a member of the committee:

Provided that for the purposes of this regulation a member of a local authority shall not be deemed to have ceased by reason of retirement to be a member of the local authority, if he has been re-elected, renominated or re-appointed a member thereof not later than the day of his retirement.

(8) Nothing in this regulation shall authorize the appointment of a committee for any purpose for which the local authority is authorized or required to appoint a committee by any other provision of these Regulations, or by any other written law for the time being in force.

(9) A committee shall not incur any expenditure in excess of the amount allowed by the local authority or its finance committee.

(10) In no case shall any act of any committee be binding on the local authority until submitted to and approved by the local authority, except in cases where the local authority has, by resolution, authorized a committee to manage, regulate, or conclude any matter.

92. (1) A municipal council and a county council shall appoint, and the Minister may require any other local authority to appoint, from time to time a finance committee consisting of the chairman and the vice-chairman of the local authority, who shall be *ex officio* chairman and vice-chairman of the finance committee, and such number of other members of the local authority as it thinks fit for regulating and controlling the finances of that local authority and for no other purpose, and shall fix the term of office of the members of the committee:

Finance
committees.

Provided that an urban or area council, and any other local authority with the approval of the Minister, may assign to the committee appointed under this regulation, the regulation and management of such general purpose or purposes as the local authority may determine in addition to regulating and controlling the finances of that local authority and such committee shall thereupon be the finance and general purposes committee of that local authority and in these Regulations or any other written law any reference to the finance committee of a local authority shall in any such case be construed as a reference to the finance and general purposes committee appointed under this paragraph.

(2) Where the local authority has not appointed a chairman and a vice-chairman, the finance committee shall elect its own chairman and may elect a vice-chairman and such election shall, in the event of equality of votes for two or more candidates, be determined by lot between those candidates.

(3) Every member of a finance committee appointed under this regulation shall, upon ceasing to be a member of the local authority by which he was appointed, also cease to be a member of the committee:

Provided that for the purposes of this regulation a member of a local authority shall not be deemed to have ceased by reason of retirement to be a member of the local authority, if he has been re-elected, renominated or re-appointed a member thereof not later than the day of his retirement.

(4) No payment shall be made out of a local authority's funds unless either—

(a) it has been provided for in the approved annual or revised or supplementary estimates of expenditure and authorized by that local authority, or any committee or subcommittee duly acting under these Regulations and any standing orders;

(b) it is permitted by the terms of any order made under this regulation.

(5) The duties of the finance committee shall include—

- (a) advising the local authority on financial matters;
- (b) advising the local authority on all rating matters;
- (c) supervising the recovery of moneys due to the local authority and generally the whole financial arrangements of the local authority; and
- (d) exercising such other functions as are by these Regulations or by any other written law imposed on the finance committee.

(6) Every local committee having a finance committee or a finance and general purposes committee shall make such provision, by way of standing orders, with respect to the matters standing referred to the finance committee or finance and general purposes committee and with respect to the functions of the local authority delegated to such committee, as the Minister may approve.

Joint Committees

Joint
committees.

93. (1) A local authority may concur with any one or more other local authorities in appointing from amongst their respective members a joint committee of those local authorities for any purpose in which they are jointly interested, and may delegate to such joint committee, with or without restrictions or conditions, as they think fit, any functions of the local authorities relating to the purpose for which the joint committee is formed, except the power of levying a rate or borrowing money or making by-laws.

(2) Subject to the provisions of this regulation, the number of members of a joint committee appointed under this regulation, the terms of office of the members thereof, and the area, if any, within which the joint committee is to exercise its authority, shall be fixed by the appointing of local authorities.

(3) Where the local authorities concerned have not jointly appointed a chairman and a vice-chairman, a joint committee shall elect its own chairman and may elect a vice-chairman and such election shall, in the event of equality of votes for two or more candidates, be determined by lot between those candidates.

(4) Every member of a joint committee appointed under this regulation shall, upon ceasing to be a member of the local authority which appointed him, also cease to be a member of the joint committee:

Provided that for the purpose of this paragraph a member of a local authority shall not be deemed to have ceased by reason of retirement to be a member of the local authority, if he has been re-elected, renominated or re-appointed a member thereof not later than the day of his retirement.

Expenses and
accounts of
joint committees.

94. (1) Any expenses incurred by a joint committee appointed under this Part of these Regulations shall be defrayed by the local authorities by which the committee is appointed in such proportions as they may agree upon, or, in default of agreement, as may be determined by the Minister.

(2) Where any expenses are incurred by a joint committee, the accounts shall be made up yearly to the 31st December, and shall be audited as provided in Part XVII of these Regulations.

Subcommittees

95. A committee appointed under this Part of these Regulations may appoint a subcommittee from amongst the members of that committee for any such special purpose as the committee may deem expedient, but, in the absence of express authority in that behalf from the local authority which appointed that committee, it shall not be lawful for the committee to delegate any of its executive functions to any such subcommittee.

Subcommittees.

General Provisions Respecting Committees, Joint Committees and Subcommittees

96. Regulation 89 of these Regulations shall apply in respect of members of a committee or a subcommittee of a local authority or of any joint committee appointed by agreement between local authorities, whether the committee, sub-committee or joint committee is appointed under these Regulations or any other written law, as that regulation applies in respect of members of local authorities, subject to the following modifications:—

Disability for voting on account of interest in contracts, etc.

- (a) reference to meetings of the committee, subcommittee or joint committee, as the case may be shall be substituted for the references to meetings of the local authority; and
- (b) references to the person responsible for recording the minutes of the meetings of the committee, subcommittee or joint committee, as the case may be, shall be substituted for the reference to the clerk in paragraph (4) of that regulation.

97. (1) At every meeting of a committee, subcommittee or joint committee the chairman, or in his absence the vice-chairman (if any), shall preside; and in the absence of both the chairman and the vice-chairman (if any) the members present shall elect a chairman from amongst themselves to preside at such meeting, and such election shall, in the event of equality of votes for two or more candidates, be determined by lot between those candidates.

Chairman to preside and have a casting vote.

(2) The person presiding at a meeting of a committee, subcommittee or joint committee shall subject to the provisions of these Regulations or any other written law, have a second or casting vote.

98. All otherwise lawful acts of a committee, subcommittee, or joint committee, or of any person acting as chairman, vice-chairman or member of a committee, subcommittee or joint committee, appointed under these Regulations, or as the clerk or any other officer of any such committee, subcommittee or joint committee shall, notwithstanding that it be discovered that there was some defect in the appointment of any such person to, or his appointment or election as chairman, vice-chairman, clerk or officer of, such committee, subcommittee or joint committee, or, where such chairman, vice-chairman or member is also a member of the local authority which appointed the committee or a committee of which appointed the subcommittee or which concurred in the appointment of the joint committee, as the

Validity of acts of committee, etc.

case may be, notwithstanding that it be discovered that there was some defect in the election, appointment or nomination of such person to the local authority, or that he was disqualified, be as valid and effectual as if such defect as aforesaid did not exist and such person was disqualified.

Exemption of members of committee, etc., from personal liability.

99. No matter or thing done or omitted to be done, and no contract entered into, by a committee, subcommittee or joint committee appointed under these Regulations, and no matter or thing done or omitted to be done by any member or officer of, or other person acting under the directions of, any such committee, subcommittee or joint committee, shall, if the matter or thing was done or omitted to be done, or the contract was entered into, in good faith for the purpose of these Regulations or any other written law conferring powers or imposing duties on local authorities which under these Regulations may be exercised or discharged by a committee, subcommittee or joint committee appointed under these Regulations, subject any such person personally to any action, liability, claim or demand whatsoever, and any expense incurred by such committee, subcommittee or joint committee or any such person, in consequence of such action, shall be paid, in the case of a committee or subcommittee, by the local authority which appointed the committee or a committee of which appointed the subcommittee, out of its revenue and, in the case of a joint committee, as provided in regulation 94 of these Regulations for defraying the expenses of a joint committee:

Provided that nothing in this regulation shall exempt any such member, officer or other person aforesaid from liability to be surcharged by the inspector under regulation 236 of these Regulations.

Notice of meetings of committees, etc.

100. (1) Such previous notice in writing as may be fixed by standing orders under regulation 85 of these Regulations of the time and place, and the business proposed to be transacted at, every meeting of a committee, a subcommittee or a joint committee shall be served on every member thereof and, in the case of a committee of an urban or area council or a joint committee appointed by an urban or area council together with any other local authority or authorities, on such persons as the Minister may from time to time specify:

Provided that the accidental omission to serve any notice required to be served under this section shall not affect the validity of the meeting.

(2) Except as may be provided to the contrary in standing orders applicable to the committee, subcommittee or joint committee, no business shall be transacted at a meeting of a committee, subcommittee or joint committee other than that specified in the notice relating thereto.

Minutes of committees, etc.

101. (1) Minutes of the proceedings of every meeting of a committee, a subcommittee or a joint committee shall be regularly entered in books kept for that purpose, and such minutes shall be confirmed at the same or the next meeting of the committee, the subcommittee or the joint committee:

Provided that—

- (i) the minutes of a committee, if not confirmed at the same meeting, need not be confirmed at the next meeting of the committee if, before that meeting, they are confirmed at a meeting of the local authority which appointed the committee, by a majority of the members of the committee who were present at the committee meeting to which the minutes relate.
- (ii) the minutes of a subcommittee, if not confirmed at the same meeting, need not be confirmed at the next meeting of the subcommittee if, before that meeting they are confirmed at a meeting of the committee which appointed the subcommittee, or at a meeting of the local authority which appointed such committee by a majority of the members of the subcommittee who were present at the subcommittee meeting to which the minutes relate.

(2) The minutes of the proceedings of a meeting of a committee, a subcommittee or a joint committee, when signed by a person describing himself as or appearing to have been the chairman of the meeting at which the minutes are confirmed, whether that meeting is a meeting of the committee, the subcommittee or the joint committee to which the minutes relate or a meeting of the local authority or committee at which the minutes of the committee or subcommittee, as the case may be, are confirmed shall in the absence of proof of error, be deemed to be a correct record of the proceedings of the meeting of which they purport to be the minutes.

(3) The names of the members present at a meeting of a committee, a subcommittee or a joint committee shall be recorded in the minutes thereof.

(4) Whenever the minutes of the proceedings of a committee, a subcommittee or a joint committee have been recorded and confirmed, such meeting shall, until the contrary is proved, be deemed to have been duly convened and held, and the committee, subcommittee or joint committee shall be deemed to have been duly constituted and to have had power to deal with the matters referred to in the minutes.

102. Regulations 82 and 83 of these Regulations shall, *mutatis mutandis*, apply respectively to the minutes of, and to adjournment of meetings of, a committee, subcommittee and joint committee:

Inspection of minutes and adjournment of meetings.

Provided that regulation 82 of these Regulations shall only apply to the minutes of a committee, subcommittee or joint committee which exercises delegated powers and to the minutes of any other committee, sub-committee or joint committee when such minutes have been adopted by the local authority.

103. (1) Where a local authority has appointed a joint staff committee comprising representatives of both the local authority and its employees, paragraph (5) of regulation 89 of these Regulations shall not apply to the membership of such committee.

Staff committees and joint staff committees.

(2) Where a local authority has appointed a staff committee or a joint staff committee then no representative of a local authority on such a committee shall be a person who is a member of a trade union whose membership comprises members of the staff of the local authority.

PART VII—JOINT BOARDS

Constitution etc.,
of joint board.

104. (1) Where—

- (a) a local authority enters into a contract, arrangement or agreement with any other local authority or local authorities for, or with respect to, the doing and the control or management jointly by the local authorities entering into the contract, arrangement or agreement aforesaid of any of the things provided for in these Regulations, or of any matter or thing which those local authorities are all empowered to do, control or manage, and such local authorities request the Minister to exercise his powers under this regulation; or
- (b) a local authority is desirous of acting jointly with the Government in exercise of any of the powers conferred upon it by or under these Regulations or any other written law,

then, in either case, the Minister may, by order, constitute a joint board and direct that, so long as such order remains in force, the board shall have and may exercise, subject to such limitations and conditions (if any) as may be specified in the order and, in the former case, subject to the terms and conditions of such contract, arrangement or agreement, the powers of each of the local authorities entering into such contract, arrangement or agreement as aforesaid, in respect of the doing and the control and management of the thing or matter for or with respect to which such contract, arrangement or agreement was entered into, or, as the case may be, the powers of the local authority referred to in subparagraph (b) of this paragraph.

(2) A joint board constituted under this regulation shall, under the name assigned to it in the order constituting it, be a body corporate with perpetual succession and a common seal (with power to alter such seal from time to time), and shall by such name be capable in law of suing and being sued and of acquiring, holding and alienating land.

(3) An order constituting a joint board under this regulation may—

- (a) subject to paragraph (4) of this regulation, provide for regulating the appointment and term of office of members of the board, for regulating the meetings and proceedings of, and the execution of documents by or on behalf of, the board, and for regulating the finances, investments, accounts and executive and administrative functions of the board; and
- (b) apply to the board, subject to any necessary modifications, any of the provisions of these Regulations; and
- (c) contain such other provisions (including provision for the transfer of property and liabilities, and for the adjustment of accounts and apportionment of liabilities) as appear to the Minister to be expedient for enabling the board to exercise its functions.

(4) Every joint board constituted under this regulation shall consist of—

- (a) in the case specified in paragraph (1) (a) of this regulation, an equal number of representatives nominated by each of the local authorities entering into the contract, arrangement or

agreement, and where the Minister so directs, of a chairman, appointed by the Minister, and such other members (if any), not exceeding in number the total number of members nominated by the contracting parties, as the Minister may appoint; and

(b) in the case specified in paragraph (1) (b) of this regulation, an equal number of representatives appointed by the local authority and the Minister respectively and of a chairman appointed by the Minister;

and the chairman of a joint board shall be entitled to both a deliberative and a casting vote, and where the Minister has not appointed a chairman, or in the absence or inability to act of the chairman, the board shall elect one of its members to be or to act as chairman and any member of the board so acting shall have both a deliberative and a casting vote.

(5) Every joint board constituted under section 26 of the African District Councils Ordinance, 1950 (hereby repealed), by an order in force immediately before the coming into operation of these Regulations shall be deemed to have been constituted under this regulation, and the powers and duties of, and the property, assets, rights, debts, liabilities and obligations of, and the benefit and burden of all contracts made by or on behalf of, any such board shall not be affected by such repeal, and the county council having jurisdiction under these Regulations over the area of the African District Council which, being desirous of acting jointly with the Government under section 26 of the aforesaid Ordinance, was responsible for the constitution of the joint board shall, in place of that African District Council, be deemed to have been the local authority so desirous as aforesaid, and, notwithstanding such repeal, every such order as aforesaid shall, to the same extent, remain in force as if made under this regulation, subject to the following modifications:—

12 of 1950.

- (a) reference to the African District Councils Ordinance, 1950, and to any provisions thereof shall be substituted by reference to these Regulations and to the corresponding provisions of these Regulations respectively; and
- (b) references to African District Councils in the titles thereof shall be substituted by reference to Local Government; and
- (c) references to any particular African District Council shall be substituted by reference to the county council having jurisdiction under these Regulations over the same area as that African District Council had before the coming into operation of these Regulations.

(6) The Minister may, with the agreement of the local authorities concerned, at any time by order revoke an order constituting a joint board under this regulation, or deemed to be constituted under this regulation, and may in any such order provide for the dissolution of the board and for winding up the affairs of the board and for distributing, transferring or otherwise disposing of the property and liabilities thereof, and for all matters connected therewith or incidental thereto

Change of status of local authorities not to affect joint boards.

105. (1) The powers and duties of, and the property, assets, rights, debts, liabilities and obligations of, and the benefit and burden of all contracts made by or on behalf of, a joint board shall not be affected by the establishment under these Regulations of a new local authority in place of any interested local authority and the new authority shall be deemed to be an interested local authority in lieu of the local authority which it replaces, and the order constituting any such joint board shall, to the same extent, continue in force subject to references to such new local authority being substituted for references to the local authority which it replaces.

(2) (a) In respect of a joint board constituted pursuant to a request under regulation 104 (1) (a) of these Regulations, each of the local authorities specified in the order shall be an interested local authority for the purpose of this regulation.

(b) In respect of a joint board constituted pursuant to regulation 104 (1) (b) of these Regulations the local authority which was desirous of acting jointly with the Government for the purpose specified in that paragraph shall be an interested local authority for the purpose of this regulation.

Meetings and proceedings of joint boards.

106. Subject to any provisions to the contrary contained in an order constituting a joint board, Part V and Part VI of these Regulations shall apply, *mutatis mutandis*, to a joint board.

PART VIII—OFFICERS

Municipal Officers

Appointment of town clerk, etc., by municipal councils.

107. (1) Subject to the provisions of this Part of these Regulations as to qualifications and disqualifications of officers, every municipal council may from time to time, and shall if so required by the Minister, appoint as full-time, part-time, or consulting officers, fit and proper persons to be, respectively, town clerk, town treasurer and town engineer, and shall pay to such officers such salaries, emoluments and allowances as the council may, subject to the approval of the Minister determine.

(2) The offices of town clerk and town treasurer shall not, except with the prior approval of the Minister, be held by the same person or by persons who stand in relation to one another as partners or as employer and employee.

(3) Every appointment under this regulation, except that of a consulting officer, shall be made only on the advice of the Minister.

Appointment by municipal councils of medical and health staff.

108. (1) Subject to the provisions of this Part of these Regulations as to qualifications and disqualifications of officers, every municipal council may from time to time, and shall if so directed by the Minister, with the approval of the Minister for the time being responsible for health, appoint as full-time, part-time or consulting officers, fit and proper persons to be, respectively, medical officer of health and health inspector; and shall pay to such officers such salaries, emoluments and allowances as the council may, subject to the approval of the Minister, determine.

(2) Every appointment under this regulation, except that of a consulting officer, shall be made only on the advice of the Minister.

109. (1) A municipal council which under regulation 107 or regulation 108 of these Regulations appoints a town clerk, town treasurer, medical officer of health or town engineer may, subject to the like approval as in the case of that appointment, appoint a deputy of that officer for the purpose of acting in the place of the officer whenever the office is vacant or the holder thereof is for any reason unable to act, and any person appointed as a deputy under this regulation shall, when acting as such and subject to the terms of his appointment, have all the functions of the holder of the office:

Appointment of deputies by municipal councils.

Provided that the appointment of a deputy under this regulation shall be subject to the same provisions as to qualifications and disqualifications as for appointment to the office for which he is deputy.

(2) A municipal council shall pay to a person appointed as a deputy under this regulation such salary, emoluments and allowances as it may, with the approval of the Minister, determine.

(3) Every appointment under this regulation shall be made only on the advice of the Minister.

110. Every municipal council may, in addition to the officers appointed under regulations 107, 108 and 109 of these Regulations appoint such other officers as may be necessary and may pay to such officers such salaries, emoluments and allowances as it may determine.

Appointment of other officers by municipal councils.

111. Notwithstanding the other provisions of this Part of these Regulations, a municipal council may, with the approval of the Minister, appoint to any office in its service a public officer seconded to the service of the council for that purpose, for such period and on such terms and conditions as the Minister may determine.

Appointment by municipal councils of seconded public officers.

County Officers

112. (1) Subject to the provisions of this Part of these Regulations as to qualifications and disqualifications, every county council may from time to time, and shall if so required by the Minister, appoint as full-time, part-time or consulting officers, fit and proper persons to be, respectively, clerk, treasurer, and engineer or works superintendent; and shall pay to such officers such salaries, emoluments and allowances as it may, subject to the approval of the Minister, determine.

Appointment of clerks, etc., by county councils.

(2) The offices of clerk and treasurer shall not, except with the prior approval of the Minister, be held by the same person or by persons who stand in relation to one another as partners or as employer and employee.

(3) Every appointment under this regulation, except that of a consulting officer, shall be made only on the advice of the Minister.

113. (1) Subject to the provisions of this Part of these Regulations as to qualifications and disqualifications of officers, every county council may from time to time, and shall if so directed by the Minister, with the approval of the Minister for the time being responsible for health, appoint, as full-time, part-time or consulting officers, fit and proper persons to be, respectively, medical officer of health and health inspector; and shall pay to such officers such salaries, emoluments and allowances as the council may, with the approval of the Minister, determine.

Appointment by county councils of medical and health staff.

(2) Every appointment under this regulation, except that of a consulting officer, shall be made only on the advice of the Minister.

Appointment of deputies by county councils.

114. (1) A county council which under regulation 112 or regulation 113 of these Regulations appoints a clerk or secretary, treasurer, medical officer of health, engineer or works superintendent, may, subject to the like approval as in the case of that appointment, appoint a deputy of that officer for the purpose of acting in the place of the officer whenever the office is vacant or the holder thereof is for any reason unable to act, and any person appointed as a deputy under this regulation shall, when acting as such and subject to the terms of his appointment, have all the functions of the holder of the office:

Provided that the appointment of a deputy under this regulation shall be subject to the same provisions as to qualifications and disqualifications as for appointment to the office for which he is deputy.

(2) A county council shall pay to a person appointed as a deputy under this regulation, such salary, emoluments and allowances as it may, with the approval of the Minister determine.

(3) Every appointment under this regulation shall be made only on the advice of the Minister.

Appointment of other officers by county councils.

115. Every county council may in addition to the officers appointed under regulations 112, 113 and 114 of these Regulations appoint such other officers as may be necessary, and may pay to such officers such salaries, emoluments and allowances as it may determine.

Urban and Area Council Officers

Appointment by county councils of seconded public officers.

116. Notwithstanding the other provisions of this Part of these Regulations, a county council may, with the approval of the Minister, appoint to any office in its service a public officer seconded to the service of the council for that purpose, for such period and on such terms and conditions as the Minister may determine.

Officers for urban and area councils.

117. (1) The clerk and the other officers of the county council shall, except in respect of an urban or area council which has, under paragraph (2) of this regulation, itself appointed an officer to the corresponding post, act as clerk and officers respectively of the council of every county division within the county, and the county council may appoint such additional officers as may be necessary for carrying out the functions of the councils of the county divisions within the county, and may pay to such officers such salaries, emoluments and allowances as it may determine.

(2) The council of a county division may, with the approval of the Minister and with the consent of the council of the county in which its division is situate and subject to such conditions as to the manner of carrying out the duties of the office as that county council may specify, and shall if so directed by the Minister, appoint, its own clerk and other officers; and may pay to such officers such salaries, emoluments and allowances as the urban or area council may determine:

Provided that no person shall be appointed under this paragraph as medical officer of health or health inspector except with the prior approval of the Minister for the time being responsible for health.

118. Notwithstanding the other provisions of this Part of these Regulations, an urban or area council may, with the approval of the Minister, appoint to any office in its service, a public officer seconded to the service of the urban or area council for that purpose for such period and on such terms and conditions as the Minister may determine.

Appointment by urban and area councils of seconded public officers.

Local Council Officers

119. (1) A local council may, with the approval of the Minister, appoint one of its members to be clerk of the council without remuneration, and may appoint another of its members to be treasurer without remuneration.

Appointment of clerks, etc., by local councils.

(2) If no member of a local council is appointed as clerk or treasurer the council may appoint a fit and proper person to be clerk or treasurer, and may pay to such officer such salary, emoluments, and allowances as it may determine.

(3) A local council may appoint such other officers as may be necessary and may pay to such officers such salaries, emoluments and allowances as it may determine.

120. Any officer of any municipal council or of any county council within the area of which is situate a local council area may assist, advise, act on behalf of, or perform functions for, the local council on such terms as may be agreed between the local authorities concerned.

Certain officers to act for local councils.

Qualifications and Disqualifications of Officers

121. A person shall, so long as he is, and for six months after he ceases to be, a member of a local authority, be disqualified from being appointed by that local authority to any paid office, other than to the office of mayor or chairman.

Members of local authorities not to be appointed as officers.

122. No person shall be appointed as town clerk of a municipal council of the first class or clerk of a county council of the first class unless he is qualified in accordance with section 12 or section 13 of the Advocates Ordinance, or has not less than ten years' experience of local government administration:

Qualifications of town clerk and clerk.

Cap. 16.

Provided that in any particular case the Minister may, after such consultation as he may deem necessary, approve the appointment of a person as town clerk or clerk notwithstanding that he is not qualified as aforesaid.

123. No person shall be appointed as town treasurer of a municipal council of the first class or as treasurer of a county council of the first class unless he is a member of the Institute of Municipal Treasurers and Accountants or of any of the professional bodies specified in the first column of the Schedule to the Accountants (Designations) Ordinance:

Qualifications of town treasurer and treasurer of county councils.

Cap. 524.

Provided that—

- (i) in any particular case the Minister may, after such consultation as he may deem necessary, approve the appointment of any person as town treasurer or treasurer, notwithstanding that he is not a member as aforesaid:

- (ii) this regulation shall not apply to, or in relation to, a town treasurer or treasurer of a municipal council or county council which employs or has seconded to it a financial adviser, who is a member as aforesaid.

Qualifications of town engineers and engineers of county councils.

124. A person shall not be appointed as town engineer of a municipal council or as engineer of a county council unless he is a member or an associate member of the Institution of Civil Engineers or of the Institution of Municipal Engineers:

Provided that in any particular case the Minister may, after such consultation as he may deem necessary, approve the appointment of a person as town engineer of a municipal council or as engineer of a county council, as the case may be, who is not qualified as aforesaid.

Qualifications of medical officers of health and health inspectors. Cap. 242.

125. No person shall be appointed as medical officer of health or health inspector of a local authority unless he possesses such qualifications as may be prescribed in relation to such office under the Public Health Ordinance.

Tenure of Office

Tenure of office.

126. Subject to regulation 127 of these Regulations, and any written law relating to retirement or dismissal or removal from office, a local authority may, at any time terminate the appointment of such officer upon giving not less than one month's written notice or, in the case of misconduct, immediately without notice.

Removal and suspension of certain officers.

127. No officer holding the office of town clerk, town treasurer, financial adviser, town engineer, or medical officer of health of a municipal council, and no officer holding the office of clerk, treasurer, financial adviser, engineer or works superintendent where no engineer has been appointed, or medical officer of health of a county council, shall be removed from office unless and until such removal has been decided upon at a meeting specially convened for that purpose, by a majority of the total number of councillors of the council and unless the Minister approves such removal; in addition in the case of a medical officer of health no such removal shall be effective without the approval of the Minister responsible for health:

Provided that in this paragraph "medical officer of health" shall not include a deputy or an assistant medical officer of health.

(2) No officer holding the post of deputy medical officer of health, assistant medical officer of health, chief health inspector, deputy chief health inspector or health inspector shall be removed from office unless and until such removal has been approved by the Minister for the time being responsible for health.

(3) (a) Pending the granting of such approval as is required by paragraph (1) or paragraph (2) of this regulation, as the case may be, for the removal of any officer specified in the said paragraph (1) or paragraph (2), the council may suspend such officer from the duties and emoluments of his office for incapacity, neglect or misconduct.

(b) The council suspending any officer from the duties and emoluments of his office under this paragraph shall forthwith report such suspension, together with the reason therefor—

- (i) in the case of an officer specified in paragraph (1) of this regulation, to the Minister; and

(ii) in the case of the medical officer of health and any officer specified in paragraph (2) of this regulation, to the Minister for the time being responsible for health.

(c) In the event of such approval as is required by paragraph (1) or paragraph (2) of this regulation, as the case may be, being granted for the removal of an officer suspended under this paragraph, such officer shall be deemed to have been removed from his office from the date of such suspension.

(d) Where approval as required by this regulation for the removal of an officer suspended under this paragraph is not granted, such officer shall forthwith be entitled to resume the duties of his office and shall be entitled to the emoluments thereof for the period of the suspension as if he had never been suspended.

128. (1) Where the appointment of an officer of a local authority (other than an officer on probation) is terminated for any reason, he may appeal in writing to the Minister against such termination of his appointment.

Appeals against terminations of appointments.

(2) The Minister may, after consideration of any appeal made under paragraph (1) of this regulation and the representations thereon made by the local authority, either confirm or set aside the decision of the local authority respecting such termination, and where such decision is set aside the local authority shall forthwith retrospectively reinstate the officer concerned in his former post on the same terms and conditions as those on which he was employed at the time his appointment was terminated.

Status and Duties of Certain Officers

129. (1) The town clerk of a municipal council and the clerk of every other local authority, shall be the chief executive and administrative officer of the local authority of which he is the town clerk or the clerk, as the case may be, and shall have the general responsibility of co-ordinating the whole of the work of the local authority.

Status, powers and duties of town clerk and clerk.

(2) In the discharge of the functions of his office he shall have all the powers and duties conferred and imposed upon the town clerk or the clerk, as the case may be, by these Regulations or any other written law and, in particular, but without prejudice to the generality of the foregoing, he shall have the powers and duties assigned to him by, and he responsible for the matters specified in, Part I of the Third Schedule to these Regulations, and such other duties as may be assigned to him by the local authority of which he is the town clerk or the clerk, as the case may be.

(3) The Minister may from time to time, by order, amend Part I of the Third Schedule to these Regulations.

(4) The town clerk or clerk, or other officer thereto authorized in writing by the town clerk or clerk, may subject to the general or specific directions of the local authority, exercise the powers of the local authority, and all acts done by such officer in exercise of those powers shall be deemed to have been done by the local authority.

Status, powers
and duties of
chief financial
officer.

130. (1) The town treasurer of a municipal council and the treasurer of every other local authority, or, in the case of a local authority which has appointed a financial adviser or which has had a financial adviser seconded to it, then the financial adviser shall be the chief financial officer of the local authority of which he is the town treasurer, treasurer or financial adviser, as the case may be, and shall be primarily charged with the general responsibility for all matters of finance and accounts of the local authority.

(2) In the discharge of the functions of his office, the chief financial officer shall have all the powers and duties conferred and imposed upon the town treasurer or the treasurer, as the case may be, by these Regulations or any other written law, and, in particular, but without prejudice to the generality of the foregoing, he shall have the powers and duties assigned to him by, and be responsible for the matters specified in Part II of the Third Schedule to these Regulations, and such other duties as may be assigned to him by the local authority of which he is the chief financial officer.

(3) The Minister may from time to time, by order, amend Part II of the Third Schedule to these Regulations.

Status, powers
and duties of
medical officer
of health.

131. (1) The medical officer of health of a local authority shall be the chief medical adviser for the local authority and shall be responsible to the local authority for all matters relating to health for which the local authority is responsible.

(2) In the discharge of the functions of his office, a medical officer of health shall have all the powers and duties conferred and imposed upon the medical officer of health of the local authority of which he is such officer by these Regulations or any other written law and, in particular, but without prejudice to the generality of the foregoing, he shall perform such duties as may be prescribed under the Public Health Ordinance and such other duties as may be assigned to him by the local authority of which he is the medical officer of health.

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Status, powers
and duties of
town engineer
and engineer.

132. (1) The town engineer of a municipal council and the engineer or where there is no engineer, the works superintendent, of every other local authority, shall have the general responsibility for the engineering works of the local authority of which he is such officer (except where the local authority shall have made separate contractual arrangements therefor), and for the maintenance and repair of all roads, drains, streets and bridges for which the local authority is responsible and for such other matters as may be assigned to him by the local authority.

(2) In the discharge of the functions of his office, the town engineer, the engineer or where there is no engineer, the works superintendent of a local authority shall have all the powers and duties conferred and imposed upon the town engineer or the engineer of a local authority, as the case may be, by these Regulations or any other written law and such other duties as may be assigned to him by the local authority of which he is an officer.

General

133. (1) Where the Minister has required or directed a municipal council under regulation 107 or regulation 108 of these Regulations, or a county council under regulation 112 or regulation 113 of these Regulations, or an urban or area council under regulation 117 of these Regulations, to make any appointment to any office specified in any of the said regulations respectively, the local authority concerned shall make such appointment within six months after receipt by it of such requirement, and, thereafter unless such requirement is withdrawn by the Minister, shall whenever a vacancy occurs in such office, appoint within six months after such occurrence, an officer to fill such vacancy.

Certain appointments to be made within six months; in default Minister may appoint.

(2) Where such an office or such a vacancy is not so filled, the Minister shall, upon service of a notice in writing on the local authority concerned, of his intention so to do, be entitled to appoint a fit and proper person, whether as a full-time, a part-time or a consulting officer, to such office or such vacancy, as the case may be, subject to such person possessing the qualifications required by or under these Regulations, and in the case of a medical officer of health or a health inspector, after consultation with the Minister for the time being responsible for health.

(3) Every appointment made under paragraph (2) of this regulation shall be made on such terms and conditions (including salary, emoluments and allowances) as the Minister may determine, and every officer so appointed shall be deemed to have been appointed by the local authority concerned upon those terms and conditions.

(4) Where the period of six months specified in paragraph (1) of this regulation has elapsed without the required appointment being made and the Minister has by writing under his hand notified the local authority concerned of his intention to appoint a fit and proper person to the office or to fill the vacancy, as the case may be, the local authority shall not appoint or proceed to appoint any person to that office or to fill that vacancy without the approval of the Minister.

134. (1) If any office specified in regulation 107, regulation 108, regulation 112, regulation 113, or regulation 117 of these Regulations is vacant (whether by virtue of no appointment having been made to such office or by virtue of the termination of the service of the holder thereof for any reason whatsoever), or the holder of any such office is for any reason unable to act, and no deputy has been appointed under regulation 109 or regulation 114 of these Regulations, as the case may be, or the deputy so appointed is unable to act for any reason, the local authority concerned may, subject to the like qualifications and disqualifications as for the holder of the office, appoint a person to act temporarily in that office on such terms and conditions (including salary, emoluments and allowances) as the local authority concerned may, with the approval of the Minister, determine:

Appointment of temporary officers.

Provided that a local authority shall not permit any person appointed under this regulation to act temporarily for a period longer than one year in any such office without the consent of the Minister.

(2) Any person so appointed shall, subject to the terms of his appointment, have all the functions of the holder of the office.

Security to be given by officers.

135. (1) A local authority shall, in the case of an officer employed by it, whether under this or any other written law, who by reason of his office or employment is likely to be entrusted with the custody or control of money and may, in the case of any other officer employed by it, either require him to give, or itself take, such security for the faithful execution of his office and for his duly accounting for all money or property which may be entrusted to him, as the local authority thinks sufficient.

(2) A local authority may, in the case of a person not employed by it but who is likely to be entrusted with the custody and control of money or property belonging to the local authority, take such security as it thinks sufficient for the person duly accounting for all money or property.

(3) A county division council or a local council may, at its discretion, comply with the provisions of this regulation under arrangements made with the county council or the municipal council in whose area such county division or local council area as the case may be, is situate.

(4) Notwithstanding paragraphs (1), (2) and (3) of this regulation, a municipal council or a county council may give to any local council established within its area, directions as to the manner in which any security for the faithful execution of the office of any local council officer shall be given or taken.

(5) A local authority, shall, in the case of persons not employed by it, and may in any other case, defray the cost of any security given or taken under this regulation, and every such security shall, on demand, be produced to the inspector at the audit of the accounts of the local authority.

Accountability of officers.

136. (1) Every officer employed by a local authority, whether under these Regulations or any other written law, including a public officer seconded to a local authority, shall at such times during the continuance of his office, or within three months of his ceasing to hold office, and in such manner as the local authority directs, make out and deliver to the local authority, or as it directs, a true account in writing of all money and property committed to his charge and of his receipts and payments, with vouchers and other documents and records supporting the entries therein, and a list of persons from whom or to whom money is due in connexion with his office, showing the amount due from or to each.

(2) Every such officer shall pay all money due from him to the treasurer of the local authority or otherwise as the local authority may direct.

(3) If any such officer—

- (a) refuses or wilfully neglects to make any payment which he is required by this regulation to make; or
- (b) after three days' notice in writing signed by the clerk of the local authority and given to him or left at his last known place of residence or postal address, refuses or wilfully neglects to make out or deliver to the local authority, or as the local authority directs, any account or list which he is

required by this regulation to make out and deliver, or any voucher, other document or record relating thereto or to give satisfaction respecting it to the local authority or as the local authority directs,

a subordinate court of the first class having jurisdiction within the area of the local authority may, on complaint by the local authority, by order require such officer to make such payment or delivery or to give such satisfaction.

(4) If any person fails to comply with an order made under paragraph (3) of this regulation he shall be guilty of an offence and liable to a fine not exceeding two thousand shillings or to imprisonment for a term not exceeding two months or to both such fine and imprisonment.

(5) Nothing in this regulation contained shall derogate from a local authority's right to recover by any normal process of law any sum due to it from any officer, save that proceedings under this regulation and proceedings being any normal process of law, for recovery of the same sum, shall not be maintained at the same time.

137. (1) If it comes to the knowledge of an officer employed, whether under these Regulations or any other written law, by a local authority, that a bargain, contract or arrangement in which he has any pecuniary interest, whether direct or indirect (not being a bargain, contract or arrangement to which he is himself a party) has been, or is proposed to be, made or entered into by the local authority or any committee thereof, he shall, as soon as practicable, give notice in writing to the local authority of the fact that he is interested therein.

Disclosure
by officers
of interest
in contracts.

(2) An officer of a local authority shall not, under colour of his office or employment, exact or accept any fee or reward whatsoever other than his proper remuneration.

(3) If any person fails to comply with paragraph (1) or contravenes paragraph (2) of this regulation, he shall be guilty of an offence and shall, for every such offence, be liable to a fine not exceeding two thousand shillings or to imprisonment for a term not exceeding two months, or to both such fine and imprisonment.

(4) Any profits, fees and reward which may have accrued to such officer, or which may accrue to him, by reason of such bargain, contract or arrangement shall be deemed to have accrued or to accrue to him for and on behalf of the local authority and may be recovered by the local authority before any court of competent jurisdiction.

(5) For the purposes of this regulation an officer shall be treated as having indirectly a pecuniary interest in a bargain, contract or arrangement if he would have been so treated by virtue of paragraph (2) or paragraph (3) of regulation 89 of these Regulations had he been a member of the local authority.

(6) Reference in this regulation to a local authority shall include a reference to a joint committee appointed under regulation 93 of these Regulations or to a joint board constituted under regulation 104 of these Regulations.

(7) Any officer who is convicted of an offence under this regulation shall be dismissed forthwith from his office and regulation 127 of these Regulations shall not apply to such dismissal.

Restriction
on engaging
in private
practice, etc.

138. (1) Subject to paragraph (2) of this regulation an officer in the full-time service of any local authority shall not, except with the permission of the local authority, engage in private practice, render any professional assistance or advice to any person otherwise than in connexion with or in the course of his employment by the local authority, whether on payment or otherwise, or accept any paid employment, and any payment received by such officer for or on account of or arising out of any such private practice, professional assistance or advice or employment as aforesaid (whether with the permission of the local authority or without such permission) shall be credited to and shall be deemed to be part of the general revenue of the local authority except where the local authority, in respect of the whole or any part thereof, authorizes retention by the officer concerned.

(2) A medical officer of health or a health inspector shall not, except with the consent of his employing authority and the approval of the Minister for the time being responsible for health, engage in any private practice, or in any private work arising out of or in any way connected with the discharge of his duties.

Transfers
of pension and
other rights.

139. (1) Where an officer of a local authority being a member of a pension, provident or benevolent fund established by such local authority under regulation 151 of these Regulations, transfers to the service of another local authority administering a pension, provident or benevolent fund established by it under the said regulation and of which, under the rules appertaining thereto, he is eligible to become a member, then the two local authorities concerned shall, at his request, arrange for the transfer from the first-mentioned fund to the second-mentioned fund of all sums in the first-mentioned fund standing to the credit of such officer, including contributions made by the local authority on behalf of such officer and the contributions (if any) of any other local authority transferred to the fund under this regulation.

(2) (a) Upon the transfer under this regulation of moneys standing to the credit of an officer to the fund of a local authority, such officer shall be deemed to have become a member of such fund with effect from the earliest date upon which, had he then been in the like service of the aforesaid local authority, he would have been eligible to become a member of such fund or with effect from his notional membership date, whichever is the earlier.

(b) For the purpose of this regulation an officer's notional membership date shall be—

(i) in the case of an officer the moneys standing to whose credit in the fund of the local authority first-mentioned in paragraph (1) of this regulation do not include any moneys transferred under this regulation to that fund from the fund of any other local authority, the date on which the officer became a member of the fund of such first-mentioned local authority;

(ii) in the case of an officer the moneys standing to whose credit in the fund of the local authority first-mentioned in paragraph (1) of this regulation includes moneys paid into the fund or funds of any other local authority or

local authorities and transferred under this regulation directly or successively to the fund of such first-mentioned local authority, the date on which the officer became a member of the fund of such earlier local authority or of the earliest of such earlier local authorities, as the case may be.

(3) Where an officer makes a request under paragraph (1) of this regulation and the officer or the local authority to whose service he transfers considers that paragraph (2) of this regulation would cause financial disadvantage to the officer or to the local authority, as the case may be, then either party may apply to the Minister for directions as to any adjustments which may be necessary to effect the transfer in an equitable manner and such transfer shall then only take place if the officer and the local authority express their agreement with the directions of the Minister.

140. (1) Where an officer of a local authority being a member of a pension, provident or benevolent fund established by such local authority under regulation 151 of these Regulations, transfers to the service of another local authority which is not administering a pension, provident or benevolent fund of which such officer is eligible to become a member, but to which the Local Authorities Provident Fund Ordinance applies in respect of the post to which such officer transfers then, the sums in the pension, provident or benevolent fund of the first-mentioned local authority standing to the credit of such officer (including contributions made by such officer and contributions made by such local authority on behalf of such officer and the contributions (if any) of any other local authority and accrued interest on all such contributions) shall, at the request of such officer, be transferred to stand to the credit of such officer in the Local Authorities Provident Fund established under the said Ordinance.

Transfers in relation to the Local Authorities Provident Fund.

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(2) Where an officer of a local authority who is a contributor to the Local Authorities Provident Fund established under the Local Authorities Provident Fund Ordinance, transfers to the service of another local authority to which, or to the post held by him in the service of which, that Ordinance does not apply, then, at his option—

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- (a) his service with the first-mentioned local authority shall as from the date of his transfer be deemed to have been terminated within the meaning of section 14 (c) of the aforesaid Ordinance and the remaining provisions of that Ordinance shall apply accordingly; or
- (b) if the local authority to which he transfers administers a pension, provident or benevolent fund of which he is eligible to become a member, his account in the Local Authorities Provident Fund shall be closed with effect from the date of his transfer and all moneys otherwise payable to him or to any other person by virtue of subparagraph (a) of this paragraph shall be transferred to the fund of such local authority and paragraph (2) and paragraph (3) of regulation 139 of these Regulations shall, *mutatis mutandis*, apply in respect thereof.

Right to attend meetings.

141. The clerk, treasurer, medical officer of health and engineer, or the works superintendent where no engineer has been appointed, of very local authority shall have the right to attend all meetings of that local authority and of committees and subcommittees thereof.

Saving in respect of serving officer, and transfers.

142. Nothing in this Part of these Regulations shall—

- (a) affect the tenure of office or the terms and conditions of service of any officer of a local authority holding office at the commencement of these Regulations unless and until he voluntarily accepts revised terms and conditions of service, or
- (b) require an officer to transfer from the service of one local authority to another without his consent.

PART IX—CERTAIN POWERS, DUTIES AND PROVISIONS RELATING TO ALL LOCAL AUTHORITIES

Power to enter into contracts.

143. (1) A local authority may enter into contracts necessary for the discharge of any of its functions.

(2) A local authority may enter into contracts with any other local authority for, or with respect to, the doing and the control or management by either or both of the contracting parties of any of the things provided for in these Regulations, or of any other matter or thing which both the contracting parties are by law empowered to do, control or manage.

(3) A local authority may enter into contracts with the Government or the Organization for the purpose of any work, service or function for which the Government or the Organization is responsible within or adjacent to the area of the local authority.

(4) Subject to paragraph (7) of this regulation—

- (a) a local authority shall, except in those cases provided in paragraph (6) of this regulation, before entering into any contract for the execution of any work or the supply of any goods to the value of ten thousand shillings or more, give not less than fourteen days' public notice in one or more newspaper or journals of such proposed contract and the purposes and other relevant particulars thereof, and shall, by such notice, invite any person willing to undertake the same to submit a tender thereof by a stated date to such local authority; and
- (b) a local authority shall not consider any tender nor enter into any contract to which this paragraph applies until full and similar particulars of the proposed contract have been supplied to every person applying to the local authority therefor within fourteen days of the publication of the notice in accordance with subparagraph (a) of this paragraph, nor until the expiration of the said period of fourteen days, and shall on such expiration consider all tenders which have then been submitted to it.

(5) (a) A local authority may accept any tender which, having regard to all the circumstances, appears to it to be the most advantageous, and may take security for the due and faithful performance of every contract, or the local authority may decline to accept any tender:

Provided that the local authority, before accepting any tender other than the lowest, shall obtain the consent of the Minister in writing.

(b) Every tender received, whether accepted or not, shall be recorded in the minutes of the local authority.

(6) (a) In cases of emergency, or where the delay involved in inviting tenders in the manner hereinbefore provided would cause loss to a local authority, the finance committee of that local authority may authorize the making of contracts or purchases to the value of ten thousand shillings or more without publication of a notice under paragraph (4) of this regulation.

Provided that—

(i) in all such cases the finance committee shall specify the method of inviting tenders and the period within which tenders shall be submitted, and no such tender shall be accepted without the approval of the finance committee;

(ii) in every such case the finance committee shall submit to the local authority at its next succeeding ordinary meeting a report as to the reasons for making such contract or purchase without inviting tenders in the manner provided in paragraph (4) of this regulation, and such report shall include a schedule giving full particulars of all tenders received.

(b) This paragraph shall only apply in relation to municipal councils and county councils.

(7) Nothing in this regulation shall apply to any contract for the purchase of produce or other perishable goods, or to any purchase entered into by a local authority as a result of bidding at a public auction, or to purchases of particular goods by a particular local authority where the Minister has directed that this regulation shall not apply to purchases of those goods by that local authority.

(8) All contracts lawfully made under this regulation shall be valid and binding on the local authority, its successors, and all other parties thereto.

144. (1) A local authority may, for the purpose of any of its functions under this or any other written law, by agreement acquire, whether by way of purchase, lease, exchange or gift, any land, whether situate within or without the area of the local authority, notwithstanding that the land is not immediately required for that purpose; and where land is so acquired notwithstanding that it is not immediately required for the purpose for which it was acquired, it may, until so required, be held and used for the purpose of any other function of the local authority.

Acquisition of
and dealings
in land.

(2) A local authority may, subject to the approval of the Minister, apply to the Government for any land required for the purpose of any of its functions to be acquired compulsorily for and on behalf and at the expense of the local authority: and any such purpose shall be deemed to be a public purpose within the meaning of the Indian Land Acquisition Act, 1894, or any enactment replacing the same.

(3) Any land belonging to a local authority and not required for the purpose for which it was acquired may, with the approval of the Minister and subject to such conditions as he may think fit to impose, be appropriated for any other purpose for which the local authority is authorized to acquire land :

Provided that the appropriation of land by a local authority shall be subject to any covenant or restriction affecting the use of the land in its hands.

(4) On an appropriation of land under paragraph (3) of this regulation such adjustments shall be made in the accounts of the local authority as the Minister may direct.

(5) A local authority may let, or grant to any person a licence to occupy, any land which it may possess—

(a) with the consent of the Minister for any term;

(b) without the consent of the Minister, unless such consent is required by regulation 177 of these Regulations or by any other written law, for a term not exceeding seven years;

and may, in respect thereof, charge rents, stand premia or fees.

(6) Subject, in the case of land acquired in pursuance of paragraph (2) of this regulation, to the provisions of the aforesaid Act, or to any written law replacing that Act a local authority may, with the consent of the Minister—

(a) sell any land which it may possess and which is not required for the purpose for which it was acquired or is being used;

(b) exchange any land which it may possess for other land, either with or without paying or receiving any money for equality of exchange.

(7) (a) Capital money received from the sale or exchange of land by a local authority shall be applied in such manner as the Minister may approve towards the discharge of any debt of the local authority or otherwise for any purpose for which capital money may properly be applied.

(b) Where capital money is applied under this paragraph for a purpose other than that for which the land the subject of the transaction was held, such adjustment shall be made in the accounts of the local authority as the Minister may direct.

(8) (a) Nothing in this regulation shall authorize the disposal of land by a local authority, whether by sale, lease or exchange, in breach of any trust, covenant or agreement binding upon the local authority.

(b) Where under any written law conferring on a local authority a power to acquire land, the power is expressly limited to acquiring land by agreement, nothing in this regulation shall confer on the local authority power to acquire land compulsorily for the purposes of that written law.

(9) For the purposes of this regulation references to the functions of a local authority shall be construed as including any such functions as are exercised through a joint committee appointed by such local authority in concurrence with any other local authority or authorities, and any such functions as are exercised through a joint board in relation to which such local authority is or is deemed to be an interested local authority within the meaning of regulation 105 of these Regulations.

145. A local authority may—

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| (a) establish and maintain such offices and buildings as may be required for the purposes of the local authority and for public meetings and assemblies; | Miscellaneous powers of local authorities.
Public offices. |
| (b) establish and maintain houses as residences for officers of the local authority; | Houses for officers. |
| (c) pay the medical and funeral expenses of any person employed by the local authority who suffers injury or dies as the result of an accident occurring in the course of his employment or as a result of illness contracted in consequence of such employment; | Medical expenses of officers. |
| (d) resolve to be bound by the Local Authorities Provident Fund Ordinance, or enter into an agreement with a local authority which has established a pension, provident or benevolent fund under regulation 151 of these Regulations, for the admission of all or any of its officers to membership of such fund and to pay into such fund such contributions as may be payable in accordance with the rules governing the administration of such fund; | Superannuation and other funds for officers.
Cap. 272. |
| (e) incur such expenditure as it may deem necessary or desirable for or in connexion with the training of the staff of the local authority, whether by the making of grants of money for or towards such training, the provision of scholarships for or the payment of bursaries to its employees to assist in such training, or otherwise as the local authority sees fit; | Staff training. |
| (f) subject to regulation 144 of these Regulations, sell, let or otherwise dispose of any movable or immovable property of the local authority; | Dealing in property. |
| (g) subject to the consent of the Minister, to regulation 144 of these Regulations, and to any other written law relating thereto:—
(i) subdivide any land belonging to it for the purpose of factory, industrial, business or workshop sites; and
(ii) sell, let or otherwise dispose of any plots or subdivisions of such land and any buildings thereon; and
(iii) sell, let or otherwise dispose of such land to any person for the purpose of carrying on thereon any work or trade of an offensive nature which such local authority is empowered to control; | Subdivision of land for factories. |

- Woodlands. (h) establish and maintain woodlands;
- Health services. (i) subject to the consent of the Minister establish and maintain, either by itself or jointly with any other local authority or any association, maternity services, health centres and dispensaries within or without its area of jurisdiction; and
- Disinfecting services. (j) establish and maintain disinfecting and disinfestation services;
- Locusts and other noxious insects. (k) take or require the taking of such steps and measures as may be necessary or desirable for securing the prevention and destruction of locusts and other noxious insects and for preventing and abating agricultural pests, and supply poison and appliances for the aforesaid purposes;
- Explosives and magazines. (l) subject to any law relating to the storage of explosives, establish and maintain magazines for the storage of explosives and dangerous articles, whether within or without its area of jurisdiction;
- Fencing of plots. (m) require, enforce and regulate the fencing of plots, and prohibit or control the use of barbed wire for fencing;
- Statistical information. (n) obtain statistical information relating to inhabitants of its area and to any matters concerning the functions of the local authority;
- Recreation grounds. (o) (i) establish and maintain recreation grounds and facilities for recreation on land belonging to, and on parks, squares and open spaces vested in it; and
- Boating. (ii) establish and maintain boats and boating establishments; and
- Other amenities. (iii) establish, maintain and control in connexion with any such recreation ground or boating establishment as aforesaid, aquariums, pavilions, piers, dressing-rooms, lavatories, and such other buildings and conveniences of any nature and for any purpose as the local authority may consider to be necessary or convenient; and
- Games and recreations. (iv) set apart any portion of any such recreation ground as may be determined by the local authority and described in a notice set up in some conspicuous place on such recreation ground for the purpose of any particular game or recreation, and exclude the public from the portion so set apart; and
- Apparatus for games. (v) provide any apparatus for games or recreation in respect of any such recreation ground or boating establishment, and permit any person, club or body to provide any such apparatus on such terms as the local authority may decide; and
- Refreshment rooms. (vi) establish, maintain and control refreshment rooms, cafes and restaurants in any such recreation ground or in connexion with any such boating establishment; and
- Letting of recreation grounds. (vii) let any such recreation ground with or without any building or apparatus established or provided in connexion therewith to any person or club or other body of persons,

and, by resolution of the local authority, authorize such person, club or body to make charges in connexion therewith; and

- (viii) control boating establishments by whomsoever established, licence boats whether kept for hire or otherwise, and regulate the use of and fix the number of persons to be carried in such boats; Boating establishments.
- (p) (i) establish, maintain, let and manage public markets and market buildings; Markets.
- Provided that no county council, or urban or area council shall after the coming into operation of these Regulations establish any market within a distance of three miles of the boundary of its area without the consent of the Minister; and
- (ii) control markets in its area by whomsoever established and, where a market has been established by the local authority, prohibit the establishment of any other market within its area without the permission of the local authority; and
- (iii) control public sales held on any public or open space or in any public building; and
- (iv) control places used for the purpose of selling publicly, or exposing for sale, any cattle, horses, sheep, goats, pigs, poultry or other livestock; and
- (v) where provision is made for any such sale in any market established by the local authority or at any place provided by the local authority for the purpose, prohibit such sales elsewhere than in or at such market or place and licence persons to conduct such sales in or at such market or place and require the deposit of security by an applicant for such licence;
- (q) guarantee loans made by other persons, and may make loans, either on its own behalf or jointly with the Government or any other person, to such persons, and upon such terms and conditions and for such purposes, as the Minister may approve either generally or in any particular case or in any specified class of cases; Guarantees of loans.
- (r) establish and maintain public weighing machines; Public weighing machines.
- (s) establish, maintain, assist, promote and control— Art galleries, museums, etc.
- (i) art galleries, museums, botanical gardens and zoological gardens; and
- (ii) within or without its area, public libraries;
- (t) establish, maintain and assist bands for musical performances in public places and at local authority functions, and generally provide musical entertainment in such places and at such functions; Bands.
- (u) subject to any written law relating thereto, establish and maintain wireless or radio relay stations and services and television rediffusion stations and services; Radio and television.

Information centres.	(v) establish, maintain and assist information centres and inquiry bureaux;
Wild life.	(w) subject to any written law relating thereto, take such measures as may be necessary or desirable for the preservation or protection of wild life, and provide amenities for the observation of wild life, within or without its area;
Camping grounds.	(x) establish and maintain camping, grazing and outspan grounds, whether within or without its area;
Public monuments.	(y) establish and maintain public monuments;
Social services.	(z) establish and maintain, and regulate, alms-houses, hostels, welfare and social services and centres;
Destitute persons.	(aa) make provision for the return of destitute persons to their homes within Kenya, and generally give assistance to destitute and necessitous persons;
Child welfare.	(ab) establish, maintain and assist institutions, day nurseries and clinics for the care and welfare of infants, children and juveniles, and make provision for suitable instruction being imparted to expectant mothers and to mothers of such infants;
Theatres. 34 of 1962.	(ac) subject to the Films and Stage Plays Ordinance, 1962, establish and maintain theatres, concert halls, cinemas, public halls and other places of public amusement and public resort;
Publicity.	(ad) advertise and give publicity to the attractions and advantages of the area of the local authority;
Promotion of legislation.	(ae) promote legislation in the interests of, and oppose legislation which is not in the interests of, the local authority.
Grants of money.	146. A local authority may, subject to the consent of the Minister make grants of money—
Hospitals and health services.	(a) towards the establishment and maintenance of hospitals, health centres, dispensaries and maternity and nursing and other ancillary health services, whether within or without its area;
Scientific, research, and charitable organizations.	(b) towards the establishment and maintenance of institutions and organizations, not being of a private nature, for scientific, agricultural and horticultural purposes, for the purposes of research or for charitable, educational, welfare or social purposes;
Air and telephone services.	(c) towards the establishment and maintenance of air and telephone services within or without its area for the purpose of improving the amenity of such area;
Game parks and wild life.	(d) towards the establishment and maintenance, whether within or without its area, of game parks (including accommodation for visitors therein and amenities for wild life observation) and to organizations established, whether within or without its area, for the preservation or protection of wild life;
Other organizations.	(e) to any committee, association or organization established for the carrying out of any function which such local authority is itself empowered to carry out, towards the carrying out of that function.

147. Every local authority shall have power—
- (a) to require the owner of any premises to do any of the following acts—
- (i) to remove, lower or trim to the satisfaction of the local authority any tree, shrub or hedge overhanging or interfering in any way with the traffic on any road or street or with any wires or works of the local authority;
- (ii) to remove any dilapidated fence or structure abutting upon any public place;
- (b) to prohibit obstructions in or on public places and to provide for the removal and sale of any such obstructions and for the disposal of any moneys derived from any such sale;
- (c) to prohibit and control the sale and movement of livestock with the object of preventing the theft of livestock or the possession of stolen livestock;
- (d) to control the cutting of timber and the destruction of trees and shrubs, to prohibit the wasteful destruction of trees and shrubs, and to require the planting of trees.
148. (1) A local authority may—
- (a) charge fees for any licence or permit issued under these Regulations or any other written law or in respect of any person or matter, premises or trade, whom or which the local authority is empowered to control or licence;
- (b) impose fees or charges for any service or facility provided or goods or documents supplied by the local authority or any of its officers in pursuance of or in connexion with the discharge of any duty or power of the local authority or otherwise.
- (2) All fees or charges imposed by a local authority shall be regulated by by-law, or if not regulated by by-law, may be imposed by resolution of the local authority with the consent of the Minister and such consent may be given either in respect of specified fees or charges or may be given so as to allow a specified local authority to impose fees or charges by resolution in respect of a specified power or a particular matter.
- (3) Save where the contrary is expressly or by necessary implication in any written law provided, a local authority may authorize the remission in whole or in part of any fees due to it or charges imposed by it under these Regulations or any other written law.
149. (1) A local authority may, in its discretion, in respect of any officer employed by it who intends to leave East Africa—
- (a) give such guarantees as may be required by the Commissioner of Income Tax for securing the payment of tax chargeable under the East African Income Tax (Management) Act, 1958, that is, or may become, payable by such officer upon the salary paid or payable to him by such local authority;
- Miscellaneous powers of control.
Removal of trees, etc.
- Obstructions.
- Movement of livestock.
- Preservation of trees.
- Imposition of fees and charges.
- Powers to guarantee tax liability and pay deposits in respect thereof, and to recover payments made respecting tax. H.C. No. 10 of 1958.

- (b) in the case of any such officer who intends to leave East Africa on the official business of such local authority, give such guarantees as aforesaid in respect of such person's tax howsoever arising or pay such deposit to the Commissioner of Income Tax as he may require.

(2) Any moneys paid by a local authority to the Commissioner of Income Tax under a guarantee given under paragraph (1) of this regulation, and any deposit, or any part thereof, paid under paragraph (1) (b) of this regulation which is forfeited consequent upon the default of the person in respect of whose liability such guarantee or deposit was given or paid, shall be recoverable by the local authority from such person or his estate and, for the purpose of recovery of such moneys, the local authority shall be entitled to withhold payment of any salary, pension, provident or benevolent fund benefit, or any other emolument of any sort whatsoever due to the officer or his estate.

Power to pay allowances to councillors and aldermen.

150. (1) A local authority may, with the approval of the Minister, pay to a councillor or alderman, at such rates as the Minister may specify or where the Minister has specified maximum rates, at such rates as it may determine not exceeding those maximum rates, allowances in respect of—

- (a) expenditure on subsistence or travelling necessarily incurred by him for the purpose of enabling him to perform his duties as councillor or alderman, as the case may be;
- (b) loss of earnings, which he would otherwise have made, necessarily suffered by him for the purpose specified in the preceding subparagraph, and
- (c) additional expenses (other than expense on account of subsistence or travelling) to which he would not otherwise have been subject, necessarily incurred by him for the purpose aforesaid.

(2) A municipal council may, with the approval of the Minister, in lieu of the foregoing allowances, pay to a councillor or alderman a flat rate allowance, of such amount as the Minister may approve, in respect of all expenditure, loss, and additional expense aforesaid.

(3) A local authority may, with the approval of the Minister, pay any allowance it is empowered to pay to councillors or aldermen under paragraphs (1) and (2) of this regulation, to any person co-opted as a member of any committee thereof as if such person were a councillor or alderman.

PART X—CERTAIN POWERS, DUTIES AND FUNCTIONS RELATING TO MUNICIPALITIES AND COUNTIES

Powers with respect to pension, provident and benevolent funds.

151. (1) Every municipal council and county council shall have power to establish, control, manage, maintain and contribute to any pension, provident or benevolent fund intended for the benefit of its officers and to grant pensions and gratuities from any such fund established by it to such officers on their retirement from its service and to dependants on the death of any such officers:

Provided that—

- (i) this paragraph, save and except only to the power to contribute to any pension, provident or benevolent fund intended for the benefit of its officers, shall cease to apply to any such local authority as aforesaid with regard to any of its officers who are admitted by agreement under paragraph (4) (b) of this regulation to the membership of a pension, provident or benevolent fund established, controlled, managed and maintained by any other local authority, this paragraph ceasing to apply as aforesaid as from the date of such admission;
- (ii) the City Council of Nairobi shall also have power to establish, control, manage and maintain a pension, provident or benevolent fund within the structure of a fund, established as hereinbefore provided, intended for the benefit of the officers of any employing authority as defined in paragraph (7) of this regulation, and to grant pensions and gratuities from any such fund to such officers of such employing authority as shall have been admitted to such fund on their retirement from the service of such employing authority and to dependants on the death of any such officers.

(2) Every municipal council and every county council shall with the approval of the Minister, make rules relating generally to the establishment, control, management and maintenance of, and contribution to, and benefits from any pension, provident or benevolent fund established by it under paragraph (1) of this regulation and, without prejudice to the generality of the foregoing power, may, with the like approval, make rules—

- (a) permitting or requiring all or any of its officers to become members of such fund;
- (b) fixing the amount of the contributions, if any, to be made by members of such fund and the amount of the contributions to be made by itself;
- (c) providing for periodical valuation of such fund and for enforcing any increase in the contributions thereto or any diminutions in the benefits arising therefrom as the valuation may show to be necessary to maintain the solvency of such fund;
- (d) prescribing the age at which any officer may or shall become a member of such fund and the age and conditions upon which any such officer may or shall cease to be a member of the fund;
- (e) determining the amount of the pension or any other benefit to be paid to a member of such fund or to his dependants or to his personal representatives and providing for the circumstances in, and the conditions on which such pension or other benefit may be paid;
- (f) providing for the management and investment of the moneys of such fund and the election of a committee of management or the appointment of a trustee, whether in Kenya or in the United Kingdom, for that purpose;
- (g) providing for vesting the property, money and assets of such fund in a trustee, whether in Kenya or in the United Kingdom, for the purpose of the administration thereof;

- (h) permitting a trustee, if a bank, to transact any business in connexion with such fund on the same terms as would be made with a customer in the ordinary course of business, without such trustee being liable to account for any profit or share of brokerage;
- (i) providing for the retirement, removal or resignation of a member of the committee of management or trustee and for filling any vacancy caused thereby;
- (j) providing that no pension or right to a pension payable out of such fund shall be capable of being assigned or transferred or otherwise ceded or of being pledged or hypothecated or of being attached or subjected to any form of execution under a judgement or order a court of law, and in pursuance of any such rule the municipal council or county council as the case may be, which made the rule may withhold, suspend or entirely discontinue the payment of any such pension in the event of the beneficiary attempting to assign transfer or otherwise cede or to pledge or hypothecate such pension or right as aforesaid;
- (k) providing that any pension or other retiring benefit payable out of such fund may be withheld by the municipal council, or county council as the case may be, for the purpose of discharging any debt due to the fund or to such council;
- (l) providing that if any person in receipt of any pension or other retiring benefit payable out of such fund—
 - (i) is convicted by any court in Her Majesty's Dominions or in any other country under Her Majesty's protection or in which Her Majesty has jurisdiction and is sentenced to imprisonment without the option of a fine; for a period exceeding one month; or
 - (ii) is adjudicated a bankrupt or is declared insolvent by judgment of the court; or
 - (iii) becomes incapable of managing his own affairs by reason of physical or mental infirmity,
 such pension or retiring benefit may during only such incapacity, cease to be payable to the member and instead be paid to such of his dependants as the municipal council or county council, as the case may be, may determine.

(3) (a) Any rules made under paragraph (2) of this regulation may operate retrospectively within the limits prescribed by the rules as regards contributions by the officers of the local authority and the local authority making the rules and as regards calculation of the pension or other payment.

(b) Section 34 of the Interpretation and General Provisions Ordinance shall not apply to rules made under paragraph (2) of this regulation.

(4) (a) A municipal council or county council, having established a fund under paragraph (1) of this regulation and after receiving a report from a Fellow of the Institute of Actuaries or a Fellow of the Faculty of Actuaries in Scotland, appointed by such council, may, subject to

the approval of the Minister, agree with an employing authority to admit employees of such employing authority to membership of the fund with retrospective effect, and may amend any rules made under paragraph (2) of this regulation to enable such rules to be applied to such employing authority and to any employee of such employing authority admitted to membership of the fund.

(b) Any local authority may arrange with any other local authority administering a fund established under paragraph (1) of this regulation for the admission, on such terms and conditions as may be agreed, of any of its officers to participate in the benefits of such fund.

(c) No officer of a local authority who is, under this paragraph, admitted to membership of a fund established by another local authority, shall, from the date of his admission as aforesaid, remain or become a member of another pension, provident or benevolent fund administered by a local authority.

(5) (a) Subject to rules made under subparagraph (b) of this paragraph or, where there are no such rules, subject to the consent of the Minister, a local authority may grant from its revenues, pensions or gratuities to its officers on their retirement from its service and to dependants on the death of any such officer, in cases where no pension, provident or benevolent fund has been established under paragraph (1) of this regulation and no arrangement has been made under paragraph (4) (b) of this regulation by a local authority, or in cases where no benefits accrue from any fund so established or arrangement so made.

(b) A local authority may, with the approval of the Minister, make rules for the payment of gratuities under this paragraph to any specified class or classes of officers in cases where no pension, provident or benevolent fund has been established and no arrangement has been made as aforesaid or in cases where no benefits accrue from any such fund or arrangement in respect of such class or classes of officers.

(6) Subject to the consent of the Minister, in cases where a pension, provident or benevolent fund has been established under paragraph (1) of this regulation or any arrangement has been made under paragraph (4) (b) of this regulation by a local authority, such local authority may grant from its revenues additional or increased pensions or gratuities to its officers on their retirement from its service and to dependants on the death of any such officers.

(7) In this regulation the expression "employing authority" means any local authority or association of local authorities of Kenya, and any local authority in Tanganyika, Uganda or Zanzibar which is empowered to enter into an agreement of the nature described in paragraph (4) (a) of this regulation.

152. (1) A municipal council, or county council may, with the consent of the Minister, and an urban or area council may, with the approval of the council of the county in which its division is situate and with the consent of the Minister, but subject to the Education Ordinance and any rules made thereunder—

(a) establish and maintain schools and educational institutions (including boarding blocks and school hostels);

Powers regarding the establishment of schools, etc., and provision of bursaries.
Cap. 211.

Cap. 211.

- (b) make grants of money to regional and district education boards established under the Education Ordinance for educational purposes;
- (c) make grants to any school or educational institution, within or without its area for the provision of scholarships for persons, and the children of persons, ordinarily resident within its area.

(2) A municipal council, a county council, and an urban or area council may, subject to such conditions as the Minister may from time to time prescribe, provide bursaries to assist persons and the children of persons ordinarily resident in its area, in their education and maintenance at any school or educational institution within or without its area.

Powers authorizing omnibus and vehicle services.

153. (1) A municipal council and a county council may, within its own area and, with the consent of any local authority specified in this paragraph, within the area of such local authority, and with the consent of the Minister, within any other area—

- (a) establish and maintain a service of omnibuses or other vehicles, howsoever propelled or drawn, for the carriage of passengers and their luggage;
- (b) enter into an agreement, in such terms as may be approved by the Minister, with any person for the establishment and maintenance by him of any such service as aforesaid and for guaranteeing the capital cost thereof and interest on such cost.

(2) Whenever any such service is established or maintained by a local authority under this regulation or by any person under an agreement with a local authority under paragraph (1) (b) of this regulation, such local authority may, by order, prohibit, for such period as in each case the Minister may approve, the carrying on by any person (other than a person with whom the local authority has entered into an agreement as aforesaid) of any such service within its area and may from time to time by order extend the period of prohibition for such period as in each case the Minister may approve:

Provided that the right of any person to carry for hire or reward passengers departing to or arriving from any place outside the area of jurisdiction of such local authority shall not be affected.

(3) Before making an order of prohibition or an order extending any period of prohibition under paragraph (2) of this regulation, the local authority shall cause notice of its intention to introduce and pass a resolution for that purpose to be published in the Gazette and in at least one newspaper (if any) circulating in its area and such notice shall be given once in each week for four succeeding weeks.

(4) Any objections received by the local authority to the making of such an order of prohibition or order extending any period of prohibition shall be laid before the local authority at a meeting appointed to consider the resolution referred to in paragraph (3) of this regulation and copies of such objections shall be forwarded by the local authority to the Minister.

(5) A local authority may revoke any order or prohibition made under this regulation:

Provided that where an order is made consequent upon an agreement entered into under paragraph (1) (b) of this regulation, the local authority shall not have power to revoke such order until the termination of such agreement or of any subsequent agreement made in place of such agreement.

(6) Notwithstanding the other provisions of these Regulations and the provisions of any other written law, where any order of prohibition has been made and approved under this regulation by a local authority no licence issued under any law in respect of any public vehicle or motor vehicle carrying passengers for hire or reward, if such public vehicle or motor vehicle be licensed to carry more than six passengers, shall without the consent of such local authority, entitle any person to ply for hire with such public vehicle or motor vehicle within the area of such local authority:

Provided that the right of any person to ply for hire with any public vehicle or motor vehicle for the unexpired period of any licence issued prior to the making of any such order of prohibition under this regulation shall not be affected.

(7) Save as is provided in paragraph (2) and paragraph (6) of this regulation, any person (other than a person with whom the local authority has entered into an agreement under paragraph (1) (b) of this regulation) who carries on any service of omnibuses or other vehicles, howsoever propelled or drawn, for the carriage of passengers, or who plies for hire or reward with such public vehicle or motor vehicle for the carriage of passengers, in contravention of any order of prohibition made under this regulation shall be guilty of an offence and shall be liable to a fine not exceeding two thousand shillings or to imprisonment for a period not exceeding two months, and, in addition, to a fine not exceeding two hundred shillings in respect of each and every day upon which he contravenes such order as aforesaid.

(8) The Minister shall, before he gives any approval required under this regulation, consult the Minister responsible for the licensing of public service vehicles.

154. Every municipal council and county council shall have power—

- (a) to establish and maintain cattle cleansing facilities;
- (b) subject to the Hide and Skin Trade Ordinance, to control the drying, cleaning and storage of hides and skins, and to establish, maintain and control premises for the drying, cleaning and storing of hides and skins;
- (c) to prohibit the cultivation by unauthorized persons of any unenclosed and unoccupied land in private ownership and of any Crown land and land reserved for any public road;
- (d) to take or require the taking of such measures as may be necessary or desirable for the prevention and control of bush and forest fires;

Miscellaneous powers of municipal and county authorities.

Cattle cleansing.

Hides and skins. Cap. 359.

Unauthorized cultivation.

Bush fires.

- Brick-making and quarrying.**
- (e) subject to any law for the time being in force relating thereto—
- (i) to prohibit and control brickmaking yards and the quarrying of stone, lime, clay or other material on any premises;
 - (ii) to require the owners and operators of brickmaking yards and quarries to provide housing, sanitation and water or any of them at brickmaking yards and quarries for persons working there;
 - (iii) to grant permits to make bricks or to dig and burn lime, or to dig and remove clay, gravel, peat or turf or to quarry or to crush stone, upon any land of the local authority.

Powers of county councils.
Produce inspection.

155. Every county council shall have power—

- (a) to establish and maintain centres, and to establish, maintain and control services, for the inspection, grading and storing of produce;

Agricultural and livestock undertakings.

- (b) subject to the approval of the Minister for the time being responsible for agriculture, to engage in livestock and agricultural undertakings (including the provision of services for improving the agricultural and livestock industries in the county) and to take such measures as may be necessary or desirable for preventing the outbreak and spread of any disease as defined in the Animal Diseases Ordinance;

Cap. 364.

Famine relief crops.

- (t) to require the planting of any specified crops by persons for the support of themselves and their families in areas which, in the opinion of the county council, are suffering from or likely to suffer from a shortage of foodstuffs;

Itinerant contractors.

- (d) to control itinerant contractors and other persons who sell or offer for sale, or contract or offer to contract for the exercise of, their skill, or the skill of any other person, in any handicraft by going from house to house or by attending at any person's house;

Game parks.

- (e) to establish and maintain game parks, including accommodation for visitors thereto;

- (f) to establish and maintain forests.

Forests.
Local health authorities.

Cap. 242.

156. (1) The Minister, with the agreement of the Minister responsible for health, may, by notice in the Gazette, declare any local authority to be a local health authority for the purposes of the Public Health Ordinance.

(2) Without prejudice to the Minister's power to revoke any declaration made or deemed to have been made under this regulation, every municipal council and every county council shall be deemed to have been declared to be a local health authority under the preceding paragraph.

(3) Every local authority declared or deemed to have been declared to be a local health authority under this regulation, shall, subject to paragraph (4) of this regulation, have all the powers and duties of a local health authority under the said Public Health Ordinance.

Cap. 242.

(4) The Minister, with the agreement of the Minister responsible for health, may, by notice in the Gazette, declare that—

(a) any local health authority may exercise all or any of its powers and perform all or any of its duties in any specified area of any other local health authority or local authority; and

(b) any local health authority shall cease to exercise all or any of its powers or perform any of its duties in any specified part of its area,

and such declaration shall be binding on every local authority affected.

157. Every municipal council and county council shall have power—

(a) to pay the Government such sums of money as are from time to time incurred or expended by the Government on or in connexion with the employment of a magistrate; and

(b) to erect and maintain a courthouse and employ such court staff as is required for a magistrate, where such municipal council or county council has paid or agreed to pay to the Government such sums of money as are incurred or expended by the Government on or in connexion with the employment of the magistrate.

Payments of money in connexion with employment of magistrates, etc.

158. (1) A municipal council of the first class may, by resolution passed by not less than two-thirds of the members voting thereon at a meeting of the council specially convened for the purpose with notice of the object, admit to be honorary freemen of the municipality persons of distinction and any persons who have rendered eminent service to the municipality.

Freemen.

(2) The town clerk of every municipal council shall keep a list, called the honorary freemen's roll, of all persons admitted to be honorary freemen of the municipality.

159. (1) Subject to any other written law relating thereto, every county council shall have power to prohibit and control shops in rural areas:

Shops in rural areas.

Provided that no county council shall exercise such power in any area to which the Development and Use of Land (Planning) Regulations, 1961, have been applied.

L.N. 516/1961.

(2) For the purposes of this regulation—

“shop” means a building or part of a building in which retail trade is carried on;

“rural area” means an area which is so defined in any by-law made by a county council under these regulations.

PART XI—CERTAIN POWERS, DUTIES AND PROVISIONS RELATING TO
MUNICIPALITIES AND COUNTY DIVISIONS

Miscellaneous
functions of
local authorities
other than
county councils
and local
councils.

160. Every municipal council and every urban and area council shall have power—

Sanitary services.

(a) to establish and maintain sanitary services for the removal and destruction of, or otherwise dealing with, all kinds of refuse and effluent and, where any such service is established, to compel the use of such service by persons to whom the service is available;

Public lavatories.

(b) to establish and maintain public lavatories, closets and urinals within its area, and where such lavatories, closets and urinals are established the local authority shall maintain them in good order and repair;

Ambulances.

(c) to acquire and maintain one or more ambulances;

Cold storage
works.
Cap. 363.
Cap. 242.

(d) to establish and maintain cold storage works and depots for the inspection of meat, subject to the Kenya Meat Commission Ordinance, and the Public Health Ordinance, and any rules made thereunder;

Slaughterhouses.
Cap. 363.
Cap. 361.

(e) subject to the Kenya Meat Commission Ordinance and the Pig Industry Ordinance and any rules made thereunder, to establish and maintain slaughterhouses for the slaughter of animals and poultry, whether within or without its area; and to control slaughterhouses within its area;

(f) to establish and maintain plants for the manufacture of by-products and to purchase animals for the purpose of conversion into by-products and to sell all by-products resulting from the carrying on of any works which such local authority is authorized to carry on;

Milk.
Cap. 336.

(g) subject to the Dairy Industry Ordinance, to establish and maintain depots for the inspection, treatment, distribution, purchase and sale of milk or milk products, and may, subject as aforesaid, distribute, buy and sell milk or milk products;

Rats and vermin.

(h) to take measures for the destruction and suppression of rats and vermin within its area, and to set traps or take other measures necessary for the purpose on any land whether within or, with the consent of the local authority concerned, without its area;

Naming of
streets.

(i) to name and number and, where necessary or desirable in its opinion, to rename or renumber any street in the municipality or in any urban area under its jurisdiction (such name to be affixed in a conspicuous place in the street) and to cause all buildings in any such street to be numbered in such manner as it may determine;

Aerodromes.

(j) subject to any written law relating thereto, to establish and maintain aerodromes;

- (k) to establish and maintain one or more fire brigades and to take all necessary steps for the prevention and extinguishing of fires and to compensate the owners of property demolished or damaged for the purpose of preventing or extinguishing fires; Fire brigades.
- (l) to undertake, either as agents of the Government or otherwise, the registration of births, deaths and marriages occurring in its area; Registration of births, etc.
- (m) to lay out and adorn any square or open space belonging to it by any architectural scheme or ornamentation, including the erection of statues, fountains and other structures; Open spaces.
- (n) with the consent of the Minister, to erect and maintain on any public place, buildings for public purposes, and, with the like consent, to set apart any such place or any portion thereof for any purpose which the local authority may from time to time think fit; Buildings for public purposes.
- (o) to plant, trim or remove trees, flowers and shrubs in or on any public place; to regulate the planting and preserving of trees, flowers and shrubs; to prohibit or regulate the planting of trees, and shrubs in public places; to require or provide for the maintenance, cutting or removing of any such trees or shrubs; and to prevent the removal or injury thereof; Planting of trees, etc.
- (p) (i) to arrange for the lighting of, or itself to light, streets and other public places and to arrange for the erection and maintenance of, or itself to erect and maintain, lamps for that purpose; Lighting of streets, etc.
- (ii) subject to the approval of the Minister, to enter into any contract with an authorized distributor as defined in the Electric Power Ordinance, for the collection by the local authority of all charges and other sums due to such distributor by the inhabitants of the whole or part of its area in respect of the supply of electricity by such distributor, together with a reasonable charge to cover the expenses of collecting such charges and such other sums; Contracts with authorized distributors. Cap. 314.
- (q) to establish pounds, and from time to time to make provision for all or any of the following purposes:— Pounds.
- (i) for the management of pounds;
- (ii) prescribing the circumstances in which any article or vehicle which is found abandoned or apparently abandoned, or any animal or bird, may be impounded;
- (iii) fixing the charges payable by the owner of any impounded article, vehicle, animal or bird;
- (iv) prescribing the circumstances in which and the conditions under which any impounded article, vehicle, animal or bird may be sold; and
- (v) as to the transfer of the property in any impounded article, vehicle, animal or bird on such sale;

- Miscellaneous functions and powers of control.
Cemeteries and crematoria.
Cap. 242.
161. Every municipal council and every urban and area council shall have power—
- (a) to establish cemeteries at sites appointed under, and maintain cemeteries authorized under, the Public Health Ordinance; to conduct funerals; to establish and maintain mortuaries and crematoria within or without its area; to prohibit the disposal of human bodies within its area otherwise than by interment or cremation in or at any such cemetery or crematorium established or approved by it; and to control undertakers and regulate the conveyance and disposal of dead bodies;
- Washing of clothes.
- (b) (i) to establish and maintain places for the washing of clothes;
- (ii) to control or prohibit the washing of clothes on public premises and to supervise and licence persons engaged in washing and laundry work;
- Lodging houses.
- (c) to establish, maintain and let lodging-houses and boarding-houses; and to control lodging-houses and boarding-houses and lodging-house and boarding-house keepers;
- Restaurants, etc.
- (d) subject to any written law relating thereto—
- (i) to establish, maintain and let tea-rooms, cafes, restaurants, eating-houses, snack bars, shops, stalls and stands;
- (ii) to control tea-rooms, cafes, restaurants, hotels, eating-houses, snack bars, bakehouses, butchers' shops, grocers' shops and all factories and places where articles of food or drink are manufactured or prepared for sale or use, or are stored or sold whether for consumption on or off the premises;
- Footways.
- (e) to construct footways along the side of any road or street, and to pave or surface any such footway with concrete blocks or stones or in any other way, and to recover from the owners of land abutting upon such footways the whole or any part of the expenses incurred in such construction, surfacing or paving; to require the construction and paving, at the cost of such owners, of any such footway; and to control the construction, surfacing and paving of footways, where such works are carried out by any such owner.
- Miscellaneous powers of control.
Unwholesome matter.
162. Every municipal council and every urban or area council shall have power—
- (a) to compel occupiers or, in the case of vacant premises, owners, to keep their premises free from offensive or unwholesome matter;
- Animals, birds, etc.
- (b) to prohibit or control the keeping of animals, birds and bees so that their keeping shall not be a public nuisance or injurious to health;
- Insects and pests.
- (c) to take or require the taking of such steps and measures as may be necessary or desirable for securing the prevention and destruction of insects, fungi and any other pests which attack timber in buildings and felled timber and for prevention and eradicating the infestation of any such timber at the cost of the owner;

- (d) to prohibit or control the playing of musical instruments or the singing or performing for profit, in or on any public place; Musical instruments.
- (e) subject to regulation 186 of these Regulations, to control ferry boats, to regulate the conduct of persons using ferry boats and the embarkation and disembarkation of persons, animals, goods and vehicles and to control the use of the landing places, approaches and ramps maintained in connexion with any service of ferry boats; Ferry boats.
- (f) to control or prohibit fetes, travelling exhibitions, public amusements and entertainments, circuses and games of chance open to the public, and to prohibit or control the public exhibition of monstrosities, freaks of nature, or any abnormal person or animal; Public amusements
- (g) subject to any written law relating thereto, to control or prohibit the subdivision or cutting up of land or the subdivision of existing building lots into smaller areas; to provide that no transfer of any such subdivision of land shall be registered in any land titles registry unless and until a certificate under the hand of the clerk of the local authority, or such other person as the local authority may appoint for the purpose, has been produced to the registration officer, who shall register the same against the title to such land at the cost of the applicant for such subdivision, to the effect that the local authority has approved of such subdivision, and to prevent the withdrawal, cancellation or alteration, except with the consent of the local authority, of any subdivisional plan which has been approved by the local authority; Subdivision of land.
- (h) to control bicycles and tricycles normally kept in its area, and to register and provide for the identification of such bicycles and tricycles: Bicycles.
- Provided that this paragraph shall not confer a power to require the licensing of any bicycle or tricycle during the currency of any licence granted by any other local authority in respect thereof under the powers conferred by this paragraph;
- (i) to provide for the due and proper care of the common pasture or other land of such local authority, and, in municipalities, townships and urban areas within county divisions, to control the keeping of livestock in such area or areas; Common pasture.
- (j) to control swimming baths, and bathing establishments, and to control or prohibit bathing in any open piece of water within its area; Swimming baths.
- (k) to take such steps as may be desirable for the protection from damage or interference of all works and property of such local authority situated or being in, under or over any public or other place within or without its area; Protection of works.
- (l) to prohibit or control the display of advertisements and advertising devices in or in view of any street or other public place or in such places or in such manner or by such means as would, in the opinion of the local authority, be likely to Advertisements.

affect injuriously the amenities of or to disfigure any neighbourhood; and to prohibit and control the use and passage of advertising vans, sandwich boards, lanterns, flags, screens or other moveable advertising devices, and the distribution of handbills in or along any street or other public place;

- Street decorations. (m) to control street decorations, and to prohibit or control the erection and removal of temporary platforms, seats and other structures for the use of the public at any meeting or entertainment or for the accommodation of spectators at any procession, exhibition, ceremony or spectacular display of any kind;
- Places of public amusement. (n) to control music halls, public halls, concert rooms, public billiard rooms and other places of public amusement, public recreation or public resort which are not required to be licensed under the Film and Stage Plays Ordinance, 1962.
- 34 of 1962.
- Powers to control trades and occupations. 163. Every municipal council and every urban and area council shall subject to any other written law relating thereto, have power—
- Hawking. (a) to prohibit or control peddling, hawking and street trading, and to control pedlars, hawkers and street traders;
- Barbers. (b) to control barbers and hairdressers and barbers' and hairdressers' shops;
- Second-hand goods dealers. (c) to control the trade, business or occupation, and the business premises, of dealers in second-hand goods, including bottles, sacks, bones and tins;
- Rag and flock manufacture. (d) to prohibit or control the work or trade of manufacturing flock from rags and persons engaged therein; and to prohibit the sale and use, for the purpose of manufacture, of articles of unclean flock manufactured from rags;
- Noxious industries. (e) to control or prohibit all businesses, factories and workshops which, by reason of smoke, fumes, chemicals, gases, dust, smell, noise vibration or other cause, may be or become a source of danger, discomfort or annoyance to the neighbourhood, and to prescribe the conditions subject to which such businesses, factories and workshops shall be carried on;
- Offensive trades. (f) to prohibit or control the carrying on the work or trade of a knacker or of blood-boiling or cleaning, tallow melting, fat melting or fat extraction, fellmongering, skin storing, skin curing, blood drying, gutscraping, fishmongering, fish frying, leather dressing, tanning, glue making, size making, charcoal burning, brick burning, lime burning, stone crushing, manure making, manure storing, bone storing, or any other work or trade of an offensive nature which such local authority may, with the sanction of the Minister, declare to be an offensive trade for the purposes of this paragraph;

- (g) to prohibit or control the work or trade of disinfestation, disinfection or fumigation by cyanide or other means and to penalise persons who, after due notice, refuse without reasonable ground to vacate any room or rooms occupied by them on the same floor or on any floor above that of any building where fumigation is being carried out.
- Disinfestation.

164. (1) A local authority shall have power to summon any applicant for, or any objector to, the grant of a licence, to give evidence or to produce books or documents at any sitting of the local authority or a committee thereof held for the purpose of hearing the application for such licence, and any such person refusing or omitting without sufficient cause to attend and give evidence or to produce books or documents in his possession or under his control as required by such summons shall be guilty of an offence:

Applications for licences.

Provided that every person summoned under this regulation to give evidence or produce books or documents shall be entitled to all the privileges to which a witness summoned to give evidence or produce books or documents before the Supreme Court is entitled.

(2) Any witness giving evidence before a local authority or a committee thereof at the hearing of an application for any such licence may be required to give evidence on oath which the person presiding at such hearing is hereby empowered to administer.

165. (1) A local authority may refuse to grant or renew any licence which it is empowered under these Regulations or any other written law to grant on any such grounds as it may, by by-law, specify and in addition upon any of the following grounds, whether specified in such by-laws or not—

Powers to refuse to grant or renew licences and to cancel licences.

(a) with respect to any licence whether relating to a trade, business or occupation, or to premises or otherwise—

- (i) that the premises in or at which the applicant intends to carry on his trade, business or occupation do not conform to the requirements of any by-laws in force in the area of such local authority, whether made under these Regulations or any other written law;
- (ii) that sufficient provision for the needs of the area of such local authority already exists;
- (iii) that the granting of such licence or the renewal thereof, as the case may be, would be contrary to the public interest; and

(b) additionally, with respect to any licence relating to the use of premises as a theatre, music hall, concert room or other place of amusement, or as a restaurant or eating house—

- (i) that the applicant has failed to produce satisfactory evidence of good character;
- (ii) that the premises in respect of which the licence is sought or any adjacent premises owned or occupied by the applicant are frequented by persons of bad character;
- (iii) that the granting of such licence or the renewal thereof would be calculated to cause nuisance or annoyance to persons residing in the neighbourhood; and

(c) additionally, with respect to any licence for the carrying on of any work or trade specified in regulation 163 of these Regulations or under paragraph (f) thereof declared to be an offensive trade—

(i) that the premises used or proposed to be used therefor by the applicant are unsuitable for the purpose;

(ii) that the methods adopted or proposed to be adopted by the applicant for preventing noxious or offensive vapours, gases or smells arising from such work or trade are not efficient.

(2) A local authority may cancel any licence granted by it on any such grounds as it may, by by-law, specify and, in addition, on any of the following grounds, whether specified in such by-laws or not—

(a) with respect to any licence, that it is contrary to the public interest for such licence to remain in force; and

(b) additionally, with respect to any licence specified in paragraph

(1) (b) of this regulation—

(i) that the premises to which the licence relates or any adjacent premises owned or occupied by the holder of the licence are frequented by persons of bad character;

(ii) that the continuation of such licence in force would be calculated to cause nuisance or annoyance to persons residing in the neighbourhood; and

(c) additionally, with respect to any licence for the carrying on of any work or trade specified in regulation 163 of these Regulations or under paragraph (f) thereof declared to be an offensive trade—

(i) that the premises used by the holder of the licence have become unsuitable for the purpose;

(ii) that the methods adopted by the applicant for preventing noxious or offensive vapours, gases or smells arising from the work or trade to which such licence relates are not efficient.

(3) Any applicant for a licence or the renewal of a licence whose application has been refused, and any person whose licence has been cancelled, by a local authority under this regulation may appeal against such refusal or cancellation to a subordinate court of the first class within whose jurisdiction the premises in or at which the applicant intended to conduct or was conducting his trade, business, or occupation is situate, and in the event of the appellant satisfying the court that the licence or renewal thereof was refused or, as the case may be, that the licence was cancelled on insufficient grounds, the court may order such local authority to grant such licence or a renewal thereof or, as the case may be, the court may declare that the cancellation was invalid.

(4) Where the court orders a local authority to grant such licence or renewal thereof, then, subject to paragraph (5) of this regulation, such licence or a renewal thereof shall be granted accordingly; and where the court declares that the cancellation of a licence was invalid,

then subject to paragraph (5) of this regulation, the licence which the local authority purported to cancel shall remain in force as if no such purported cancellation had been made.

(5) The appellant or the local authority concerned in any appeal under paragraph (3) of this regulation may appeal to the Supreme Court against any such order or declaration of the subordinate court and the decision of the Supreme Court thereon shall be final.

166. Every municipal council and county council may, subject to any other written law relating thereto, prohibit and control the development and use of land and buildings in the interest of the proper and orderly development of its area. Planning.

167. (1) It shall be the duty of every municipal council, and urban and area council, to provide for the burial of all destitute persons who die within its area: Burials.

Provided that in respect of persons—

- (i) who die in hospital and who immediately prior to their admission to hospital, had not lived within such local authority's area for a period of at least three consecutive months; or
- (ii) who die in gaol; or
- (iii) who, immediately prior to their death, had not lived in such local authority's area for a period of at least three consecutive months,

such council shall, subject to paragraph (2) of this regulation, be entitled to recover the reasonable cost of burial from the Government, not exceeding such sum as may be fixed in advance by the Minister for all local authorities, for particular classes of local authorities or for particular local authorities.

(2) If any person brought into the area of any such council by any other person carrying on the business of recruiting labour, shall die in such area within one month after his arrival, such council may recover from such other person or his employer or principal such burial charges as may be fixed by by-laws relating to cemeteries or otherwise.

(3) It shall be the duty of every municipal council, and urban and area council, to ensure that in its area there are adequate and suitable arrangements for the burial or cremation of the dead.

Sewerage and Drainage

168. Every municipal council and urban or area council, may establish and maintain sewerage and drainage works within or without its area. Power to undertake sewerage and drainage.

169. A municipal council and an urban or area council may, for the purpose of carrying out any drainage or sewerage works— Provisions as to carrying out sewerage and drainage works.

- (a) cause such sewers, drains and pipes to be made, laid, altered, deepened, covered over, and maintained either within or, subject to regulation 172 of these Regulations, without its

area as may be necessary for effectively disposing of the sewage and drainage of its area or any portion thereof, and from time to time cause to be made and maintained all such works as may be necessary for cleansing and ventilating such sewers, drains and pipes; and

- (b) carry such sewers, drains and pipes through, across or under any public road, street, square or open place laid out as or intended for a public road, street, square or open space, either within or without its area, without paying compensation, and, after giving thirty days' notice in writing to the owner or occupier of the intention to do so, perform the same acts in respect of private land within, or subject to regulation 172 of these Regulations, without its area upon making compensation for any damage done, the amount whereof being determined, in default of agreement, by arbitration; and
- (c) from time to time alter, enlarge, divert, discontinue, close up or destroy any sewers, drains or pipes under its control; and
- (d) construct any works within, or subject to regulation 172 of these Regulations, without its area for the purpose of receiving, storing, disinfecting, purifying, distributing or otherwise disposing of any sewage or drainage; and
- (e) in any case where, owing to the contour of the ground or for other reasons, it is difficult to connect for sewerage purposes any premises within its area direct with a public sewer maintained by it, make connexions with and utilize any private drain on private ground so as to connect such premises with any public sewer:

Provided that—

- (i) thirty days' notice in writing shall be given to the owner or occupier of the ground of the intention to make such connexions with and utilize such drain, and compensation shall be paid for any damage done, the amount whereof being determined, in the absence of agreement, by arbitration; and
- (ii) upon such connexion being made the said drain with which connexion is so made shall, from the point of such connexion to the point of junction with the public sewer, be considered and used as a combined or joint drain, and the cost of construction, repairs and maintenance of such combined or joint drain shall, so far as the same shall not fall to be borne by the local authority which made the connexion, be paid and borne by the owners of premises respectively served thereby in such proportions as the local authority shall from time to time adjust and settle, but subject, however, to the right of any person aggrieved by any such adjustment and settlement to appeal to the Minister whose decision thereon shall be final.

Vesting of
sewers, etc., and
right of access
thereto.

170. (1) All sewers, drains, pipes, ventilating shafts or other conveniences for the disposal of sewage or drainage, constructed by or which are under the control of a municipal council or urban or area

council, shall be vested in such local authority, and such local authority, its officers and servants, shall at all times have a right of access to private property for the purpose of inspection, maintenance, alteration or repairs of such sewers, drains, pipes, ventilating shafts or other conveniences vested in it, and may do all things necessary to uncover and expose such sewers, drains, pipes, shafts or other conveniences for the purpose of inspection, alteration or repair.

(2) A local authority which exercises any of the powers conferred by this regulation shall, in its discretion, either repair all damage done or caused thereby or pay compensation for any such damage not so repaired, the amount of any such compensation being determined, in default of agreement, by arbitration.

171. A municipal council or an urban or area council, may establish and maintain any such sewage farms or sewage disposal works, either within or, subject to regulation 172 of these Regulations, without its area, as may be necessary or advisable for the requirements of its area, and may farm the same and dispose of the produce thereof; and neither such local authority nor any person shall be liable for any nuisance or damage which is the inevitable consequence of the proper and ordinary conduct of any sewage farm or sewage disposal works established or maintained under this regulation.

Sewage farms
and sewage
disposal works.

172. (1) A municipal council or urban or area council, shall, at least thirty days before commencing outside its area the construction or extension of any sewer or any work for sewerage purposes, give notice of the intended work by advertising in the Gazette and in one or more newspapers circulating in the area within which the work is to be done, or, if there is no such newspaper, then, in one or more newspaper (if any) circulating in the local authority's area.

Notice before
commencing
sewerage works
outside the local
authority's area.

(2) Such notice as aforesaid shall describe the nature of the intended work, and shall state the intended termini thereof and particulars of the roads, streets, squares, open spaces and other land (if any) through, across, under or on which the work is to be done, and shall name a place where a plan of the intended work is open for inspection at all reasonable times.

(3) A copy of every notice given under paragraph (1) of this regulation shall be served upon the owners or reputed owners, lessees, and occupiers of the land upon, through, across or under which it is intended to construct or extend such sewers, or to do such work for sewerage purposes, as is specified in the notice, and upon the local authority (if any) having the care of any such roads, streets, squares or open spaces.

(4) If any owner, lessee or occupier, or any such local authority, or any person who would be affected by the intended work, objects to such work he may, at any time within a period of thirty days from the date of the advertisement of the notice of intended work under paragraph (1) of this regulation or, where such notice is advertised on different dates, within thirty days from the date of the last advertisement, serve written notice of objection on the local authority which intends to do such work.

(5) Where a notice of objection has been served under paragraph (4) of this regulation in respect of any intended work, then such work shall not be commenced without the consent of the Minister unless such objection is, or if there is more than one objection all such objections are withdrawn.

(6) (a) The Minister may appoint any person or persons to make inquiry on the spot into the propriety of the intended work and the objections thereto, and to report to him thereon.

(b) On receiving any such report as aforesaid the Minister may make an order disallowing the intended work or allowing it with or without modifications, and, except as may be provided to the contrary in regulation 169 (b) of these Regulations, in respect of the work therein specified, such compensation shall be payable as may be agreed upon by the parties or, in default of agreement as may be determined by arbitration.

Provision for protection of sewers and drains.

173. (1) Any person who, without the prior consent in writing of the local authority—

- (a) erects or causes to be erected any building over any sewer, drain or pipe vested in or constructed under the authority of such local authority; or
- (b) excavates, opens up or removes, or causes to be excavated, opened up or removed, the ground under or near to any such sewer, drain or pipe; or
- (c) makes or causes to be made any opening into any such sewer, drain or pipe, for the purpose of discharging sewage or drainage into the same or otherwise; or
- (d) injures or destroys, or causes to be injured or destroyed, any such sewer, drain or pipe or any works or things in connexion therewith,

shall be guilty of an offence and shall be liable to a fine not exceeding two thousand shillings or to imprisonment for a period not exceeding two months or to both such fine and such imprisonment.

(2) The local authority in which is vested any sewer, drain or pipe or under the authority of which any sewer, drain or pipe was constructed may alter, demolish or otherwise deal with any buildings erected over any such sewer, drain or pipe in contravention of paragraph (1) of this regulation as such local authority may think fit, and may make good any damage done to such sewer, drain, or pipe in contravention of paragraph (1) of this regulation, and may close up any opening made therein in contravention of paragraph (1) of this regulation, and the expenses so incurred shall, in addition to any fine that may be imposed under this regulation, be recoverable from the offender.

Charges for use of sewers and drains.

174. Any charges which a municipal council and an urban or area council, may fix for the use of its drains or sewers or sewerage works shall for all purposes be deemed to be charges for sanitary services, and shall be recoverable from the owner of any land or premises which are connected with such drains, sewers or sewerage works in accordance with regulation 264 of these Regulations.

175. (1) A municipal council and an urban or area council, may—

- (a) carry out any work in connexion with the provision or construction of any drain or sewer which in its opinion is necessary for the satisfactory drainage of any land including land subdivided into plots for future development and may connect any such drain or sewer with the existing drains or sewers of such local authority, and may recover from the owner of such land or apportion amongst and recover from the owners of any such land the whole or any part of the expenses incurred in such work; or
- (b) advance to the owner of any land or premises the cost or estimated cost of any such drainage or sewerage work on such land or premises.

Power to execute drainage works on private land or premises and to make advances therefor.

(2) Any drain or sewer constructed pursuant to paragraph (1) (a) of this regulation shall vest in and be the property of the local authority which carried out the work.

(3) The local authority may agree to accept payment of the expenses referred to in paragraph (1) (a) of this regulation and repayment of advances made under paragraph (1) (b) of this regulation in such instalments, at such times, upon such rate of interest, and upon such conditions, as it may determine:

Provided that the rate of interest shall not exceed six per centum per annum without the consent of the Minister.

(4) Such expenses and advances, together with the interest thereon, shall be charged upon the land or premises in respect of which the same are incurred or made, and shall be paid to the local authority by the owner thereof for the time being, and the instalments thereof as they fall due shall be recoverable from the present or any future owner of the land or premises in any competent court.

(5) (a) The local authority shall keep at its offices a register of all expenses incurred and advances made by it under this regulation, and shall show in such register the total amounts thereof, the instalments in which the same are payable, the land or premises in respect of which the same have been incurred or made, and the balances for the time being outstanding, and shall keep such register open at all reasonable times to the inspection of any person, free of charge.

(b) Such register and any extract therefrom, certified by the clerk or by any other person authorized in that behalf by the local authority, shall, in any proceedings for the recovery of such expenses, advances or interest thereon or any instalments thereof, be prima facie evidence of the matters contained therein.

(6) Nothing in this regulation shall limit or affect the power of a municipal council, or an urban or area council, to execute any work which it is, by law or by any by-law in force in its area, empowered to exercise, or to recover the cost of executing such work from any person who is liable therefor.

(7) For the purposes of this regulation septic tanks, conservancy tanks, waste water pits and any like container or device shall be deemed not to be satisfactory means of drainage; but where any such container or device is installed on or is connected to any premises or lands

before the exercise by the local authority of its powers under this regulation, then, notwithstanding paragraph (1) (a) of this regulation, the local authority shall not recover any of the expenses mentioned in the said paragraph until after the expiry of a period of three years from the date of the completion of such container or device.

Miscellaneous
additional
powers
respecting
sewerage and
drainage.

176. Every municipal council and an urban or area council shall have power—

- (a) generally to regulate sewerage and drainage;
- (b) to compel, at the cost of the owner, the construction of private drains, and the connexion of private drains to public drains, sewers or pipes;
- (c) to regulate the construction by such council at the cost of the owner, of all house drains in so far as they connect with and extend from the main sewer to the boundary of the property concerned;
- (d) to require and regulate the giving of notice and the deposit of plans and sections by persons intending to carry out any sewerage or drainage work on any land or premises and to regulate the approval or disapproval thereof and to require and compel the removal or alteration of any sewerage or drainage works begun or done in contravention of any by-law;
- (e) to fix the charges which may be made for the use of such local authority's drains, sewers and sewerage works;
- (f) to require the licensing of plumbers and drain-layers for the purpose of authorizing them to carry out—
 - (i) plumbing or drain-laying work for the installation, alteration or repair of any system of drainage connected with any sewer of such local authority; or
 - (ii) drain-laying or drainage work (other than storm-water drainage) for draining soiled or waste water; and
 to regulate such plumbers and drain-layers and to prohibit the carrying out of any such work by any unlicensed person.

Housing

Housing and
advances for
housing.

177. (1) A municipal council and an urban or area council may, subject to any written law relating thereto,

- (a) lay out building plots or otherwise subdivide any land acquired or appropriated by it, whether within or without its area, for the purpose of housing schemes for the inhabitants of its area;
- (b) erect and maintain dwelling-houses with their appurtenant outbuildings on such plots or subdivisions of land;
- (c) convert buildings into dwelling-houses and alter, enlarge, repair and improve the same;
- (d) let any dwelling-house erected or provided by it and charge such reasonable rent for the tenancy or occupation thereof as it may determine;

- (e) sell any such dwelling-house to a person undertaking to reside therein and recover the purchase-price thereof by such instalments as it may determine;
- (f) sell, let or otherwise dispose of any plot or subdivision of land referred to in subparagraph (a) of this paragraph to any person for the purpose and under the condition that that person will erect and maintain thereon a dwelling-house for occupation by him;
- (g) sell, let or otherwise dispose of land acquired or appropriated by such local authority, to any person for the purpose and under the condition that that person will erect and maintain thereon such number of houses as may be determined by such local authority in accordance with plans approved by it.

(2) Nothing in paragraph (1) of this Regulation shall authorize the disposal of land by a local authority, whether by sale, lease or otherwise, in breach of any trust, covenant or agreement binding upon the local authority.

(3) Subject to such conditions as may be prescribed by the Minister, a local authority may advance money to any person—

- (a) to enable him to repair, reconstruct, enlarge or improve a dwelling-house occupied or intended to be occupied by him; or
- (b) to enable him to reconstruct, whether on land provided by such local authority or otherwise, a dwelling-house for occupation by him; or
- (c) to enable him to acquire for occupation by him any dwelling-house.

(4) The Minister may make rules regulating the making of advances under paragraph (3) of this Regulation and in particular—

- (a) for prescribing the nature of the security to be taken by the local authority in respect of any advance;
- (b) for requiring a valuation to be made of the property the subject of any such advance;
- (c) for prescribing the maximum proportion of the value of any property which may be advanced under the said paragraph on the security thereof;
- (d) for prescribing the rate of interest to be paid on such advances;
- (e) for prescribing the method of repayment of such advances;
- (f) for enabling such advances to be made by instalments paid from time to time as the work of construction, repair, reconstruction, enlargement or improvement of the dwelling-house proceeds.

Water Supply

178. (1) A municipal council or an urban or area council may undertake the supply of, and establish, acquire and maintain works for the supply of water within its area, and with the consent of any other local authority within the area of that local authority.

Water supply.

(2) Without prejudice to its power to make by-laws under these Regulations, a municipal council or an urban or area council, may make by-laws under these Regulations in respect of any matter upon, and to the extent to which a water undertaker may make regulations under the Water Ordinance.

Cap. 372.

Diversion and canalization of streams, etc.
Cap. 372.

179. A municipal council and an urban or area council may, subject to the Water Ordinance, and any rules made thereunder, divert, straighten, define, and canalize the course of any stream or water course after giving notice and making compensation to any owner or occupier of land, and to any person entitled to any rights or easements attached to land, abutting on such stream or watercourse.

(2) In arriving at the amount of any compensation payable under this regulation regard shall be had to the enhanced or improved value, immediate or prospective, which shall or may accrue to any such land by reason of the carrying out of the aforesaid purposes or any of them.

(3) The amount of any such compensation as aforesaid shall, in default of agreement, be determined by arbitration.

Additional powers relating to water.
Cap. 372.

180. Every local authority, whether or not such local authority is a water undertaker under the Water Ordinance, shall have power to compel the provision of a proper and sufficient water supply for every dwelling house, school, store, shop, factory or workshop, if the local authority considers that the provision of such supply is necessary, practicable and reasonable.

Electricity Supply

Works for the supply of electricity, light, heat and power.
Cap. 314.

181. Subject to the Electric Power Ordinance and to any other written law relating thereto, a local authority may undertake the supply of, and may establish, acquire and maintain works for the supply of electricity, light, heat or power within its area, or with the consent of any other local authority, within the area of that local authority; and without prejudice to the generality of the foregoing, a local authority may sell (including sale against payment by instalments) electric lines, fittings, and appliances to private consumers.

PART XII—CERTAIN POWERS, DUTIES AND PROVISIONS RELATING TO ROADS AND FERRIES

Control and vesting of public streets in municipalities.
Cap. 401.

182. (1) Without prejudice to the powers and duties of the Road Authority provided in the Road Authority Ordinance, every municipal council, shall have the general control and care of all public streets which are situated within its area, and the same are hereby vested in such local authority in trust to keep and maintain the same for the use and benefit of the public.

(2) A municipal council may make, construct, alter, and repair, and for any such purpose temporarily close or divert, any such street, and may make new streets.

(3) A municipal council may, subject to any law relating to road traffic, by order, prohibit the driving of vehicles on any specified road otherwise than in a specified direction:

Provided that no such order shall be made unless notice of the intention to make the same shall be published in the Gazette at least fourteen days before the date on which it is intended to make such order, and, before making such order, there shall be taken into consideration—

- (a) any objections which may have been made to the making thereof; and
- (b) the existence of alternative routes suitable for the traffic which would or might be affected by the order.

183. (1) All public roads in the area of local authorities, except roads in municipalities, which in the opinion of the Road Authority are of sufficient importance to be classified or reclassified as in this regulation provided, shall be classified or reclassified, as the case may be, by the Road Authority as either—

Classification of roads in local authority areas.

- (a) trunk roads, or
- (b) secondary roads;

and all public roads in such areas which are neither trunk roads nor secondary roads shall be known as unclassified roads.

(2) The Road Authority, before classifying or reclassifying any public road under this regulation shall in the case of a road in a county, consult the county council of that county.

(3) Every road which, immediately before the coming into operation of these Regulations, was, under section 68 of the Local Government (County Councils) Ordinance, 1952 (hereby repealed)—

30 of 1952.

- (a) a trunk road, shall be deemed to be classified as a trunk road under this regulation;
- (b) a county road, shall be deemed to be classified as a secondary road under this regulation;
- (c) a minor road, shall be deemed to be an unclassified road within the meaning of this regulation.

184. (1) Subject to the Mining Ordinance, a local authority, by its agents and officers, for the purpose of the construction and maintenance of roads or the carrying out of any works which it is empowered under these Regulations or under any agreement, direction, delegation or transfer entered into, given or made under these Regulations to carry out, may enter upon any land within its area and remove therefrom any clay (other than kaolin) country rock, gravel, murrum, lime, sand, shale, shingle, slate or surface soil, and may carry across any land, by a route to be agreed between the owner or occupier thereof and the local authority, such material removed from other land, and may provide in connexion with such functions labour or other camps, works buildings, access roads, and space for stockpiling, and may erect machinery and other gear for the purpose of quarrying any such material.

Powers of local authorities to take materials for roads and works.
Cap. 306.

(2) Before entering upon any land for the purpose of exercising any of the powers conferred by paragraph (1) of this regulation, the local authority shall give not less than one month's notice by personal service or by registered post to the last-known address of the owner or occupier of such land, of the intention to enter upon such land, the powers which it proposes to exercise, and the area of such land to which it will confine its activities.

(3) If the owner or occupier of such land is aggrieved by the proposed exercise by the local authority of the powers conferred by this regulation or by the proposed exercise of the powers in the area specified in the notice, he may, within one month from the service upon him of the notice under paragraph (2) of this regulation, make representations to the Minister thereon and shall within the same period inform the local authority concerned of the nature of such representations.

(4) Where representations are made to the Minister under paragraph (3) of this regulation, the Minister may, after consulting the local authority concerned, give such direction to the local authority thereon as he thinks fit.

(5) Compensation shall be payable by a local authority to the owner or occupier of any land for any damage done to buildings, roads or crops, or otherwise, in the exercise by it of any of the powers conferred upon it by this regulation, and for any interference with the rights of occupancy of such land, and payment shall be made by the local authority to the owner or occupier of any land, for all materials taken therefrom under this regulation, and the amount of such compensation and payment shall, in default of agreement, be determined by arbitration.

(6) If as a result of the exercise of any of the powers conferred by this regulation, a danger to persons (other than employees of the local authority or of their agents) or to domestic animals is created, the local authority shall, at the request of the owner or occupier of the land, carry out fencing at its own expense to such an extent as adequately to guard against such danger.

(7) The sites for any labour or other camps to be provided by the local authority and the alignment of any roads of access shall be determined by the local authority only after consultation with the owner and occupier of the land on which the same are to be situated.

(8) Any pit or quarry made in exercise of any of the powers conferred by this regulation shall, at the request of the owner or occupier of the land, be filled up or, in the discretion of the local authority, fenced, at the expense of the local authority, when the local authority abandons such pit or quarry.

(9) This regulation shall be subject to the Forests Ordinance and any rules made thereunder, and to the extent of any inconsistency between this regulation and that Ordinance and any rules thereunder the latter shall prevail.

(10) For the purposes of this regulation, the expression "owner or occupier", in respect of unalienated Crown Land, means the Commissioner of Lands, and, in respect of land in the Special Areas (other

than land the title to which is registered under the Land Registration (Special Areas) Ordinance, 1959), means, the Trust Land Board and, in respect of forest areas and demarcated forests means the Chief Conservator of Forests.

27 of 1959.

185. (1) Subject to this regulation, a local authority may permanently close or divert or alter the line of any street or road vested in it under these Regulations.

Power respecting the permanent closure, etc., of streets and roads.

(2) Before any such closing or diversion or alteration is carried out, the local authority shall—

- (a) prepare a plan showing the nature thereof; and
- (b) not less than one month before the proposed commencement of the work, give notice in the Gazette and in one or more newspapers (if any) circulating in its area, as well as by a sufficient number of placards posted on or near the street or road which it is proposed to close, divert or alter, of the proposed work and of a place where the said plan may be inspected at all reasonable hours; and
- (c) serve a copy of the said notice on the owners or reputed owners, lessees or reputed lessees, and occupiers of all property abutting upon the said street or road or appropriate part thereof and, where it is proposed to divert or alter the line of such street or road, of all property which will abut upon the street or road if diverted or altered as aforesaid, whose address can after reasonable inquiry be ascertained; and
- (d) if the proposed closure, diversion or alteration will affect land not vested in the local authority, serve a copy of the said notice on the Commissioner of Lands; and
- (e) in the case of a proposal to close a road, serve a copy of such notice upon the Minister for the time being responsible for town planning.

(3) If the Commissioner of Lands or any person interested as owner, lessee or occupier in any property abutting on the street or road which it is proposed to close, divert or alter under this regulation, or any other person aggrieved by such proposed closure, diversion or alteration, shall at any time within the period of one month from publication of the notice in the Gazette and in one or more newspapers (if any) as aforesaid, or, where such notice is published on different dates, within one month from the last date of publication, serve written notice on the local authority of any objection to such closure, diversion or alteration, then, unless such objection is withdrawn, such closure, diversion or alteration shall not be carried out without the sanction of the Minister who may, on the application of the local authority and after such inquiry (if any) as he may deem necessary, make an order disallowing or allowing the proposed work or allowing it with such modifications as he may deem necessary.

(4) On completion of any work to which this regulation applies the local authority shall give notice thereof to the Minister and shall forward a plan thereof, prepared by a registered land surveyor or by some other person approved in writing by the Commissioner of Lands,

to the Commissioner of Lands, showing all details of such closure, diversion or alteration, and the Commissioner of Lands shall cause such amendments as may be necessary to be made in his plan (if any) of the area.

Powers relating
to ferries and
toll bridges.

186. (1) A local authority may, with the approval of the Minister—

- (a) establish and maintain toll bridges and services of ferry boats, together with landing places, approaches, ramps and other essential appurtenances, for the passage or carriage of passengers, animals, goods and vehicles using any road vested in such local authority under these Regulations; and
- (b) enter into an agreement with any person for the establishment and maintenance by such person of any toll bridge or service of ferry boats which such local authority is under subparagraph (a) of this paragraph itself authorized to establish and maintain and for providing to such person such financial assistance in connexion therewith as the Minister may approve.

(2) Whenever any toll bridge or service of ferry boats is established and maintained by a local authority under this regulation, or by any person under an agreement entered into between such person and a local authority under paragraph (1) (a) of this regulation, such local authority may, with the approval of the Minister, by order prohibit any person (other than a person with whom the local authority has entered into an agreement as aforesaid) except with the written consent of, and subject to such conditions as may be imposed by the local authority, from operating a toll bridge or carrying on a ferry boat service within the area of such local authority or any part thereof, and within such hours, as may be specified in such order:

Provided that the right of any person to ply for hire within the area of such local authority with any ferry boat for the unexpired period of any licence granted under any law in force in Kenya and issued to him prior to the date of the coming into force of such order of prohibition, and the right of any person to carry for hire or reward any passengers departing to or arriving from any place outside the limits of any prohibited area, shall not be affected.

(3) Before making an order of prohibition under paragraph (2) of this regulation, the local authority shall cause notice of its intention to introduce and pass a resolution for the purpose to be published in the Gazette and in at least one newspaper circulating in the area, and such notice shall be given once in each week for four succeeding weeks.

(4) Any objections received by the local authority to the making of such an order of prohibition shall be laid before the local authority at a meeting appointed to consider the resolution referred to in paragraph (3) of this regulation, and copies of such objections and of the resolution, together with a notification of the adoption of such resolution shall be forwarded by the local authority to the Minister.

(5) If and when the Minister, after considering the objections (if any) and the resolution of the local authority, approves the making of the order, such order shall be made under the hand of the clerk or such other person authorized in its behalf by the local authority, shall be published in the Gazette and in at least one newspaper (if any) circulating in the area of the local authority, and shall come into operation on such day as may be specified in such order.

(6) (a) A local authority may by order revoke an order of prohibition made by it under this regulation and may, in like manner, vary any such order by extending or reducing the period of the operation thereof or by extending or reducing the area or areas to which it applies.

(b) The making of an order of revocation or variation under this regulation shall be subject to the procedure prescribed in paragraphs (3), (4) and (5) of this regulation as if such order were an order being made under paragraph (2) of this regulation.

(7) Save as is provided in paragraph (2) of this regulation, any person (other than a person with whom the local authority has entered into an agreement under paragraph (1) (b) of this regulation) who, without the written consent of the local authority signified in writing under the hand of the clerk or of such other person as may be authorized in its behalf by the local authority, or in contravention of any condition under paragraph (2) of this regulation, operates or carries on within a prohibited area any toll bridge or service of ferry boats, or who plies for hire or reward any ferry boat within a prohibited area, shall be guilty of an offence and shall be liable to a fine not exceeding two thousand shillings or to imprisonment for a period not exceeding two months, and, in addition, to a fine not exceeding two hundred shillings in respect of each and every day upon which he operates or carries on such toll bridge or service of ferry boats or plies for hire or reward such ferry boats as aforesaid.

(8) The Minister shall, before he gives any approval required under this regulation, consult the Minister for the time being responsible for communications.

(9) For the purposes of the application of this regulation to the Municipality of Mombasa, the term "ferry boat" means any floating vessel, propelled by any means whatsoever, plying for hire within the municipality for the purpose of carrying passengers, animals, goods or vehicles between any two points one of which is a point on the Island of Mombasa and the other of which is a point on the coast mainland within a radial distance of one mile from the Island of Mombasa:

Provided that the said term shall not include any such floating vessel which is not capable of carrying more than three passengers and three hundred pounds in weight of goods.

187. (1) Without prejudice to the powers and duties of the Road Authority under the Road Authority Ordinance, a county council shall have the general control and care of all secondary roads situate in the county, and the same are hereby vested in such local authority in trust to keep and maintain the same for the use and benefit of the public.

Control and vesting of secondary roads in counties.
Cap. 401.

(2) The county council may make, construct, alter and repair, and for any such purpose temporarily divert, any such road vested in it, and may make new roads.

Compensation
for land required
for secondary
roads.

188. The Minister may recover from the council of any county any expenditure incurred by the Government in respect of compensation for land resumed under any law for the purpose of any secondary roads within such county.

Temporary
closure of public
roads in counties.

189. (1) A county council may order that any public road or part thereof within the county shall be closed, absolutely or subject to such conditions as may be imposed by the council, to all traffic or to traffic of a particular kind for any specified period or during any period when specified conditions exist and may order the suspension of all or any traffic on any such public road for any specified period or may declare the times during which, and the conditions under which any particular kind of traffic may be used on any such road:

Provided that where it is practicable so to do, the county council shall, before exercising any of the powers conferred by this paragraph in respect of any trunk road obtain the approval of the Road Authority, and in respect of any unclassified road consult the council of every county division in which such road is situate, with respect to the exercise of such power.

(2) As soon as possible after an order or declaration under paragraph (1) of this regulation has been made, the county council shall display such road signs or warning notices or barriers as it considers will suffice to convey to the public adequate intimation of the effect of any such order or declaration and may publish in a newspaper (if any) circulating in the county notice of any order closing a road to all traffic or suspending all traffic on a road.

(3) Any person who is aggrieved by an order or declaration made under paragraph (1) of this regulation may, within thirty days of the making thereof, appeal against such order or declaration to a subordinate court of the first class, whose decision thereon shall be final.

(4) A county council may delegate all or any of the powers conferred upon it by paragraph (1) of this regulation to any of its members or officers in respect of all or any of the roads within its jurisdiction, and any member or officer to whom any such powers are delegated shall, in exercise of such powers, exercise them in the name and on behalf of such council, and shall carry out, in the name and on behalf of such council, the duties imposed upon the council by paragraph (2) of this regulation.

(5) Any person who uses a vehicle or causes or permits a vehicle to be used in contravention of an order or declaration made under this regulation shall be liable to a fine not exceeding one thousand shillings or to imprisonment for a term not exceeding one month, or to both such fine and such imprisonment and, in the case of a second or subsequent conviction if the person convicted holds in respect of the vehicle used in contravention of the order or declaration a licence issued by the Transport Licensing Board appointed under

the Transport Licensing Ordinance, the court may, in addition to any other penalty, direct that the vehicle concerned shall cease to be authorized to be used under such licence for such time as the court thinks fit, and shall cause particulars of the conviction and of any order of the court made under this regulation to be sent to the said Board.

Cap. 404.

190. (1) Every local authority may provide within its area suitable parking places for vehicles or any class of vehicles (including the establishment and maintenance of omnibus stations) or, by order, authorize the use as a parking place of any part of any street within its area:

Additional powers with respect to parking places.

Provided that no such order shall authorize the use of any part of a street so as unreasonably to prevent access to any premises adjoining the street, or the use of the street by any person entitled to the use thereof, or so as to be a nuisance.

(2) Every local authority may, in addition to regulating the use of parking places provided by it under paragraph (1) of this regulation whether in streets or otherwise, lay down the conditions upon which any such parking place may be used by vehicles or by the class of vehicles for which it is provided, and may impose charges to be paid to the council in connexion with the use of any such parking place, and may prescribe the method (including the use of such mechanical or other devices as may seem desirable) of ascertaining such charges, and the person (including, if the local authority so provides, the owner of the vehicle, whether or not such owner himself parked the vehicle so as to incur such charges) who shall be responsible for the payment of such charges as aforesaid.

(3) The revenue from any charges imposed under this regulation shall be applied to the expenses of maintenance and control of existing parking places, and any surplus remaining after such expenses have been met shall be applied to the improvement of parking places and the acquisition and adaptation of new parking places.

191. (1) Without prejudice to the powers and duties of the Road Authority under the Road Authority Ordinance, an urban or area council shall have the general control and care of all unclassified roads situate in the county division, and the same are hereby vested in such local authority in trust to keep and maintain the same for the use and benefit of the public.

Control and vesting of unclassified roads in county divisions.
Cap. 401.

(2) The urban or area council may make, construct, alter and repair, and for any such purpose, temporarily divert, any such road vested in it, and may make new roads.

(3) Paragraph (2) of this regulation shall apply to enable an urban or area council to execute road works within another county division by agreement with the council of such other county division.

192. For the purposes of this Part of these Regulations, "vesting", in relation to a road, means the transfer of the possession of the surface of the land concerned for use as a road and such material

Definition of "vesting".

below and space above the surface as may be necessary, together with the possession of the rights of a Highway Authority, but shall not mean the transfer of the ownership of the land.

PART XIII—CERTAIN PROVISIONS RELATING TO ADDITIONAL POWERS AND TRANSFERS AND DELEGATIONS OF POWERS

Delegation of functions relating to trunk roads.

193. The Road Authority may, by agreement with a county council or municipal council, delegate to such council as agent for and at the cost of the Road Authority, the execution of the whole or any part of the functions of the Road Authority with regard to trunk roads either within or without the area of such council.

Transfer of road functions to Road Authority and arrangements for discharge of such functions.

194. A local authority may, if so requested by the Road Authority, and shall, if so directed by the Minister, transfer to the Road Authority all or any of the functions conferred or imposed upon such local authority by these Regulations relating to roads or to any class of roads or to any specified road or roads in the area of such local authority and the Road Authority may thereupon make such arrangements for the carrying out by the Minister responsible for works or by another local authority or otherwise, as to it seems fit, of such functions in respect of the said roads, class of roads or specified road or roads, as the case may be:

Provided that if the local authority so requests, the Minister shall order an inquiry under regulation 245 of these Regulations into the transfer or proposed transfer and the surrounding circumstances.

Power to enter into agreement with another local authority respecting road works.

195. (1) Subject to paragraph (2) of this regulation, a local authority may enter into an agreement with any other local authority respecting the exercise of such powers and the carrying out of such duties by the first-mentioned local authority in respect of all or any of the roads vested in the second-mentioned local authority under these Regulations as the first-mentioned local authority would, under these Regulations, have exercised and carried out if such road or roads had been within its area; and such first-mentioned local authority, in accordance with any such agreement, shall have and may exercise and be subject to such powers and duties respecting such roads as if the roads were situate within its own area.

(2) In the case of secondary roads and in the case of any other roads in respect of which the Road Authority has granted or agreed to grant money towards the construction, reconstruction, diversion, discontinuance, improvement, maintenance or repair thereof, the approval of the Road Authority shall be obtained to any agreement under this regulation respecting the same, and where any such agreement is entered into without the approval of the Road Authority, the Road Authority may withdraw the grant and recover any payment which has been made by the Road Authority on account or in payment thereof, from the local authority to which such payment was made.

(3) Any local authority aggrieved by the refusal of the Road Authority to approve an agreement under this regulation may appeal against such refusal to the Minister whose decision shall be binding on the Road Authority and the local authority.

196. (1) Subject to any written law relating thereto, a county council may, with the consent of the Minister, delegate to the council of any county division within the county with or without restrictions the discharge within the area of such county division of any of its functions, except functions which it exercises by reason of being a local health authority.

Power of county councils to delegate functions.

(2) (a) The council of a county division may make representations to the council of the county in which such division is situate with a view to the county council delegating to it under this regulation the exercise of any of its functions in the area of the county division.

(b) Where, after any representations have been made, the county council refuses to delegate to the council making representations any of the functions the subject of such representations, the council making the representations may apply to the Minister to exercise his powers under subparagraph (c) of this paragraph.

(c) On receipt of an application under this paragraph the Minister may, in his discretion, refuse to exercise any of his powers under this paragraph or, after giving the county council and the council of the county division an opportunity to make representations to him on the application, he may, by notice in the Gazette, confer upon the council of the county division making the application, with or without restrictions or conditions, all or any of the functions for which application was made and thereupon the council of the county division shall be deemed to possess that function or functions by delegation from the county council.

(3) Where any function has been delegated or deemed to have been delegated to an urban or area council under this regulation, that urban or area council shall alone be entitled to discharge such function within the county division, and in the discharge of such function shall act as agent of the county council.

(4) Where any function is delegated or deemed to have been delegated under this regulation, the general financial arrangements arising from the discharge of such function by the urban or area council shall be agreed between the county council and the urban or area council or, in default of agreement, be determined by the Minister.

197. (1) The council of any county division for the time being responsible for the discharge of any function conferred upon it by this or any other written law may at any time, with the consent of the council of the county in which the county division is situate, relinquish such function, and as from the date of relinquishment such function may be discharged within the county division by such county council as if it had been conferred upon the county council in respect of such county division by these Regulations.

Relinquishment of functions by urban or area councils.

(2) (a) The county council may make representations to the council of any county division within the county with a view to the council of the county division relinquishing any of its functions under paragraph (1) of this regulation.

(b) Where, after any such representations have been made, the council of the county division refuses to relinquish any of its functions the subject of such representations, the county council may apply to the Minister to exercise his powers under subparagraph (c) of this paragraph.

(c) On receipt of an application under this paragraph the Minister may, in his discretion, refuse to exercise any of his powers under this paragraph or, after giving the county council and the council of the county division an opportunity to make representations to him on the application, he may, by notice in the Gazette, confer upon the county council making the application, with or without restrictions or conditions, all or any of the functions for which application was made and thereupon the council of the county division shall be deemed to have relinquished such function or functions.

(3) Where any function is relinquished or deemed to have been relinquished under this regulation the general financial arrangements arising from the discharge of such function by the county council in the county division shall be agreed between the county council and the council of the county division relinquishing the function or, in default of agreement, be determined by the Minister.

Powers and
duties of
local councils.

198. (1) A local council shall have such powers and duties as the municipal council or the council of the county division, as the case may be, within the area of which the local council is established may, with the approval of the Minister, delegate to it, and such other powers and duties as the Minister may, by notice in the Gazette, confer or impose upon it, being in either case powers or duties which the municipal council or the council of the county division within the area of which the local council is established, itself for the time being possesses; and the Minister may at any time vary or remove such powers and duties.

(2) Where the Minister confers any power or imposes any duty upon a local council under this regulation the local council shall be deemed to possess the power or be subject to the duty by delegation from the municipal council or the council of the county division within the area of which it is established, but the local council alone shall be entitled to exercise the power and shall be liable to perform the duty, as the case may be.

(3) Where any function is delegated or deemed to have been delegated under this regulation, the general financial arrangements arising from the discharge of such function by the local council shall be agreed between the local authorities concerned or, in default of agreement, shall be determined by the Minister.

Powers of
county council
where there is
no county
division.

199. In any area of a county where there is no county division the county council shall have and may exercise all the functions of a council of a county division as prescribed or provided for in this or any other written law.

200. (1) Subject to any written law relating thereto, and to paragraph (2) of this regulation the Governor in Council may from time to time, by order, confer upon any local authority or any class of local authorities any power not otherwise conferred upon such local authority or class of local authorities by these Regulations or any other written law, which the Governor in Council considers necessary or desirable in the interests or for the well-being of the inhabitants in, or for the good rule and government of, the area of such local authority or local authorities, for such local authority or class of local authorities to have.

Power to confer or impose additional powers and functions on local authorities.

(2) Subject to any written law relating thereto the Governor may, with the agreement of any local authority, by order, transfer to that local authority any power or duty vested in or imposed upon any public officer, and the local authority may from time to time exercise such power, and shall as and when the necessity arises perform any such duty, transferred to it as aforesaid.

PART XIV—BY-LAWS

201. (1) Subject to regulation 202 of these Regulations a local authority may from time to time make by-laws in respect of all such matters as are necessary or desirable for the maintenance of the health, safety and well-being of the inhabitants of its area or any part thereof and for the good rule and government of such area or any part thereof and for the prevention and suppression of nuisances therein and, more particularly, but without prejudice to the generality of the foregoing—

Power to make by-laws.

- (a) for controlling any of the things which it is empowered by or under these Regulations to do, establish, maintain or carry on; and
- (b) for controlling or regulating any of the things which, and any of the persons whom, it is empowered by or under these Regulations to control or regulate; and
- (c) for prohibiting or preventing by prohibition any of the things which it is empowered by or under these Regulations to prohibit; and
- (d) for requiring or compelling the doing of any of the things which it is empowered by or under these Regulations to require or compel.

(2) A local authority may, by by-law, prescribe all or any of the following penalties which may be imposed for breach of any by-law made by it under these Regulations, that is to say—

- (a) a fine not exceeding two thousand shillings in respect of a first offence and not exceeding three thousand shillings in respect of a second or subsequent offence, or imprisonment for a period not exceeding six months in respect of a first offence and not exceeding nine months in respect of a second or subsequent offence, or both such fines and such periods of imprisonment; and
- (b) in addition to the penalty provided in the preceding subparagraph, in the case of a continuing breach of any such by-law, a fine not exceeding twenty shillings for every day during which the offence continues:

Provided that any by-law which under this paragraph prescribes a fine for each day during which an offence continues shall also provide that the aggregate of any such fines imposed shall not, in the case of any one continuing breach of the by-law in question, exceed two thousand shillings;

and a local authority may, by by-law, further prescribe that, in addition to any such penalty as aforesaid, any expenses incurred by the local authority in consequence of the breach of any by-law made by it under these Regulations or in the execution of any work directed by any such by-law to be executed by any person and not executed by him, shall be paid by the person committing such breach or failing to execute such work.

(3) Any by-law made by a local authority under these Regulations may—

- (a) require acts or things to be performed or done to the satisfaction of a specified person, and may empower a specified person to issue orders to any person requiring acts or things to be performed or done, imposing conditions and prescribing periods and dates upon, within or before which such acts or things shall be performed or done or such conditions shall be fulfilled; and
- (b) confer on the officers of such local authority such powers of inspection, inquiry and execution of works as may be reasonably necessary for the proper carrying out or enforcement thereof.

(4) Where a local authority is empowered to make by-laws controlling the doing of any act, and such by-laws require any person to obtain a licence from a specified authority before the doing of such act, such by-laws may require the deposit of such sum, or the execution of a bond with or without sureties, as may be prescribed in such by-laws, in addition to any fee which may be prescribed, such sum to be refunded or such bond to be void, as the case may be, if the person to whom such licence is granted complies with all the conditions of such licence.

Restrictions on making by-laws.

202. (1) A local authority shall not, in exercise of the general power conferred by paragraph (1) of regulation 201 of these Regulations to make by-laws for the maintenance of health, safety and well-being of the inhabitants or for good rule and government or for the prevention and suppression of nuisances, make any by-law under that paragraph as respects its area of jurisdiction or any part thereof, if such by-law could be made as respects the same area or such part thereof under any written law other than these Regulations, whether by that local authority or any other local authority.

(2) Where any inconsistency or repugnancy exists between any by-law made under these Regulations by the council of a county as respects any county division or any part thereof and any by-law made under these Regulations by the council of that county division as respects the county division or such part thereof, then as respects that county division or part thereof and to the extent of such inconsistency

or repugnancy, the by-law which first came into operation, or where both such by-laws came into operation on the same day, the by-law made by the council of the county shall prevail.

(3) Nothing in these Regulations contained shall be deemed to empower a local authority to make by-laws overriding or derogating from the provisions of any other written law for the time being in force in Kenya.

(4) No local council shall exercise any power under this Part unless such power has been delegated to or conferred upon it under regulation 198 of these Regulations.

203. (1) At least fourteen days before the making by any local authority of any by-laws under these Regulations, notice of the intention to make such by-laws and of the general purport thereof shall be given in one or more local newspapers circulating in the area to which the by-laws are intended to apply:

Procedure for making by-law.

Provided that a county council of the second class or a council of a county division, with the consent of the Minister and in lieu of compliance with the foregoing provisions of this paragraph may, before making any by-laws under these Regulations, give such length of notice in such manner of the intention to make such by-laws and of the general purport thereof as the Minister may direct, or in the absence of any such direction, as it thinks reasonable, for bringing the notice to the attention of the inhabitants of the area to be affected by such by-laws.

(2) For at least fourteen days before the making of any by-laws under these Regulations a copy of the proposed by-laws shall be deposited at the offices of the local authority which intends to make the by-laws and shall at all reasonable hours be open to public inspection without payment, and the local authority shall on application by any person furnish to such person a copy of such proposed by-laws for which in its discretion, the local authority may make a charge of such amount, not exceeding fifty cents for every hundred words thereof, as it may determine.

(3) Any objection to the proposed by-laws shall be lodged in writing with the local authority within twelve days after the date on which the notice, or the latest notice where there is more than one, of the intention to make such by-laws was given under paragraph (1) of this regulation or within such longer period as may be specified in such notice:

Provided that where a longer period is specified in the notice such by-laws shall not be made until at least two clear days have elapsed after the expiration of such longer period.

204. (1) After any by-law has been made by a local authority under these Regulations it shall be submitted to the Minister for his approval.

Submission of by-laws for approval.

(2) Every by-law submitted for approval under paragraph (1) of this Regulation shall be accompanied by—

(a) a certified copy of the minutes of the meeting of the local authority at which the by-law was adopted;

(b) a certificate by the clerk that regulation 203 of these Regulations has been complied with; and

(c) copies of any objection to the adoption of the by-law which has been lodged in writing with the local authority, or, if no such objection has been lodged, a statement to that effect.

(3) The Minister may approve, with or without alteration, or reject any such by-law.

(4) No by-law made under these Regulations shall have the force of law until it has been approved whether with or without alteration, by the Minister, and published, or notice thereof published, in the manner provided by regulation 205 (1) of these Regulations or in the case of any by-law exempted under the proviso to the said regulation 205 (1), until it has been communicated to the inhabitants pursuant to regulation 205 (3) of these Regulations.

Publication,
communication
and coming
into operation
of by-laws, etc.

205. (1) Upon the signification of the approval of the Minister of any by-law the clerk of the local authority which made such by-law shall cause the by-law, or a notice stating that the by-law has been approved, to be published in the Gazette:

Provided that the Minister may exempt any county council of the second class, or council of a county division from compliance with the requirements of the foregoing provisions of this paragraph in respect of its by-laws generally or in respect of any class of by-laws or any particular by-laws.

(2) Subject to any other written law (including the other provisions of these Regulations) every by-law shall have the full force of law within the area to which it applies on the date of publication of the by-law or of the notice, as the case may be, or, in the case of a by-law exempted from publication in the Gazette, on the date on which it is communicated to the inhabitants under paragraph (3) of this regulation or, in either case, on such other day as may be expressed in the by-law as being the date on which the same is to come into operation; and if another date is so expressed the notice, where a notice is published under paragraph (1) of this regulation shall so state, or, in the case of a by-law exempted as aforesaid, such date shall be communicated to the inhabitants of the area affected thereby in like manner as for the substance and effect thereof.

(3) The substance and effect of all by-laws which have been duly approved shall be communicated by the local authority which made them to the inhabitants of its area in such manner as the Minister may direct or, in the absence of any such direction, in such manner as the local authority shall determine, and in the case of any such communication which is made otherwise than by publication in the Gazette, the clerk of the council which made the by-law shall notify the Minister when such communication has been made and of the date thereof.

206. (1) A copy of every by-law which has been approved by the Minister, signed or purporting to be signed by the clerk of the local authority which made it and by the Minister, shall be kept by the clerk and shall be admissible in evidence without further proof and shall be evidence of the due making of such by-law and of the contents thereof.

Admissibility in evidence of signed copy of by-laws and certificates of clerks.

(2) The production of a printed copy of any by-laws purporting to be made by a local authority upon which is endorsed a certificate purporting to be signed by the clerk of that local authority stating—

- (a) that the by-laws were made by that local authority;
- (b) that the copy is a true copy of the by-laws;
- (c) that on a specified date the by-laws were approved by the Minister; and
- (d) the date from which the by-laws have effect,

shall be prima facie evidence of the facts stated in the certificate without proof of the handwriting or official position of the person purporting to sign the certificate.

207. A copy of every by-law which has been approved by the Minister shall be deposited at the offices of the local authority which made the by-law and shall at all reasonable hours be open to public inspection without payment, and the local authority shall on application of any person furnish to such person a copy thereof for which, in its discretion, the local authority may make a charge of such amount, not exceeding five shillings, as it may determine.

Deposit, inspection and supply of copies of by-laws.

208. All offences against any by-law made under these Regulations and in force in any part of the area of a local authority shall be deemed to be offences against these Regulations, and in any prosecution for contravention of any such by-law it shall be sufficient to allege that the accused is guilty of contravening a by-law, the number and title of which shall be stated, of the local authority concerned and to allege the act constituting such contravention.

Prosecution for contravention of by-laws.

209. (1) Where any person is convicted a second or subsequent time within a period of twelve months of having contravened any by-law by selling or exposing for sale or depositing for the purpose of sale or preparation for sale, or of having in his possession, any animal or article (whether solid or liquid) intended for human consumption which is diseased or unwholesome or unfit for human consumption, the court, if it finds that such person knowingly or wilfully committed both or all the offences, may, in addition to inflicting any other punishment, order that a notice of the facts be affixed in such form and manner and for such period, not exceeding twenty-one days as may be specified in the order to any premises occupied by such person, and may further order such person to pay the costs of such affixing.

Order to affix to premises notice of conviction for sale, etc., of unsound food.

(2) If any person obstructs the fixing of any such notice, or removes, defaces or conceals such notice while affixed during the said period, he shall be guilty of an offence and shall, for each such offence, be liable to a fine not exceeding two hundred shillings.

Power to make
adoptive by-laws.

210. (1) The Minister may by order—

(a) make adoptive by-laws in respect of any matter concerning which a local authority has power to make by-laws under these Regulations or any other written law; and

(b) specify the extent to which those by-laws may be adopted by any local authority, or class of local authorities.

(2) Subject to this regulation and any order made under paragraph (1) of this regulation, a local authority may adopt any such by-laws as aforesaid which relate to any of its functions.

(3) Before adopting any such by-laws, the local authority shall give notice of its intention so to do, and regulation 203 (1) of these Regulations shall apply in respect of such notice as the same applies in respect of the notice under that regulation.

(4) The adoption of any such by-laws by a local authority shall be by resolution of the local authority, which resolution shall, in addition, state the date of the coming into operation thereof.

(5) The resolution of a local authority adopting any by-law under this regulation shall be published in the Gazette:

Provided that the Minister may exempt any county council of the second class or council of county division from compliance with the foregoing provisions of this paragraph generally in respect of all by-laws adopted by it or in respect of any class of by-laws or particular by-laws so adopted.

(6) Regulation 205 (3) of these Regulations shall apply with respect to by-laws adopted by a local authority under this regulation in like manner as respects by-laws referred to in that regulation.

(7) By-laws adopted by a local authority under this regulation shall come into operation on the date of publication in the Gazette of the resolution adopting the same or where the local authority concerned is exempted from publishing the resolution, on the date on which the clerk of the local authority notifies the Minister that the adopted by-laws have been communicated to the inhabitants under paragraph (6) of this regulation or, in either case, on such other day as may be expressed in the resolution adopting the by-laws as being the date on which the by-laws are to come into operation.

(8) By-laws adopted by a local authority under this regulation—

(a) shall have the same force and effect as if made by the local authority;

(b) may be revoked by resolution of the local authority, to which resolution paragraph (5) of this regulation shall, *mutatis mutandis*, apply, and the substance and effect of any such resolution shall be communicated to the inhabitants in like manner as is provided in regulation 205 (3) of these Regulations and such revocation shall take effect from the date of publication of the resolution in the Gazette or, if the local authority is exempted from so publishing the resolution, from the date on which the clerk of the local authority notifies the Minister that the resolution has been communicated to the inhabitants as aforesaid; and

- (c) may be amended by the adoption of an amendment made to them by the Minister, but unless the local authority concerned adopts any such amendment under this regulation, such amendment shall not be effective within its area.

211. The council of a county division shall have power to enforce by-laws made by the council of the county in which such county division is situate, which are for the time being in force in such county division or any part thereof.

Councils of county divisions may enforce by-laws of county councils.

PART XV—FINANCIAL PROVISIONS

212. (1) Not less than fourteen days before the commencement of every financial year, the finance committee of every local authority shall present to the local authority, detailed estimates of its income and expenditure during the forthcoming financial year, and the local authority shall approve the same with or without amendments:

Annual and supplementary estimates.

Provided that in the case of the City Council of Nairobi, the estimates shall be passed at a meeting of the Council, specially convened for the purpose, by a majority.

(2) As soon as may be after its approval of its estimates, but not later than such date (if any) as may be determined by the local authority to which it is hereby required to forward its estimates—

- (a) the council of every county division shall forward its estimates to the council of the county in which such county division is situate;
- (b) every local council established for any area within a county or county division shall forward its estimates to the council of that county or the county in which such county division is situate, as the case may be;
- (c) every local council established for any area within a municipality shall forward its estimates to the council of that municipality.

(3) Upon receipt under paragraph (2) of this regulation of the estimates of any local council, the county council or, as the case may be, the municipal council shall approve such estimates with or without amendment.

(4) As soon as may be after approval of its own estimates, but not later than such date (if any) as the Minister may fix as the last date for the submission of estimates of any particular local authority or class of local authorities, every municipal council and county council shall submit copies of its own estimates to the Minister and, in the case of a county council, at the same time submit copies of all estimates forwarded to it under paragraph (2) (a) of this regulation together with its recommendations thereon.

(5) Where in any financial year it appears to a local authority that—

- (a) expenditure for a special purpose is desirable; and
- (b) no or insufficient provision has been made for it in the annual estimates for that year,

such local authority may prepare or cause to be prepared, and may approve, supplementary estimates, and paragraphs (2), (3) and (4) of this regulation shall apply *mutatis mutandis* thereto and in respect thereof.

(6) All annual, revised and supplementary estimates shall be prepared in such form and contain such detailed information as the Minister may require.

(7) A summary of all estimates prepared by the local authority may be published by the local authority in a local newspaper (if any) circulating in its area, or in such other manner as the local authority may direct.

(8) The clerk of every local authority shall, on application made not earlier than twenty-one days before the meeting of the local authority to consider its annual or supplementary estimates for the purpose of approval thereof, deliver to any inhabitant of the area of jurisdiction of such local authority a copy of such estimates on payment of such fee, if any, as may be prescribed by resolution of such local authority.

Minister's
powers
respecting
estimates.

213. (1) The Minister shall consider the annual or supplementary estimates as submitted and may either approve or disallow them as a whole or disallow one or more of the items contained therein, and may make such modifications or conditions as he thinks fit.

(2) Where the Minister approves any estimates or any item or items in any estimates subject to any condition, then, until such condition is satisfied by the local authority concerned, those estimates or that item or items, as the case may be, shall for the purposes of this regulation be deemed to be disallowed.

(3) The Minister may from time to time exempt any local authority or class of local authorities from the requirement to obtain his approval of their estimates.

(4) A summary of all estimates approved by the Minister under this regulation, and of all estimates which did not require such approval, shall be recorded in the minutes of the local authority which prepared them or caused them to be prepared.

(5) For the purposes of these Regulations, the expression "approved estimates" means—

- (a) in the case of a local authority which is exempt under this regulation from the requirement to obtain the Minister's approval of its estimates, the estimates of such local authority; and
- (b) in the case of all other local authorities, the estimates (other than any estimates for the time being deemed to be disallowed by virtue of paragraph (2) of this regulation) approved by the Minister under this regulation with such modifications (if any) subject to which such approval was given but excluding from such estimates such parts (if any), and any item or items, disallowed by the Minister, and any item or items for the time being deemed to be disallowed under paragraph (2) of this regulation.

214. (1) Subject to paragraph (2) of this regulation, no local authority shall incur any expenditure which is not included in the approved estimates of such local authority:

Expenditure to be in accordance with estimates.

Provided that the Minister's approval under regulation 222 of these Regulations, of the raising of any loan for any specified capital expenditure, shall be deemed to include approval of that capital expenditure.

(2) If the annual estimates of a local authority are not approved or disallowed by the Minister before the commencement of the financial year for which they are prepared, such local authority may, until the approval or disallowance, continue to incur expenditure on—

(a) personal emoluments;

(b) other recurrent charges, at monthly rates not exceeding those provided in the approved estimates of the preceding financial year.

215. (1) The expenses incurred by every local authority in the discharge of its functions shall be divided into general expenses and special expenses.

General and special expenses.

(2) All expenses incurred by a local authority not declared by the Minister to be special expenses shall be general expenses.

(3) The Minister, on the application of a local authority which has incurred, or proposes to incur, for the purposes of any of its functions, expenses in respect of some particular area or areas within its area of jurisdiction over and above expenditure common to the whole of the area of jurisdiction of such local authority, may declare such expenses to be special expenses separately chargeable on such area or areas as the Minister may specify (in these Regulations referred to as contributory places) and, if the said expenses are declared to be chargeable on such area or areas as the Minister may specify (in these Regulations, referred to as contributory places), and, if the said expenses are declared to be chargeable on more than one contributory place, the Minister may apportion the expenses amongst the contributory places.

(4) The Minister may, before declaring any expenses to be special expenses, require that such conditions as he may, in all the circumstances of the case, see fit to impose shall first be satisfied.

216. (1) There shall be a fund, to be known as the general rate fund, for each and every municipality, and a fund, to be known as the county fund, for each and every county.

General rate and county fund.

(2) All receipts, including the rents and profits of all land owned by a municipal council or a county council shall be carried to the general rate fund, or the county fund, as the case may be, and all liabilities falling to be discharged by each of the said local authorities shall be discharged out of the general rate fund, or the county fund, as the case may be.

(3) For the purposes of this regulation—

(a) the receipts and liabilities of a municipal council shall include the receipts and liabilities of—

(i) the municipal council; and

(ii) every local council established for any area within the municipality;

(b) the receipts and liabilities of a county council shall include the receipts and liabilities of—

(i) the county council; and

(ii) the council of any county division situate within that county; and

(iii) every local council established for any area within that county or within any county division situate within that county.

(4) Separate accounts shall be kept of all receipts carried to and payments made out of the general rate fund or the county fund, as the case may be, for the purposes of the functions of each separate local authority, including each council of county division and each local council—

(a) in respect of general expenses; and

(b) in respect of each class of special expenses, except that where, as respects any two or more classes of special expenses, the contributory place is the same, one separate account may be kept as respects all expenses of both or all those classes.

Payments to and out of funds.

217. (1) All payments to and out of the general rate fund or the county fund shall be made by the chief financial officer.

(2) Every municipal council and every county council shall make standing orders regulating the making of payments out of the general rate fund or the county fund, as the case may be, in respect of—

(a) its own general and special expenses; and

(b) in the case of county councils, the general and special expenses of the council of every county division within the county; and

(c) in the case of municipal councils and county councils, the expenses of every local council established for any area within the municipality, or within the county or county division as the case may be.

General reserve funds.

218. (1) Every local authority shall create an adequate general reserve fund for the purpose of providing a sufficient working balance and for meeting unforeseen contingencies.

(2) Every local authority may from time to time, and shall, if so directed by the Minister, make provision, in levying any rate, for increasing the amount of its general reserve fund.

(3) The surplus balance, or the deficit on the general revenue account of a local authority at the end of the financial year shall be transferred to, or met from the general reserve fund, as the case may be.

(4) The moneys in the general reserve fund shall, in so far as they are not immediately required as a working balance or for contingencies, be temporarily invested or deposited at interest in such manner as the Minister may from time to time approve for local authorities generally, or for particular classes of local authorities, or for a particular local authority.

219. (1) A local authority may and, if so directed by the Minister, shall, create adequate renewals funds to provide for the entire or partial replacement of some or all of its assets, which, owing to depreciation or other cause, will require at some future date to be replaced.

Renewals
funds.

(2) Every such local authority shall pay annually into the renewals funds (if any) created by it under paragraph (1) of this regulation, such contributions as may be necessary, and, except as is permitted by paragraph (4) of this regulation, no such moneys or any part thereof shall be used either permanently or temporarily for any purpose other than the purposes for which they have been contributed.

(3) All interest or other sums derived from any such renewals fund shall be paid into and become part of such fund.

(4) Pending the application of moneys in any renewals fund to the purposes for which such fund has been established the moneys in the fund shall (unless applied in any manner authorized by any written law) be invested in trustee securities or in such manner as may be approved by the Minister.

220. (1) A municipal council and a county council may, in accordance with rules made by it with the approval of the Minister, establish a capital fund for the purpose of defraying capital expenditure and reducing outstanding debts.

Capital funds.

(2) Rules made under paragraph (1) of this regulation may make provision for any matters incidental to the establishment and administration of such a capital fund.

(3) Every council which has established a capital fund shall keep a separate account of the transactions relating to that fund, and Part XVII of these Regulations shall apply to every such account.

221. (1) A municipal council and a county council may, in accordance with rules made by it with the approval of the Minister, establish a consolidated loans fund for the purpose of centralizing all or part of its loan transactions.

Consolidated
loans funds.

(2) Rules made under paragraph (1) of this regulation may make provision for any matters incidental to the establishment and administration of such a consolidated loans fund.

(3) Notwithstanding anything contained in any written law a council may pay into the consolidated loans fund established by it under this regulation any moneys forming part of any provident, superannuation, reserve, capital, capital reserve, renewals, repairs,

depreciation, insurance, contingency or other fund of such council (hereinafter referred to as "the lending fund") and not for the time being required, and such moneys shall be deemed to be moneys borrowed by such local authority and may be used accordingly subject to the following conditions—

- (a) the moneys so paid into the consolidated loans fund shall be repaid to the lending fund as and when required for meeting the obligations for which the lending fund was established; and
- (b) there shall be paid out of the consolidated loans fund to the lending fund an amount equal to the interest on any moneys so paid into the consolidated loans fund and for the time being not repaid, at such rate per centum per annum as may be determined by such council to be equal as nearly as may be to the average rate of interest payable by such council on its current borrowings.

(4) Every council shall keep a separate account of the transactions of the consolidated loans fund established by it under this regulation and Part XVII of these Regulations shall apply to every such account.

PART XVI—LOANS OF LOCAL AUTHORITIES

Borrowing
powers.

222. (1) A local authority may from time to time, by a majority of the members of such local authority present at a meeting at which the majority voting shall not be less than a majority of the whole local authority, raise loans for such purposes relating to its functions, from such sources, in such amounts, and on such conditions, as the Minister may approve.

(2) Such loans shall be charged indifferently on all rates and revenues of such local authority and all securities therefor shall rank equally without any priority:

Provided that nothing in this paragraph contained shall affect any priority existing at, or any right to priority conferred by a security created before, the date of commencement of these Regulations.

Issues of
stocks or
bonds.

223. (1) A municipal council or a county council may borrow by means of issues of bonds or stock or both, and may for that purpose create, issue, redeem and deal with stocks and bonds in such manner as may be prescribed by rules made under this regulation.

(2) The Minister, after consultation with the Minister for the time being responsible for finance, may make rules for the matters specified in the preceding paragraph, and without prejudice to the generality of the foregoing, and notwithstanding the provisions of any other written law, such rules may provide for the redemption of any loan so raised, the exemption from stamp duty of any document given, executed or issued in connexion with any of the matters specified in the preceding paragraph, and for the disposal of unclaimed dividends.

(3) Every loan raised by means of the issue of stock or bonds or both shall be redeemed within a period of fifty years or such lesser period as the Minister may, by rules under this regulation, prescribe.

(4) Every municipal or county council which raises a loan by means of the issue of stock or bonds or both shall establish a sinking fund to which it shall make annual contributions at such rates as may be determined from time to time by the Minister.

224. (1) If at any time any principal money or interest due under any loan raised by a local authority remains unpaid for a period of two months after demand therefor in writing has been lodged with the clerk of the local authority by the person entitled thereto or by his duly authorized representative, the person entitled thereto or his representative may, without prejudice to any other remedy, apply to the Supreme Court for the appointment of a receiver of the rates and revenues of such local authority, or in the case of the City Council of Nairobi, the property and revenues on which the loan is secured.

Appointment
of receiver.

(2) On the hearing of any such application the Court may make such order and give such directions as under the circumstances shall seem expedient for the raising and payment of the moneys due and, in particular, the Court may order that a rate or rates of such amount or amounts as it may fix be levied upon all property within the area of such local authority in respect of which such local authority is empowered to levy a rate, and such rate so ordered shall have the same incidence as any rate imposed by such local authority and may be enforced in like manner, and the proceeds thereof shall be paid into Court or otherwise as the Court shall direct.

(3) In the case of a loan made to a local authority by the Local Government Loans Authority under the Local Government Loans Ordinance, the powers exercisable under this regulation shall be in addition to and not in substitution for or in derogation of the powers conferred by that Ordinance in respect of the non-payment of any such loan or interest thereon or money due on account thereof.

Cap. 270.

225. (1) A local authority may, from time to time, with the consent of the Minister, borrow by way of temporary loan or overdraft from the Government, a registered bank or from any other source, any sums which it may temporarily require—

Temporary
borrowing.

(a) for the purpose of defraying, pending the raising of a loan under regulation 222 of these Regulations which the local authority has been authorized to raise, expenses intended to be defrayed by means of the loan; or

(b) any sums which it may temporarily require for the proper carrying out of the provisions of these Regulations.

(2) All moneys so advanced, and the interest thereon (if any), shall constitute a liability of the local authority concerned and shall be charged on the rates and revenues of such local authority; and the provisions of regulation 222 of these Regulations for the security of such advances and for the recovery thereof shall apply in all respects as if such advances were loans raised under that regulation.

(3) Where money is borrowed pursuant to paragraph (1) (a) of this regulation and subsequently such a loan as is mentioned in that paragraph is raised, then for the purposes of the provisions of these

Regulations regulating the repayment of that loan, the loan shall, to the extent of the sum borrowed under paragraph (1) (a) of this regulation, be deemed to have been raised at the time when the borrowing under the said paragraph took place.

Lenders
relieved
from certain
inquiries.

226. A person lending money to a local authority shall not be bound to inquire whether the borrowing of the money is or was legal or regular or whether the money raised was properly applied, and shall not be prejudiced by any illegality or irregularity in the matters aforesaid or by the misapplication or non-application of any such money.

PART XVII—ACCOUNTS AND AUDIT

Financial
year.

227. The financial year of every local authority shall be the year commencing on the first day of January and ending on the thirty-first day of December in the same year.

Accounts.

228. (1) Every local authority shall cause proper books and accounts to be kept and true and regular records to be entered therein of all transactions of the local authority.

(2) Such accounts shall be kept so as to secure that sums raised by rates or otherwise or other sums received by the local authority are not applied to purposes to which such sums are not properly applicable or that sums so raised or received for specific purposes are not applied to other purposes, and that capital moneys are not applied to any purpose other than a purpose to which capital moneys are properly applicable.

(3) Every local authority shall cause its accounts (including those relating to funds or property held by the local authority in trust) to be kept in such manner as to show in respect of the financial year to which the accounts relate—

(a) all receipts and payments of the local authority during the year; and

(b) any capital moneys due but not paid to or by the local authority in that year,

and, where the local authority is a municipal council or a county council, it shall cause such accounts to be kept in such manner as to show, in addition, in respect of the said financial year, any revenue and expenditure relating to revenue in respect of that year not received or paid in that year.

(4) The Minister may from time to time make rules for the keeping of accounts by any local authority or class of local authorities.

Annual
statement or
abstract of
accounts.

229. (1) The accounts required to be kept by a local authority shall be balanced for any financial year not later than the 30th June in the year following the year of account or such later date as in any particular case the Minister may determine and an annual statement or abstract thereof shall be prepared.

(2) Such annual statement or abstract of accounts shall be prepared in such form and shall contain such particulars as the Minister may by rule prescribe.

(3) Copies of every such annual statement or abstract of accounts and of the report of the inspector made under regulation 232 of these Regulations shall be delivered to any inhabitant of the area of the local authority on application and on payment of such fee, if any, as may be prescribed by resolution of the local authority.

230. (1) Every municipal council and county council shall deposit in its offices a copy of the annual statement or abstract of its accounts prepared under regulation 229 of these Regulations which shall for seven clear days before the inspector's examination and inspection under regulation 231 of these Regulations be open at all reasonable hours to the inspection of all ratepayers of the council, and any such person shall be at liberty to make copies of or extracts from such statement or abstract of accounts, without payment.

Deposit of
annual statement
and objections
to inspector.

(2) Before each examination and inspection by an inspector, every municipal council and county council, on receiving from the inspector intimation of a time, date and place for the hearing of objections to the accounts of such council, shall, by advertisement in at least one newspaper circulating in its area, give at least fourteen days' notice of—

- (a) the deposit of the statement or abstract of accounts required by this regulation and the right to inspect the same;
- (b) the latest time for the lodging of notice of objections by any ratepayer of the council with the inspector;
- (c) the time, date and place for the hearing by the inspector of objections (if any) to the accounts of the council; and
- (d) the name and the address of the inspector.

(3) A ratepayer of the municipal council or county council may be present or may be represented before the inspector at the time, date and place for the hearing of objections and may make any objection to the accounts of such council of which due notice has been given under paragraph (4) of this regulation, and the inspector shall hear and consider such objections.

(4) Notice of every objection under this regulation, with particulars of the objection, shall be given to the inspector and to the clerk of the council not less than two clear days before the date advertised as aforesaid for the hearing of objections by the inspector.

(5) The date for the hearing of objections under this regulation shall not be later than the 31st December in the year following the year of account or such later date as, in any particular case, the Minister may determine.

231. (1) The Minister shall appoint one or more persons, being public officers, from time to time to inspect and examine the accounts and records of local authorities, and every local authority shall, by the treasurer or other officer so authorized by such local authority, produce and lay before the person or persons so appointed all books and accounts of the local authority together with all vouchers, papers and writings relating thereto.

Audit of
accounts, etc.

(2) The inspector shall certify, in relation to the accounts and the annual statement or abstract of accounts, whether or not—

- (a) the accounts of the local authority are in order;
- (b) the balance sheets issued give a true and fair view of the state of affairs of the local authority at the end of the financial year to which they relate;
- (c) the revenue accounts give a true and fair view of the income and expenditure of the local authority respecting the financial year to which they relate;
- (d) due provision has been made on account of redemption and repayment of all moneys borrowed by the local authority;
- (e) the amounts set aside for depreciation and renewal of the assets of the local authority are adequate; and
- (f) the requirements of any rules made by the Minister under regulation 228 (4) and regulation 229 (2) of these Regulations have been complied with.

(3) It shall be the duty of the inspector at every examination and inspection held by him—

- (a) to disallow every item of account which is contrary to law;
- (b) to certify at the conclusion of the examination and inspection his allowance of the accounts, subject to any disallowances as aforesaid or surcharges which he may have made under regulation 236 of these Regulations;

Provided—

- (i) that no expenses paid by a local authority shall be disallowed by the inspector, if they have been sanctioned by the Minister prior to the certification of the accounts; and
- (ii) that the Minister shall not, under the authority of the foregoing proviso, sanction expenditure which could not otherwise have been sanctioned by him under these Regulations or any other written law.

Inspector to
make a report.

232. (1) As soon as may be after completion of his inspection and examination under this Part of these Regulations, the inspector shall make and sign a report upon the accounts and records inspected and examined and shall send a copy of the report, together with a copy of the annual statement or abstract of accounts supplied free of charge by the local authority to him for that purpose, to the Minister, and shall send the report—

- (a) in the case of a report upon the accounts and records of a municipal council, or a county council, to such local authority;
- (b) in the case of a report upon the accounts and records of the council of a county division or of a local council established in a county division, to the council of the county in which such county division is situated;
- (c) in the case of a report upon the accounts and records of a local council established in a municipality, to the council of such municipality.

(2) The inspector in his report shall state his opinions and observations upon all questions arising out of the certificate given by him under regulation 231 (2) of these Regulations and upon all matters affecting the economical and efficient administration and conduct of services which in his opinion call for special notice and shall draw attention to all cases in which it appears to him that any of the provisions of these Regulations or any other written law have not been carried out or that any acts, matters or things have been performed or carried out without due authority.

233. (1) As soon as may be after receipt by a municipal council or county council, of the inspector's report upon its own accounts and records, the report together with copies of the annual statement or abstract of accounts prepared under regulation 229 of these Regulations respecting the financial year to which the report relates, shall be laid before, and considered by, the local authority at its first convenient ordinary meeting.

Consideration of inspector's report and statement of accounts by local authority.

(2) As soon as may be after receipt by a local authority of the inspector's report upon the accounts and records of another local authority sent to it pursuant to subparagraph (b) or subparagraph (c) of regulation 229 (1) of these Regulations, the clerk shall lay the report or relevant extracts therefrom before the local authority upon the accounts and records of which the report was made and such last-mentioned local authority shall, at its first convenient ordinary meeting thereafter, consider such report and extracts therefrom together with its annual statement or abstract of accounts.

234. The Minister may issue to any local authority such instructions as he may see fit arising out of any report of an inspector made under regulation 232 of these Regulations, and it shall be the duty of such local authority to comply with any such instructions.

Power of Minister to issue instructions.

235. A local authority shall, within three months after the date of the signing and certifying by the inspector of its accounts for any financial year, pay to the Government in such manner as the Minister may direct in respect of the inspector's services, such sum, not exceeding one per centum of the total expenditure of the local authority which has been brought to account and certified by the inspector for that financial year, as the Minister may from time to time determine:

Payment for services of inspector.

Provided that where the examination of accounts has made unusual demands upon the time of the inspector as a result of unsatisfactory accounting or the occurrence of irregularities or where for the purpose of an effective audit the accounts were required to be completed, adjusted or balanced by the inspector, such additional fee as the Minister may determine shall be charged and paid as aforesaid.

236. (1) It shall be the duty of the inspector at every examination and inspection held by him—

(a) to surcharge the amount of any expenditure disallowed by him under regulation 231 (3) of these Regulations upon the person responsible for incurring or authorizing the expenditure;

Power and duties respecting surcharge.

- (b) to surcharge any sum which has not been duly brought to account upon the person by whom that sum ought to have been brought into account;
- (c) to surcharge the amount of any loss or deficiency upon any person by whose negligence or misconduct the loss or deficiency has been incurred; and
- (d) to certify the amount due from any person upon whom he has made a surcharge.

(2) Any loss represented by a charge for interest or any loss of interest shall be deemed to be a loss within the meaning of this regulation, if it arises from failure through wilful neglect or wilful default to levy or collect such rates as are necessary to cover the expenditure of the local authority for any financial year (including any expenditure incurred in any previous year and not covered by rates previously levied), or to collect other revenues.

(3) For the purposes of this Part of these Regulations, a member of a local authority is deemed to be responsible for incurring or authorizing expenditure if, being present when the resolution of the local authority or committee thereof incurring or authorizing the expenditure was passed—

- (a) he voted in favour of it; or
- (b) he did not cause his vote against the resolution to be recorded in the minutes.

(4) Notwithstanding paragraph (1) of this regulation, a liability to surcharge shall not be incurred by an officer or other employee of a local authority, including a public officer seconded to a local authority, who can prove to the satisfaction of the inspector that—

- (a) he acted in pursuance of, and in accordance with, the terms of a resolution of the local authority or of a committee thereof duly appointed by the local authority, after having first pointed out the irregularity and having exercised his right to require his advice to be recorded in the minutes of the meeting at which such resolution was passed; or
- (b) he acted on the written instructions of a senior officer of the local authority.

(5) For the purposes of paragraph (4) of this regulation a senior officer means an officer so designated by the Minister.

Application for written reasons for inspector's decision.

237. The inspector shall, on the application of any person who is aggrieved by his decision on any matter with respect to which that person has made an objection under regulation 230 of these Regulations, or of any person aggrieved by a disallowance or surcharge made by the inspector, state in writing the reasons for his decision.

Appeals against decision of inspector.

238. (1) Any person who is aggrieved by a decision of an inspector on any matter with respect to which he made an objection under regulation 230 of these Regulations, and any person aggrieved by a disallowance or surcharge made by an inspector, may, within thirty days of that decision, disallowance or surcharge, where the decision,

disallowance or surcharge relates to an amount exceeding ten thousand shillings, appeal to the Supreme Court, and may in any other case within the like period appeal either to the Supreme Court or to the Minister.

(2) The Court or the Minister on such an appeal shall have power to confirm, vary or quash the decision of the inspector, and to remit the case to the inspector with such directions as the Court or Minister thinks fit for giving effect to the decision on appeal, and if the decision of the inspector is quashed or is varied so as to reduce the amount of the surcharge to one thousand shillings or less, the appellant shall not be subject in respect of that surcharge to the disqualification imposed by regulation 60 (1) (b) of these Regulations.

(3) Where an appeal is made to the Minister under this regulation, he may at any stage of the proceedings, and shall, if so directed by the Supreme Court, state in the form of a special case for the opinion of the Supreme Court any question of law arising in the course of the appeal, but save as aforesaid the decision of the Minister shall be final.

(4) Where an appeal is made to the Minister the appellant shall be entitled to a personal hearing by a person appointed by the Minister for that purpose.

239. (1) In the case of a surcharge, the person surcharged may, whether or not he appeals under regulation 238 of these Regulations, apply to the Court or the Minister to whom he appeals, or if he does not appeal, to the Minister, for a declaration that in relation to the subject matter of the surcharge he acted reasonably or in the belief that his action was authorized by law, and the Court or Minister, if satisfied that there is proper ground for doing so, may make a declaration to that effect.

Applications for relief.

(2) Where such a declaration is made the person surcharged, if by reason of the surcharge he is subject to the disqualification imposed by regulation 60 (1) (b) of these Regulations, shall not be subject to that disqualification, and the Court or Minister may, if satisfied that the person surcharged ought fairly to be excused, relieve him either wholly or in part from personal liability in respect of the surcharge, and the decision of the Court or Minister under this regulation shall be final.

240. (1) Every sum certified by an inspector to be due from a person shall be paid by that person to the local authority within thirty days after it has been so certified, or, if an appeal or application with respect to that sum has been made, within fourteen days after the appeal or application is finally disposed of, abandoned or fails by reason of the non-prosecution thereof.

Payment and recovery of sums certified to be due.

(2) The inspector shall take all necessary steps to recover from the person surcharged in any competent court any such sum as aforesaid which is not so paid.

(3) In any proceedings for the recovery of any such sum the inspector's certificate shall be conclusive evidence that the sum is due and payable by the person charged.

Cap. 5 (1948). (4) On the production of such certificate the court shall give a decree for the sum sued for, and every such decree shall have the effect of a decree under the Civil Procedure Ordinance and any rules made thereunder.

Expenses of inspector.

241. (1) Any expenses incurred by an inspector in the defence of any allowance, disallowance or surcharge made by him shall, so far as not recovered from any other party and except as may otherwise be ordered by the Supreme Court or the Minister, as the case may be, be reimbursed to him out of the fund to which the accounts subject to his examination and inspection relate, and the Supreme Court or Minister may make such order as may seem fit in regard to the payment out of that fund of the expenses incurred by the appellant or applicant or any other party to the proceedings.

(2) The costs and expenses incurred by an inspector in any legal proceedings taken by him under regulation 240 (2) of these Regulations shall, so far as not recovered from any other source, be paid out of the fund to which the accounts subject to his examination and inspection relate.

Power of inspector to take evidence.

242. (1) For the purposes of his powers and duties under this Part of these Regulations the inspector may hear and receive evidence and examine witnesses upon oath or affirmation (which oath or affirmation the inspector is hereby empowered to administer), and may, by summons under his hand, require all such persons as he may think fit to appear personally before him at a time and place to be stated in such summons and to produce all such books and papers (including the minutes of the proceedings of the local authority or of any committee thereof) as he may deem necessary for such examination.

(2) Any person so required who, without reasonable excuse—

- (a) neglects or refuses to comply with such summons; or
- (b) having appeared, refuses to be examined on oath or affirmation or to take such oath or affirmation; or
- (c) having taken such oath or affirmation refuses to answer such questions as are put to him,

shall be guilty of an offence and shall be liable, for every such neglect or refusal, to a fine not exceeding two thousand shillings or to imprisonment for a term not exceeding two months.

PART XVIII—REPORTS, RETURNS AND INQUIRIES

Reports to be rendered by certain local authorities.

243. (1) It shall be the duty of every municipal council and county council to render to the Minister not later than 31st March in each year, or such later date as the Minister may agree, a report of its work and of the local government affairs of its area for the preceding financial year.

(2) Such report shall be rendered in such form as may be directed by the Minister, and shall be accompanied by such statistics as the Minister may require.

(3) A copy of such report shall be delivered by the clerk of the local authority rendering the report—

- (a) free of charge to every alderman (if any) and to every councillor of such local authority; and
- (b) to any inhabitant of the area of such local authority, on application and on payment of the fee (if any) prescribed by resolution of such local authority.

244. (1) It shall be the duty of every municipal council, county council, and of any other local authority which is required by the Minister so to do, to furnish to the Minister and to such other persons as the Minister may specify a certified copy of any records or minutes of its proceedings and of the proceedings of any committee appointed by it, and of a record of any of its accounts, and such reports, statistics and documents as the Minister may from time to time require.

Minutes, etc.,
to be furnished
to Minister.

(2) The minutes of the proceedings of each meeting of a local authority or of any committee thereof which are required to be furnished to the Minister as aforesaid shall be forwarded as soon as possible after the same have been confirmed as required by or under these Regulations.

245. (1) The Minister may at any time appoint any public officer to conduct such investigations, researches and inquiries as the Minister may deem necessary for any purpose of these Regulations or for assisting any local authority in the carrying out of its functions under these Regulations or any other written law and generally for promoting the efficiency of local government in Kenya or any area thereof; and all necessary facilities shall be given by local authorities to any officer conducting any such investigation, research or inquiry.

Investigations,
researches and
inquiries.

(2) For the purpose of any such investigation, research or inquiry, the person appointed to conduct the same may by summons require any person to attend, at such time and place as is set forth in the summons, to give evidence or to produce any books, plans and documents in his custody or under his control which relate to any matter in question in such investigation, research or inquiry, and may take evidence on oath, and for that purpose administer oaths, or may, instead of administering an oath, require the person examined to make and subscribe a declaration of the truth of the matter respecting which he is examined:

Provided that no person shall be required, in obedience to such a summons, to go more than ten miles from his place of residence, unless the necessary expenses of his attendance are paid or tendered to him.

(3) Every person who refuses or wilfully neglects to attend in obedience to a summons issued under paragraph (2) of this regulation, or to give evidence, or to answer fully and satisfactorily, to the best of his knowledge and belief all questions put to him by the person appointed under paragraph (1) of this regulation, or who wilfully alters, suppresses, conceals, destroys, or refuses to produce, any book, plan or other document which he may be required to produce for the

purposes of this regulation, shall be guilty of an offence and liable to a fine not exceeding one thousand shillings or to imprisonment for a period not exceeding one month or to both such fine and such imprisonment.

(4) The costs and expenses of any investigation, research or inquiry conducted under this regulation (including expenses paid to any person referred to in the proviso to paragraph (2) of this regulation) or such proportion thereof as the Minister may determine, shall, if the Minister so directs, be paid by such local authority or local authorities being a local authority or local authorities respecting which or any function of which such investigation, research or inquiry was conducted, as the Minister shall determine and, where there is more than one such local authority, in such proportions as the Minister shall specify, and any amount directed under this paragraph to be paid by a local authority shall be a civil debt recoverable summarily.

PART XIX—POWERS ARISING ON DEFAULT OF LOCAL AUTHORITIES

Power to direct performance of duties and in default to perform same.

Cap. 266.

246. (1) The Minister may, after giving reasonable notice of his intention so to do, direct any local authority to perform, within such time and in such manner as he shall specify, any of the duties imposed upon it by or under these Regulations or any other written law, and if the local authority fails to comply the Minister may himself perform the duties in question, and shall be entitled to recover from the local authority, the expenses incurred by him in so doing; and for defraying such expenses the Minister may also levy a rate under the Rating Ordinance as if he were a rating authority or local authority for the purposes of that Ordinance.

(2) The council of a county shall, in respect of the council of every county division in such county and of every local council established for any local council area in such county or any county division thereof, and the council of a municipality shall, in respect of every local council established for any local council area within the municipality, have all and may exercise any of the powers of the Minister under paragraph (1) of this regulation and, in the exercise of any such power by a local authority that paragraph shall be construed as if there was substituted for the reference to the Minister therein a reference to the local authority, exercising such power.

(3) An urban, area or local council may appeal to the Minister against any notice or direction given to, or the exercise of any other power contained in paragraph (2) of this regulation against it by the council of the county or municipality as the case may be, and upon any such appeal the Minister may—

- (a) confirm with or without modifications, or cancel, the notice or direction appealed against;
- (b) direct the council of the county or municipality, as the case may be, to specify, before any or any further powers contained in paragraph (1) of this regulation are exercised by it, what action or further action it proposes to take in exercise of such powers in the event of default to comply with the direction given or to be given by it to the local authority appealing, and the proposed manner in which such is to be taken;

(c) either confirm the taking of such action in the manner specified or in such other manner as the Minister may direct, or direct that such action shall not be exercised, or shall be taken or exercised only under the supervision, and subject to the directions, of the Minister or such other person as the Minister may specify; and

(d) such other directions as in his opinion the justice of the case requires,

and any such confirmation, cancellation and direction shall be final and binding on both local authorities concerned.

247. (1) The Minister may require any local authority to submit to him proposals for the exercise by it of any power conferred on it by law.

Power to require submission of proposals, and exercise by Minister of powers in default.

(2) If the proposals, or the proposals with agreed modifications, are acceptable to the Minister, he may by order require the local authority to exercise the power in question in the manner described in the proposals or in the proposals as modified, as the case may be.

(3) If the local authority fails to make proposals, or if the local authority does not agree to its proposals being modified in the manner required by the Minister, the Minister may by order require the local authority to exercise the power in such manner and in such time as he shall therein prescribe.

(4) If the local authority fails to comply with an order made under paragraph (2) or paragraph (3) of this regulation, the Minister may himself exercise the power in such manner as he thinks fit, and shall be entitled to recover from the local authority the expenses incurred by him in so doing, and for defraying such expenses the Minister may also levy a rate under the Rating Ordinance, as if he were a rating authority or a local authority for the purpose of that Ordinance.

Cap. 266.

(5) Section 34 of the Interpretation and General Provisions Ordinance shall apply to an order made under this regulation as though it were a rule or regulation within the meaning of that section.

Cap. 2.

248. The Minister may give to any local authority such directions as he thinks necessary as a result of investigations, researches or inquiries under regulation 245 of these Regulations.

Power to give directions to local authorities.

249. (1) If at any time it appears to the Governor in Council that the revenues of the council of a county or municipality are not being properly used in the best interests of the county or municipality, as the case may be, as a whole, or that the administration of the affairs of such a council is wasteful or inefficient, or that such a council has failed to act in conformity with the provisions of these Regulations, the Governor in Council may, after such inquiry (at which inquiry the council shall be entitled to be heard) as he may deem necessary, reduce any Government contribution or other grant payable by the Government for the next succeeding financial year by such amount as he shall determine.

Power to reduce Government grants.

(2) Any such reduction as aforesaid shall be notified to the council concerned not later than one month after the commencement of the financial year in respect of which such grant is payable.

Default powers to reduce Government grants or transfer functions respecting county divisions and local council areas.

250. (1) If at any time it appears to the Minister, either upon representations made to him by the council of a county or municipality or without any such representations, that the revenues of any urban or area council in such county or of a local council established for any local council area within such county or municipality are not being properly used in the best interests of the county division or local council area, as the case may be, or that the administration of the affairs of the council concerned is wasteful or inefficient, or that the council concerned has failed to act in conformity with the provisions of these Regulations, the Minister may, after such inquiry (at which inquiry the council concerned shall be entitled to be heard) as he may deem necessary—

- (a) reduce any Government contribution or other grant payable to or for such council; or
- (b) transfer to the council of the county in the case of the council of a county division situate within the county, or local council established for any local council area within the county or any county division therein, or transfer to the council of the municipality, in the case of a local council established for a local council area within the municipality all or any of the functions of such council of a county division, or local council, as the case may be, either for a definite period or until he may otherwise direct.

(2) Where any functions are transferred under paragraph (1) of this regulation, the expenses incurred by the council to which the functions are transferred shall, except in so far as they may be met by any grant made by such council, be a debt due to such council from the council from which the functions are transferred, and shall be defrayed as general expenses of the council from which the functions were transferred or as special expenses of such council or partly as such general expenses and partly as such special expenses as the council to which such functions are transferred may direct.

Recovery by deduction from grants of debts due from local authorities.

251. Where the Minister is satisfied that a decree for the payment of money has been made by a competent court against any local authority in favour of the Government or any person, or that for other good and sufficient reason money is due from and payable by a local authority to the Government or any person, and the local authority refuses or fails to make due payment, the Minister may order that such payment be made from funds of the local authority, and if the local authority continues to refuse to make due payment he may deduct from any Government contribution or other grant payable to or for such local authority the amount of the sum due and payable and pay the same to the Government or such person.

Removal of members and appointment of commission.

252. (1) If a municipal council at any time neglects to hold a meeting for the space of three months, or if any other local authority at any time neglects to hold a meeting for the space of six months, or if any local authority is unable, or is at any time unlikely to be able to meet its financial commitments or where a local authority is to be wound up by order under regulation 253 of these Regulations the Governor in Council may by order—

- (a) remove from office all the members of such local authority who shall thereupon, notwithstanding anything to the contrary in these Regulations or any other written law, cease to be members thereof;

(b) in place of such members and for the area of such local authority appoint not less than three persons to form a commission for the purpose of carrying on the affairs of, or where so required by regulation 254 of these Regulations, for the purpose of winding up the affairs of the local authority, and shall appoint one of such persons to be the chairman of the commission.

(2) A commission appointed under paragraph (1) of this regulation shall have and may exercise all the powers of, and be subject to and liable to discharge all the duties of, the local authority whose members have been removed from office whether such powers and duties are conferred or imposed by these Regulations or any other written law, and for such purpose any reference in these Regulations or any other written law to a local authority shall, where a commission is appointed under this regulation in place of the members of such local authority, be deemed to refer to such commission.

(3) (a) Prior to the exercise of any power conferred by paragraph (1) of this regulation, the Governor in Council may direct such inquiry to be held as he may think necessary and, for the purposes of such an inquiry, shall appoint a person to hold the inquiry and may confer upon him all or any of the powers vested in a commissioner under the Commissions of Inquiry Ordinance.

11 of 1962.

(b) At any inquiry directed under this paragraph, the local authority in question and any member thereof shall be entitled to be heard.

253. (1) The Governor in Council shall have power, by order, to direct that any municipal council or county council shall be wound up on any of the following grounds which shall be specified in the order—

Order for winding up and grounds therefor.

- (a) in the case of a municipal council that it has neglected to hold a meeting for the space of three months, or, in the case of a county council that it has neglected to hold a meeting for the space of six months; or
- (b) in the case of any such local authority, that it is unable, or is at any time unlikely to be able to meet its financial Commitments; or
- (c) in the case of any such local authority, on any other ground or for any other reason which in the opinion of the Governor in Council renders it necessary or desirable that the local authority be wound up:

Provided that no such order shall be made directing that a local authority shall be wound up for neglect to hold any meeting or meetings except as permitted in subparagraph (a) of this paragraph.

(2) Before an order is made under subparagraph (c) of paragraph (1) of this regulation—

- (a) notice of the intention to make, and of the purport of, such order shall be published in the Gazette and in at least one newspaper (if any) circulating in the area of the local authority in question; and

(b) after the expiry of a period of not less than fourteen days from the date of publication of such notice in the Gazette, a draft of the order shall be laid before the Legislative Council; and no such order shall have effect unless notice thereof is published as aforesaid and the Legislative Council has, by resolution (of which at least twenty-eight days' notice has been given to the Council), approved the draft.

(3) If at any time it appears to the Minister, either upon representations made to him by the council of a county or municipality or without any such representations, that it is necessary or desirable that any council of a county division or local council should be wound up, the Minister may, by order, direct that such council shall be wound up.

(4) Before any order is made under paragraph (3) of this regulation, the Minister may, in accordance with regulation 245 of these Regulations, appoint a public officer to conduct an inquiry, and at any inquiry directed under this paragraph the local authority in question and the council of the county or municipality of the area and any other local authority concerned shall be entitled to be heard.

Procedure on winding up.

254. (1) Upon any order being made under regulation 253 of these Regulations with respect to a local authority, such local authority shall until dissolved by declaration under regulation 255 of these Regulations, continue in existence for the purpose only of winding up, and to that end the members of the local authority shall, or where by order under regulation 252 of these Regulations a commission is or has been appointed in place of such members, then, such commission shall, without undue delay, take such steps as may be necessary to wind up the affairs of the local authority, and in particular shall do such acts as may be required by any order made by the Minister under paragraph (2) of this regulation.

(2) In order to facilitate any such winding up, the Minister may, by notice in the Gazette, make such orders as he deems necessary or desirable, and particularly but without prejudice to the generality of the foregoing to ensure—

(a) that all or any property, movable or immovable vested in or belonging to such local authority or to which the local authority is entitled and all or any assets and claims to which the local authority is entitled shall be transferred to and vested in such other authority or authorities as exist or may be established for the area for which the local authority being wound up was established;

(b) that all or any contracts of service, appointments made or powers conferred shall be deemed respectively to have been entered into, made or conferred by such other authority or authorities as aforesaid;

(c) that all or any works, undertakings, rights, liabilities, contracts and engagements of the local authority, and all actions, suits and legal proceedings by or against the local authority, shall be transferred to, vested in and be enforced, carried on and prosecuted by or against such other authority or authorities as aforesaid;

- (d) that all or any licences or registrations issued, made or granted by the local authority shall continue in force for the period for which they were issued, made or granted, and shall be deemed to have been issued, made or granted by such other authority or authorities as aforesaid;
- (e) that all or any by-laws or other rules made by the local authority shall be deemed to be the by-laws or rules of such other authority or authorities as aforesaid, and shall continue in full force and effect for such period as the Minister may determine.

255. On the Minister being satisfied that the winding up of a local authority is completed, he shall, by notice in the Gazette, declare it to be dissolved with effect from such date as shall be specified in such notice, and such local authority shall with effect from such date be dissolved and shall cease to exist.

Dissolution.

PART XX—LEGAL PROCEEDINGS

256. Where any matter is by these Regulations directed to be determined by arbitration, such matter shall, except as may be otherwise provided, be determined by arbitration in accordance with the Arbitration Ordinance.

Arbitration.

Cap. 49.

257. Every person who is guilty of an offence under these Regulations shall, for every such offence, be liable to the penalty expressly prescribed by or under these Regulations, or if no such penalty be prescribed, to a fine not exceeding two thousand shillings or to imprisonment for a period not exceeding two months, or to both such fine and imprisonment.

General penalties.

258. (1) Subject to paragraph (2) of this regulation, all fines imposed and recovered by a competent court including an African court other than by such a magistrate as is referred to in paragraph (2) of this regulation, in respect of contraventions of any of the provisions of these Regulations or of any by-laws made under these Regulations or any other written law, other than the fines referred to in paragraph (2) of this regulation, shall be paid—

Appropriation of penalties.

- (a) in the case of a contravention of any of the provisions of these Regulations, as to one-half into the revenues of the municipal council or county council having jurisdiction in the area in which such contravention occurred;
- (b) in the case of a contravention of any such by-law, as to one-half into the revenues of the local authority which made or is deemed to have made such by-laws;

and, in each such case, the other half shall be paid into the general revenues of Kenya.

(2) Where a local authority has paid or agreed to pay to the Government the sums of money referred to in regulation 177 (a) of these Regulations in respect of a magistrate, the Minister may direct that the whole or a specified proportion of all fines imposed by that magistrate in respect of particular offences shall be payable to the local authority, and in such cases such fines, or the specified proportion thereof, as the case may be, shall be paid into the revenues of the local authority.

Powers
of arrest.

259. Any police officer may arrest, without a warrant, any person whom he suspects upon reasonable grounds of having committed any offence under these Regulations or any by-laws made under these Regulations or any other written law, and any officer of a local authority who at the time is in uniform or is wearing a visible badge of office and authorized thereto in writing by the local authority, may arrest, without warrant, any person who in his presence commits any such offence and may detain such person until he can be delivered into the custody of a police officer to be dealt with according to law:

Provided that no person shall be arrested or detained without warrant unless reasonable grounds exist for believing that, except by the arrest of such person, he may not be found or made answerable to justice without unreasonable delay, trouble or expense.

Conduct of
prosecutions.

260. (1) The clerk or any other person authorized thereto in writing by a local authority, may prosecute, in subordinate courts, for all offences under these Regulations or any by-law made by such local authority whether under these Regulations or otherwise, and shall for that purpose, have all the powers conferred on a public prosecutor by the Criminal Procedure Code.

Cap. 75.

(2) For the purposes of section 171 (4) of the Criminal Procedure Code, a local authority shall be deemed to be a public authority.

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Books of local
authorities
as evidence.

261. The books and registers of a local authority and any extracts therefrom certified by the clerk of the local authority or any other officer authorized in that behalf by such local authority shall, in any proceedings for the recovery of any rates or charges for any service, be prima facie evidence of the amounts so due.

Offences by
corporations,
societies, etc.

262. Where any offence under these Regulations or under any rules made thereunder is committed by any company, or other body corporate, or any society, partnership, association or body of persons, every person charged with, or concerned or acting in, the control or management of the affairs or activities of such company, body corporate, society, partnership, association or body of persons shall be guilty of that offence and liable to be punished accordingly, unless it is proved by such person that through no act or omission on his part, he was not aware that the offence was being or was intended or about to be committed, or that he took all reasonable steps to prevent its commission.

Actions by and
against local
authorities.

263. (1) Where a local authority deems it expedient for the promotion or protection of the interests of the inhabitants of its area, it may prosecute or defend any legal proceedings.

(2) Any action against any local authority shall be brought within one year from the date upon which the cause of action arose.

(3) All costs, charges and expenses to which a local authority may be put or with which a local authority may become chargeable by reason of the prosecution or defence of any such action or under the judgment of any court shall be paid out of the revenues of such local authority.

264. (1) All charges due for sewerage, sanitary and refuse removal shall be recoverable jointly and severally from the owner and occupier of the premises in respect of which the services were rendered.

Recovery of charges for sanitary and refuse removal.

(2) When any such charges as are mentioned in paragraph (1) of this regulation have remained unpaid for a period of six weeks from the date of which written notice has been given by a council to the owner or occupier on his indebtedness, the council may at any time within twelve months from such date take proceedings against such owner or occupier or both for the recovery of such charges together with interest thereon at such rate, not exceeding one per centum per month or part thereof, as the council shall fix.

(3) Where any such charges are recovered against—

- (a) the owner, he shall in the absence of any agreement to the contrary, be entitled to recover from the occupier for the time being any sum paid by him as charges in respect of any period during which such premises were in occupation of such occupier;
- (b) the occupier, he shall be entitled to deduct from any rent or other sum payable by him to the owner of the premises any portion of such charges which he could not lawfully have been required by the owner to pay, and the production of any receipt for such portion shall to the extent of the amount thereof be a good and sufficient discharge for the payment of the rent or other sum;
- (c) where any such charges which are normally recovered by a local authority from the occupier of the premises in respect of which the services were rendered remain unpaid for a period of six weeks the local authority shall notify in writing the owner that such charges have so remained unpaid.

PART XXI—MISCELLANEOUS

265. (1) Subject to this regulation, any officer of a local authority duly authorized in writing shall, on producing, if so required, some duly authenticated document showing his authority, have a right to enter any premises at all reasonable hours—

Powers of entry.

- (a) for the purpose of ascertaining whether there is, or has been, on or in connexion with the premises, any contravention of these Regulations or of any by-laws, whether made under these Regulations or any other written law, being provisions which it is the duty of the local authority to enforce;
- (b) for the purpose of ascertaining whether or not circumstances exist which would authorize or require the local authority to take any action, or execute any work, under these Regulations or any such by-laws;
- (c) for the purpose of taking any action, or executing any work, authorized or required by these Regulations or any such by-laws, or any order made under these Regulations, to be taken or executed, by the local authority;

- (d) generally, for the purpose of the performance by the local authority of its functions under these Regulations or any such by-laws:

Provided that admission to any premises not being a factory, workshop or workplace, shall not be demanded as of right unless twenty-four hours' notice of the intended entry has been given to the occupier.

(2) If it is shown to the satisfaction of a subordinate court having jurisdiction in the area of the premises in question, on sworn information in writing—

- (a) that admission to any premises has been refused, or that refusal is apprehended or that the premises are unoccupied or the occupier is temporarily absent, or that the case is one of urgency, or that an application for admission would defeat the object of the entry; and

- (b) that there is reasonable ground for entry into the premises for any purpose as is specified in paragraph (1) of this regulation,

the court may by warrant in writing authorize the local authority by any duly authorized officer to enter the premises, if need be by force:

Provided that such a warrant shall not be issued unless the court is satisfied either that notice of the intention to apply for a warrant has been given to the occupier, or that the premises are unoccupied, or that the occupier is temporarily absent, or that the case is one of urgency, or that the giving of such notice would defeat the object of the entry.

(3) An authorized officer entering any premises by virtue of this regulation, or of a warrant issued thereunder, may take with him such other persons as may be necessary, and on leaving any unoccupied premises which he has entered by virtue of such warrant shall leave them as effectively secured against trespassers as he found them.

(4) Every warrant granted under this regulation shall continue in force until the purpose for which the entry is necessary has been satisfied.

(5) If any person who in compliance with this regulation or of a warrant issued thereunder is admitted into a factory, workshop or workplace discloses to any person any information obtained by him in the factory, workshop or workplace with regard to any manufacturing process or trade secret, he shall, unless such disclosure was made in the performance of his duty, be guilty of an offence and liable to a fine not exceeding three thousand shillings or to imprisonment for a period not exceeding three months, or to both such fine and such imprisonment.

Penalties for
obstruction.

266. (1) Any person who—

- (a) wilfully obstructs any officer of a local authority in the execution of his duty as such; or

- (b) being the occupier of premises, prevents the owner of such premises from executing any work which he is by or under these Regulations or any other written law required to execute, or otherwise prevents the owner of such premises from complying with any of the requirements of a local authority; or
- (c) being the occupier of premises, on demand refuses or wilfully mis-states the name of the owner of such premises,

shall be guilty of an offence and liable to a fine not exceeding one thousand shillings or to imprisonment for a term not exceeding one month or both such fine and imprisonment.

(2) If on a complaint made by the owner of any premises, it appears to a subordinate court that the occupier of those premises prevents the owner from executing any work which he is by or under these Regulations or any other written law required to execute, or otherwise prevents the owner of such premises from complying with any of the requirements of a local authority, the court may, without prejudice to the prosecution of the occupier in respect thereof, order the occupier to permit the execution of the work or, as the case may be, permit the owner to comply with any such requirements as aforesaid.

267. Any notice, order or other document required or authorized by these Regulations or by any by-law made under these Regulations or any other written law to be served on any person (whether the expression "serve" or "give" or "send" or "deliver" or any other expression is used), then, unless a contrary intention appears therein, such notice, order or other document may be served, and shall be deemed to have been effectively served if served—

Service of documents.

- (a) personally upon the person on whom it is required or authorized to be served, or, if such person cannot reasonably be found, personally upon any agent of such person empowered to accept service on his behalf or personally upon any adult member of the family of such person who is residing with him; or
- (b) by post; or
- (c) by affixing a copy of the same on some conspicuous part of any premises or land to which it relates or in connexion with which it is required or authorized to be served; or
- (d) where from any cause whatsoever, it is not possible to effect service of the notice, order or other document in any of the manners specified in paragraphs (a), (b) and (c) of this regulation, by publication of a copy thereof in the Gazette and in at least one newspaper circulating in the area of the local authority.

268. All communications for the attention of, and all applications under these Regulations for the consent or approval of, the Governor in Council, the Governor or the Minister, as the case may be, shall be addressed to the Permanent Secretary of the Ministry responsible for local government and shall be in such form and comply with such conditions as may, from time to time, be required.

Communications and applications to Governor in Council, Governor or Minister.

Succession of rights and liabilities, etc., of a local authority being replaced.

269. (1) If at any time the whole of any local government area under the jurisdiction of a local authority becomes a local government area under the jurisdiction of a local authority of another class in place of such first-mentioned local authority or is included in the area of jurisdiction of another local authority, whether of the same class or not as such first-mentioned local authority, hereinafter called the replacing local authority, the following provisions shall thereupon have effect—

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- (a) all subsidiary legislation then in force made by the first-mentioned local authority shall, to the extent that the replacing local authority has itself the power to make such by-laws, be deemed to be by-laws made by the replacing local authority in exercise of such power and shall continue to be of full force and effect within the area to which it applies until altered or revoked by the replacing authority;
- (b) any other such subsidiary legislation shall, to the extent that the replacing local authority has not itself the power to make the same, lapse, and for the purposes of section 23 of the Interpretation and General Provisions Ordinance, shall be deemed to have been revoked in its application as aforesaid;
- (c) all appointments made, powers conferred, and notifications served or published by the first-mentioned local authority shall, to the extent that the same can be made, conferred, served or published by the replacing local authority, be deemed respectively to have been made, conferred, served and published by the replacing local authority;
- (d) all works and undertakings of the first-mentioned local authority of a kind authorized to be executed by both the first-mentioned local authority and the replacing local authority, all existing rights, liabilities and engagements of the first-mentioned local authority and all actions, suits and legal proceedings by or against the first-mentioned local authority shall vest in, attach to, and be enforced, carried on and prosecuted by or against the replacing local authority, and no such action, suit or proceedings shall abate or be discontinued or prejudicially affected by the replacement of such first-mentioned local authority;
- (e) all rates, fees, charges, debts of whatever description then due or payable to or recoverable by the first-mentioned local authority shall be payable to and recoverable by the replacing local authority;
- (f) all property, movable and immovable, vested in or belonging to the first-mentioned local authority or to which such local authority was entitled, and all assets and claims to which such local authority was entitled, shall vest in and belong to the replacing local authority;
- (g) all creditors of the first-mentioned local authority shall have the same rights and liabilities against the replacing local authority as they had against the first-mentioned local authority; and

- (h) all licences, registrations and permits issued, made or granted by the first-mentioned local authority shall continue in force for the period, if any, specified in such licences, registrations or permits, unless the same are sooner lawfully suspended or cancelled.

(2) For the purpose of this regulation each of the following shall constitute a separate class of local authorities—

- (a) city councils;
 (b) municipal councils;
 (c) county councils;
 (d) urban or area councils;
 (e) local councils.

270. Where part only of a local government area under the jurisdiction of a local authority becomes a local government area under the jurisdiction of another local authority, then—

- (a) with respect to by-laws in force in such area or any part thereof, subparagraph (a) and subparagraph (b) of regulation 269 (1) of these Regulations shall apply:

Provided that any by-laws which, under this regulation, are continued by virtue of subparagraph (a) of the said regulation 269 (1) shall unless sooner altered or revoked, continue for a period of two years from that date when such part came under the jurisdiction of the second-mentioned local authority, and shall then lapse, and for the purposes of section 23 of the Interpretation and General Provisions Ordinance, shall be deemed to have been revoked;

- (b) with respect to the matters mentioned in subparagraphs (c) to (h) of regulation 269 (1) of these Regulations, those paragraphs shall apply and have effect so far as is reasonable and practicable only as respects the aforementioned part of the area of the first-mentioned local authority, and any apportionment of rights, liabilities, property, assets or any other of the matters or things mentioned in those paragraphs shall be made between the several local authorities concerned on a fair and equitable basis, either as agreed between them or, in default of agreement, as directed by the Minister.

271. The Minister may from time to time make rules—

- (a) for the better carrying out of the purposes and provisions of these Regulations, and any such rules may be made with regard to all local authorities generally or with regard to any particular local authority or class of local authorities;
 (b) applicable in the area of any township authority in respect of any of the matters for which a council of a county division may make by-laws;

272. Subject to regulation 273 of these Regulations nothing in these Regulations shall be deemed to over-ride the provisions of the Public Health Ordinance.

Succession of of rights, liabilities, etc., where part of area is replaced.

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Power to make rules.

Saving of Public Health Ordinance.
 Cap. 242.

Amendment of Ordinances.

273. The several written laws specified in the first column of the Fourth Schedule to these Regulations are amended in relation to the provisions thereof specified in the second column, in the manner respectively specified in the third column of that Schedule.

Repeal of Ordinances and Savings.

274. (1) The following Ordinances (hereinafter referred to as repealed Ordinances) are hereby repealed—

Cap. 115 (1948).

(a) the Shops in Rural Areas Ordinance;

Cap. 133 (1948).

(b) the Townships Ordinance;

Cap. 136 (1948).

(c) the Municipalities Ordinance;

Cap. 138 (1948).

(d) the Municipalities (Hospital Rate) Ordinance;

Cap. 139 (1948).

(e) the Local Government (Eldoret European Hospital Rate) Ordinance;

Cap. 140 (1948).

(f) the Local Government (District Councils) Ordinance;

12 of 1950
(R.E. 1959).

(g) the African District Councils Ordinance, 1950;

11 of 1952.

(h) the Local Government (Kitale European Hospital Rate) Ordinance, 1952; and

30 of 1952.

(i) the Local Government (County Councils) Ordinance, 1952.

(2) Notwithstanding the repeal of the aforesaid Ordinances—

(a) all existing subsidiary legislation made under any of the repealed Ordinances by an existing authority which is deemed to be a local authority established under these Regulations shall, to the extent only that such local authority has itself the power under these Regulations or any amended Ordinance to make such subsidiary legislation be deemed to be subsidiary legislation made by such local authority under these Regulations or the amended Ordinance, as the case may be, and shall continue to be of full force and effect within the area to which it applied until altered or revoked by such local authority;

12 of 1950
(R.E. 1950).

(b) any subsidiary legislation made by an African District Council under the African District Councils Ordinance, 1950 under powers therein contained to prohibit, regulate, require or control Africans, shall continue to be of full force and effect within the area to which it applied until altered or revoked by a local authority established under these Regulations notwithstanding that the power under these Regulations or any amended Ordinance refers to persons;

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(c) any other such subsidiary legislation shall, to the extent that such local authority has not itself the power to make the same as aforesaid, lapse and for the purposes of section 23 of the Interpretation and General Provisions Ordinance, shall be deemed to have been revoked:

12 of 1950
(R.E. 1959).

Provided that any subsidiary legislation made by an African District Council under section 36 (1) (18) of the African District Councils Ordinance, 1950, shall subject to these Regulations and unless sooner revoked by a local authority under these Regulations, continue to be of full

force and effect within the area to which it applied for three years from the date when these Regulations come into effect, and the Minister may by order extend such period for a further period not exceeding two years;

- (d) all appointments made, powers conferred, and notifications served or published under any of the repealed Ordinances by an existing authority which is deemed to be a local authority established under these Regulations shall, to the extent that the same can be made, conferred, served, or published under these Regulations or an amended Ordinance, but not otherwise, be deemed respectively to have been made, conferred, served and published under these Regulations or the amended Ordinance as the case may be;
- (e) all works and undertakings of (being works and undertakings authorized to be executed under any repealed Ordinance by an existing authority which is deemed to be a local authority established under these Regulations and, in addition, which are authorized to be executed by such local authority under these Regulations or an amended Ordinance) all existing rights, liabilities and engagements of, and, all actions, suits and legal proceedings by or against, an existing authority which is deemed to be a local authority established under these Regulations, shall remain vested in and attached to, and be enforced, carried on and prosecuted by or against, such local authority, and no such action, suit or proceedings shall abate or be discontinued or prejudicially affected by the operation of these Regulations;
- (f) all rates, fees, charges and debts of whatsoever description due or payable to or recoverable by an existing authority which is deemed to be a local authority established under these Regulations shall continue to be payable to and recoverable by such local authority;
- (g) all property, movable and immovable vested in or belonging to an existing authority which is deemed to be a local authority established under these Regulations to which the said existing authority was entitled at the commencement of these Regulations and all assets and claims to which the said existing authority was entitled at such commencement, shall continue to be vested in and belong to such local authority;
- (h) all creditors of an existing authority which is deemed to be a local authority established under these Regulations shall have the same rights and remedies as they had under any repealed Ordinance as if such Ordinance had not been repealed;
- (i) all licences, registrations and permits issued, made or granted under or in pursuance of any repealed Ordinance shall continue in force for the period, if any, specified in such licences, registrations or permits unless the same are sooner lawfully suspended or cancelled;
- (j) where, immediately before the coming into operation of these Regulations a township account was kept by any township in accordance with section 12 of the Townships Ordinance (hereby repealed), then the provisions of Part III of that Ordinance

shall continue to apply to the township authority which under regulation 50 (1) of these Regulations is deemed to be established for that township as though they were rules made by the Minister under regulation 271 of these Regulations; and

Cap. 136 (1948).

(k) the rights and remedies under section 97 of the Municipalities Ordinance (hereby repealed), of any person who has loaned money to the City Council of Nairobi shall continue to exist as if that section had been incorporated in and formed part of these Regulations; and the powers exercisable under regulation 224 of these Regulations shall in respect of such person, be in addition to and not in substitution for or in derogation of the aforesaid rights and remedies under section 97.

(3) For the purposes of this regulation—

(a) “an amended Ordinance” means any Ordinance which is, by virtue of regulation 273 of these Regulations, amended in the manner specified in the Fourth Schedule to these Regulations;

(b) “an existing authority” means any council established or deemed to have been established by or under any of the repealed Ordinances;

(c) a local authority shall be deemed to be the same local authority notwithstanding that it may, by these Regulations, be deemed to be a local authority of a different class or name.

PART XXII—TRANSITIONAL PROVISIONS

Application and interpretation.

275. (1) This Part of these Regulations shall apply and have effect notwithstanding anything to the contrary contained in any other Part of these Regulations.

(2) In this Part—

“preparatory commission” means a preparatory commission appointed under regulation 279 of these Regulations;

“winding-up commission” means a winding-up commission appointed under regulation 276 of these Regulations.

Dissolution of local authorities and appointment of winding-up commissions.

276. (1) Where in his discretion the Governor considers it necessary for the constitution or reconstitution of any local authority, he may at any time—

(a) remove the members of any existing local authority;

(b) appoint a winding-up commission to wind up such existing local authority.

Constitution and powers of winding-up commission.

277. (1) A winding-up commission shall consist of such members as the Governor may from time to time appoint, and the Governor may at any time revoke any such appointment.

(2) A winding-up commission, subject to this Part and to any order made thereunder—

(a) shall have all the functions of the local authority it is appointed to wind up, provided that no winding-up commission shall have power to make by-laws, levy rates, raise loans or alter existing fees or charges;

(b) may transfer funds to a preparatory commission to enable it to perform its functions;

(c) shall have the right to regulate its own procedure.

278. (1) The Governor in his discretion may by order in writing—

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Governor.

- (a) assign and transfer any property, assets, undertaking, rights and liabilities (including rights and liabilities relating to rates, fees, charges and debts) engagement, and benefit and burden of any contract (including a contract of service) from one local authority to another local authority;
- (b) direct that any action, suit or other legal proceedings instituted, maintained, enforced or prosecuted by or against any local authority, shall be deemed to be instituted, maintained, enforced or prosecuted by another local authority; and upon being satisfied of the existence of such order, a court shall substitute for the former local authority, the latter local authority;
- (c) direct a winding-up commission to transfer any property within or without Kenya belonging to the local authority it is appointed to wind up, to another local authority;
- (d) confer any function under these Regulations to a local authority either generally, or in respect of any specified part of its area, and may qualify or restrict such function in such manner as shall be specified;
- (e) direct that any winding-up commission shall cease to have any function, or qualify or restrict any function;
- (f) provide for the payment of any grant to a local authority, winding-up commission, or preparatory commission, in accordance with the provisions of any Ordinance repealed by these Regulations or in such other manner as to him may seem expedient;
- (g) make and amend any by-laws, levy rates and alter existing fees and charges on behalf of any local authority provided that any by-laws made or amended, or fees or charges altered under this paragraph shall be made, amended or altered in the manner required by these Regulations to be adopted by the local authority concerned;
- (h) provide for the terms of office and the manner of retirement of the first councillors elected, appointed or nominated to any local authority under these Regulations, either generally or in respect of any particular local authority or class of local authorities;
- (i) specify the number of aldermen any municipal or county council of the first class shall have, provided that the first aldermen under these Regulations may be elected or appointed, and provide for the manner of election or appointment of such aldermen and their terms of office, either generally or in respect of any particular Council, class of councils or aldermen or group of aldermen;
- (j) declare any local authority to be dissolved;
- (k) provide for any matter incidental to any of the foregoing matters or consequential thereon.

(2) Where, under paragraph (1) (a) of this regulation, the Governor transfers any immovable property, the title to which is registered in any land or land titles registry, he shall specify such immovable property by reference to its registered description, and

upon being furnished with a copy of the order providing for the transfer, the officer or other person in charge of the registry aforesaid, shall forthwith register the transfer and otherwise give effect to the order in relation to the register.

Preparatory
commissions.

279. (1) Where any new local authority is, or is to be established under these Regulations, the Governor may appoint a preparatory commission to facilitate the constitution of that local authority and the discharge of its functions.

(2) A preparatory commission shall consist of such members as the Governor may from time to time appoint and the Governor may at any time revoke the appointment of any member.

(3) A preparatory commission shall have power to—

- (a) prepare and arrange for elections to the local authority;
- (b) summon meetings of the local authority;
- (c) provide such assistance as the local authority may require until its own officers have assumed office;
- (d) incur on behalf of the local authority necessary expenditure in the discharge of the foregoing functions;
- (e) receive on behalf of the local authority, sums from a winding up commission to be expended in the discharge of the foregoing functions.

Transitional
powers of new
local authorities

280. Where any new local authority is established under these Regulations, it shall not, until 1st January, 1964, have any function save those conferred upon it by the Governor under regulation 278 of these Regulations.

Registers of
electors deemed
to be electoral
rolls.
L.N. 433/1962.
L.N. 75/1963.

281. Every register of electors prepared under the Kenya (Electoral Provisions) (Registration of Voters) Regulations, 1962, and not superseded by virtue of the Kenya (Electoral Provisions) (Registration of Voters) (Rectification of Registers) Regulations, 1963, and every register prepared under the Kenya (Electoral Provisions) (Registration of Voters) (Rectification of Registers) Regulations, 1963, shall be deemed to be an electoral roll prepared under regulation 55 of these Regulations, in respect of the local authority within the area of which is situated the registration unit to which the register of electors relates.

Effect of
dissolution,
etc., of local
authority.

282. For the avoidance of doubt it is hereby declared that—

- (a) notwithstanding that the membership of any local authority has been dissolved, or that any local authority has ceased to exist, or that the area in respect of which a local authority is established or constituted has ceased to be a municipality, county, county division, or local council area, as the case may be, all by-laws made by a local authority shall, subject to the provisions of these Regulations, continue in full force and effect in the areas to which they applied, until revoked or amended under these Regulations;

- (b) notwithstanding that the membership of any local authority has been dissolved, or that a winding-up commission has been appointed to wind up a local authority, or that the area in respect of which a local authority is established or constituted, has ceased to be a municipality, county, county division, or local council area, the local authority shall continue to be a body corporate under these Regulations, until dissolved thereunder.

283. Every local authority which immediately before the coming into operation of these Regulations was (whether by the same name or otherwise) in receipt of a grant from the Government in respect of public health, shall be deemed to have been declared to be a local health authority under regulation 156 of these Regulations.

Certain local authorities deemed to be local health authorities.

284. Where any local authority existing immediately before the commencement of these Regulations, is deemed by these Regulations (whether by the same name or otherwise) to be a local authority established under these Regulations, then notwithstanding that the constitution of the council thereof has by or under these Regulations been altered—

Saving in respect of membership of existing councils.

- (a) the council, as constituted immediately before the commencement of these Regulations, shall be deemed to be duly constituted under these Regulations, and

- (b) every member holding office immediately before the commencement of these Regulations, shall, unless he resigns, continue to hold office as if duly elected, appointed, nominated, qualified and not disqualified under these Regulations,

until such time as the first elections under these Regulations are held in respect of that local authority.

285. (1) Part XVII of these Regulations (which relates to accounts, audit and surcharge) shall not apply to or in relation to the local authorities hereafter in this regulation specified or to their members, officers and servants, but in respect of any matter provided for in the said Part XVII which occurs before the 1st January, 1964, or which relates to the accounts for any period before that date—

Accounts and Audit.

- (a) in the case of a municipal council and its members, officers and servants the relevant provisions in and under the Municipalities Ordinance (hereby repealed) shall apply and have effect, and

Cap. 136 (1948).

- (b) in the case of a county council that was a county council immediately before coming into operation of these Regulations (and its members, officers and servants) the relevant provisions of the Local Government (County Councils) Ordinance, 1952 (hereby repealed) shall apply and have effect, and

Cap. 30 of 1952.

- (c) in the case of a county council that was an African District council immediately before the coming into operation of these Regulations (and its members, officers and servants) the relevant provisions of the African District Councils Ordinance, 1950 (hereby repealed) shall apply and have effect, and

R.E. 1959.

Cap. 133 (1948).

(d) in the case of a township for which, immediately before the coming into operation of these Regulations, a township account was kept under section 12 of the Townships Ordinance (and the members, officers and servants of its authority or board) the relevant provisions of that Ordinance shall apply and have effect.

(2) In this regulation "relevant provisions" in subparagraph (a), subparagraph (b), subparagraph (c) and subparagraph (d) of the preceding paragraph, means those provisions of the Municipalities Ordinance, the Local Government (County Councils) Ordinance, 1952, the African District Councils Ordinance, 1950, and the Township Ordinance, respectively, which were in force immediately before the coming into operation of these Regulations, and which relate to the matters provided for in the said Part XVII:

Provided that any reference in the relevant provisions to the Minister or the Provincial Commissioner shall be construed as a reference to the Governor.

Certain transitional provisions to lapse.

286. Regulations 276, 277, 278 and 279 of these Regulations shall, without prejudice to anything done thereunder, cease to have effect on the 1st January, 1964:

Provided that any winding-up commission that has not completed the winding up of the local authority it has been appointed to wind up, may continue to operate solely for the purpose of completing the accounts of the local authority and recommending to the Governor the apportionment of the remainder of the local authority's assets and liabilities, and the Governor shall retain power to make orders distributing such assets and liabilities, and to declare any local authority to be dissolved.

FIRST SCHEDULE

Form A

(rr. 18, 32 (4))

DECLARATION OF ACCEPTANCE OF OFFICE

I*
having been elected to the office of †
hereby solemnly declare that I take the said office upon myself, and will duly and faithfully fulfil the duties thereof without fear, favour or partiality according to the best of my judgment and ability.

Dated this day of, 19....

.....
Signature.

This declaration was made and subscribed before me

.....
Clerk.

Notes—

*Insert full name.

†Insert description of office { Mayor/Deputy Mayor/
Chairman/Vice-Chairman

Form B

(r. 62)

DECLARATION BY COUNCILLORS

I*,
 having been elected/nominated/appointed† to the office of councillor
 hereby solemnly declare that I have read regulation 60 of the Local
 Government Regulations, 1963, and that none of the disqualifications
 for office specified in that regulation apply to me. Further I state that
 I am qualified under the said Regulations and accept office as coun-
 cillor. I further solemnly declare that I will faithfully perform the
 duties of the office to the best of my judgment and ability.

Dated this day of, 19....

(Signature)

This declaration was made and subscribed before me,

.....
 Clerk.

Notes—

* Insert full name.

† Delete as necessary.

SECOND SCHEDULE

(r. 85)

STANDING ORDERS

In this Schedule, except where the context otherwise requires, the
 terms "chairman", "vice-chairman" and "clerk" shall, in respect of a
 municipal council, be deemed to refer, respectively, to the mayor,
 deputy mayor and town clerk.

Part I—Obligatory Orders

1. Any power or duty assigned to the chairman in relation to the
 conduct of meetings may be exercised by the person presiding at the
 meeting, and in these Standing Orders "the chairman" shall be con-
 strued as including any such person presiding at the meeting.

Chairman of
 meetings.

2. (1) Except where the Council, on the ground of urgency, varies
 the order of business under paragraph (2) of this standing order, the
 order of business at every meeting of the Council shall be:—

Order of
 business.

(a) To choose a person to preside if the chairman and vice-
 chairman be absent.

(b) Any business required by written law to be done before any
 other business.

(c) To read and confirm the minutes of the last meeting of the
 Council (unless such minutes have been confirmed at the
 meeting of the proceedings of which they are the minutes):

Provided that, if a copy of the minutes has been circu-
 lated to each member of the Council not later than the date
 of issue of the notice of the meeting, under regulation 76 of
 these Regulations, they shall be taken as read.

- (d) To deal with business expressly required by written law to be done.
- (e) To receive such communications as the chairman may desire to lay before the Council.
- (f) Questions (if any).
- (g) To dispose of business (if any) remaining from the last meeting.
- (h) To receive and consider reports or minutes of committees.
- (i) To receive and consider reports from officers of the Council.
- (j) To authorize the sealing of documents, so far as the Council's authority is required by statute or these Standing Orders.
- (k) To authorize the signing of orders for payment where there is no finance committee.
- (l) To consider motions in the order in which notice thereof has been received.

(2) The Council may, at any meeting, vary the order of business so as to give precedence to any business which in the opinion of the chairman, is of a special urgency, but such a variation shall not displace business falling under items (a) and (b) in paragraph (1) of this standing order.

Notices of motion.

3. (1) Except as provided by standing order 8 of these Standing Orders, every notice of motion shall be in writing, signed by the member or members of the Council giving the notice and delivered, in the case of a municipal council, at least four clear days before the next meeting of the Council, and in the case of any other local authority, at least ten days before the next meeting of the Council, at the office of the clerk by whom it shall be dated, numbered in the order in which it is received, and entered in a book which shall be open to the inspection of every member of the Council.

(2) The Clerk shall insert in the notice of every meeting of the Council all notices of motion duly given in the order in which they have been received, unless the member giving such a notice has, when giving it, intimated in writing that he proposes to move it at some later meeting or has withdrawn it in writing.

(3) If a motion, notice of which has been duly given be not moved at that meeting it shall, unless postponed by consent of the Council, be treated as abandoned and shall not be moved without fresh notice.

(4) Motions for which notice has been duly given, the subject matter of which comes within the province of any committee or committees, shall, upon being moved and seconded, stand referred without discussion to such committee or committees, or to such other committee or committees as the Council may determine, for consideration and report:

Provided that the chairman may, if he considers it convenient and conducive to the despatch of business, allow such motion to be dealt with at the meeting at which it is brought forward.

(5) Every notice of motion shall be relevant to some function of the Council.

4. The following motions may be moved without notice—
- (a) Appointment of a chairman of a meeting at which the motion is made.
 - (b) Motions relating to the accuracy of the minutes, closure, adjournment, order of business, next business.
 - (c) Reference to a committee.
 - (d) That the Council do resolve itself into committee.
 - (e) Appointment of committee or members thereof, so far as arising from an item mentioned in the notice of the meeting.
 - (f) Adoption of reports and recommendations of committees or officers and any consequent resolutions.
 - (g) That leave be given to withdraw a motion.
 - (h) Amendments to motions.
 - (i) Authorizing the sealing of documents.
 - (j) Extending the time limit for speeches.
 - (k) That an item of business specified in the notice of the meeting have precedence.
 - (l) That a member named under standing order 8 of these Standing Orders be not further heard or do leave the meeting.
 - (m) Giving consent of the Council where the consent of the Council is required by these Standing Orders.
 - (n) Any motion referred to in paragraph 16 of standing order 6 of these Standing Orders.
 - (o) A motion suspending standing orders in accordance with standing order 39.

Motions
without notice.

5. (1) Minutes of the proceedings of every meeting of the Council shall include the names of members present and shall be drawn up and printed or typewritten.

Minutes.

(2) As soon as the minutes have been read, or if they are, under standing order 2 of these Standing Orders taken as read, the chairman shall put the question that the minutes of the meeting of the Council held on the day of be confirmed and signed as a true record.

(3) No motion or discussion shall take place upon the minutes, except upon their accuracy and any question of their accuracy shall be raised by motion; if no such question is raised, or if it is raised then as soon as it has been disposed of, the chairman shall sign the minutes.

6. (1) A motion or amendment shall not be discussed unless it has been proposed and seconded, and, unless notice has already been given in accordance with standing order 3 of these Standing Orders, it shall, if required by the chairman, be reduced to writing and handed to the chairman before it is further discussed or put to the meeting.

Rules of
debate.

(2) A member when seconding a motion or amendment may, if he then declare his intention to do so, reserve his speech until a later period of the debate.

(3) A member shall stand when speaking, and shall address the chairman; and if two or more members rise, the chairman shall call on one to speak.

(4) A member shall direct his speech to the question under discussion or to an explanation or to a question of order.

(5) No speech shall, without the consent of the Council, exceed five minutes in length, or ten minutes in length in the case of a proposer of a motion or a reply to an amendment, and upon a motion for an extension of this time limit no discussion shall be allowed.

(6) An amendment shall be either—

(a) to leave out words; or

(b) to leave out words and insert or add others; or

(c) to insert or add words;

but such omission or insertion of words shall not have the effect of introducing a new proposal into or of negating the motion before the Council.

(7) If an amendment be rejected, other amendments may be moved on the original motion.

(8) If an amendment be carried, the motion as amended shall take the place of the original motion and shall become the motion upon which any further amendment may be moved.

(9) A further amendment shall not be moved until the Council has disposed of every amendment previously moved.

(10) A member shall not speak more than once on any motion, except in the exercise of the right to reply given by standing order 10 of these Standing Orders, or on a point of order, or by way of personal explanation, or to move in so many words "That the question be now put". An amendment to a motion shall be treated as a fresh motion.

(11) A member may at the conclusion of a speech of another member move without comment, "That the question be now put", "That the debate be now adjourned", "That the Council proceed to the next business", or "That the Council do now adjourn", on the seconding of which the chairman if in his opinion the question before the meeting has been sufficiently discussed shall, put that motion to the vote, and if it is carried, the question before the meeting, subject to the right of reply given by standing order 10 of these Standing Orders, shall be put to the vote or the subject of debate shall be deemed to be disposed of for that day or the meeting shall stand adjourned as the case may be.

(12) A member may rise to a point of order or in personal explanation, but a personal explanation shall be confined to some material part of a former speech by him at the same meeting which may have been misunderstood; and a member rising to a point of order shall be entitled to be heard forthwith.

(13) The ruling of the chairman on a point of order or on the admissibility of a personal explanation shall not be open to discussion.

(14) Whenever the chairman rises during a debate a member then speaking or standing shall resume his seat and the members shall be silent.

(15) A motion or amendment may be withdrawn by the proposer with the concurrence of the seconder and the consent of the Council, which shall be signified without discussion, and it shall not be competent for any member to speak upon it after the proposer has asked permission for its withdrawal, unless such permission has been refused.

(16) When a motion is under debate no other motion shall be moved except the following:—

- (a) to amend the motion;
- (b) to postpone consideration of the motion;
- (c) to adjourn the meeting;
- (d) to adjourn the debate;
- (e) to proceed to the next business;
- (f) that the question be now put;
- (g) that a member be not further heard;
- (h) that a member do leave the meeting;
- (i) that the subject of debate be referred back to a committee.

(17) No member shall read his speech but he may read short extracts from written and printed papers in support of his argument and may refresh his memory by reference to notes.

(18) It shall be out of order to anticipate the discussion of a motion of which notice has been given.

(19) It shall be out of order to use offensive or insulting language whether in respect of members of the Council or other persons.

(20) A member shall be responsible for the accuracy of any facts which he alleges to be true and may be required to substantiate any such facts or to withdraw any such allegation.

(21) The Chairman after having called attention to the conduct of a member who persists in irrelevance or tedious repetition either of his own arguments or the arguments used by other members in debate, may, after having first warned him, direct him to discontinue his speech.

7. A member—

- (a) shall enter into the chamber with decorum;
- (b) shall not read any newspaper, book or letters save such as relates to the matter in hand;
- (c) shall not interrupt a speaker; and
- (d) shall not do any other act disrespectful to the chair or the Council.

Rules for members not speaking.

8. If at a meeting any member of the Council, in the opinion of the chairman notified to the Council, misconduct himself by persistently disregarding the ruling of the chair, or by behaving irregularly, improperly, or offensively, or by wilfully obstructing the business of

Disorderly conduct.

the Council, or by disregarding any rule for members not speaking specified in standing order 7 of these Standing Orders, it shall be competent for a member to move "That the member named be not further heard", or "That the member named do leave the meeting" and the motion if seconded shall be put and determined without discussion.

Suspension of sitting.

9. If after a motion under standing order 8 of these Standing Orders has been carried the misconduct or obstruction is continued, and in the opinion of the chairman renders the due and orderly dispatch of business impossible, the chairman in addition to any other powers vested in him, may without question put, adjourn or suspend the sitting of the Council for such period as he in his discretion considers expedient.

Right of reply.

10. (1) The proposer of a motion shall have a right to reply at the close of the debate upon such motion, immediately before it is put to the vote.

(2) If an amendment is proposed, the proposer of the original motion shall be entitled to reply at the close of the debate upon the amendment.

(3) A member exercising a right of reply shall not introduce new matter.

(4) After every reply to which this standing order refers a decision shall be taken without further discussion.

Alteration of motion.

11. A member may with the consent of his seconder and of the Council, signified without discussion, alter a motion which he has proposed or of which notice has been given if the alteration is one which could have been moved as an amendment thereto.

Rescission of preceding resolution.

12. (1) No motion to rescind any resolution passed within the preceding six months, and no motion or amendment to the same effect as one which has been negatived within the preceding six months, shall be proposed unless the notice thereof given in pursuance of standing order 3 of these Standing Orders bears the names of at least one-third of the members of the Council.

(2) When any such motion has been disposed of by the Council, it shall not be open to any member to propose a similar motion within a further period of six months.

(3) This standing order shall not apply to motions moved in pursuance of the report or recommendation of a committee.

Voting.

13. (1) Every question, save as otherwise provided by these Regulations or any other written law, shall be determined by show of hands and decided by a majority of votes of the members present.

(2) On the requisition of any member supported by five other members who signify their support by rising in their places the voting on any question shall be recorded so as to show how each member present and voting gave his vote.

14. The Council may resolve itself into a committee of the whole Council. Power to resolve into committee.
15. If any question arises at a meeting of the Council as to the appointment, promotion, dismissal, salary or conditions of service, or as to the conduct, of any person employed by the Council, it shall be considered by the whole Council in Committee. Motions affecting persons employed by the Council.
16. Any motion which is moved otherwise than in pursuance of a recommendation or report of the finance committee or of another committee after the said recommendation or report has been approved by the finance committee, and which if carried would materially increase the expenditure upon any service which is under the management of or reduce the revenue under the management of any committee, or would involve capital expenditure, shall when proposed and seconded stand adjourned without discussion to the next ordinary meeting of the Council and any committee affected by such motion shall consider whether it desires to report thereon; and the finance committee shall report on the financial aspect of the proposal. Motions of expenditure.
17. If any member of the public or the press present at a meeting of the Council interrupts the proceedings, the chairman may, after warning, order his removal from the Council Chamber. Removal of member of the public or press.
18. (1) Canvassing of members of the Council or of any committee of the Council, directly or indirectly, for any appointment under the Council shall disqualify the candidate for such appointment. Canvassing.
- (2) The purport of paragraph (1) of this standing order shall be included in every advertisement inviting applications for appointments or in the form of application.
- (3) A member of the Council shall not solicit for any person any appointment under the Council, or recommend any person for such appointment or for promotion; but this paragraph of this standing order shall not preclude a member from giving a written testimonial of a candidate's ability, experience or character, for submission to the Council with an application for appointment.
19. (1) Candidates for any appointment under the Council shall when making application disclose in writing to the clerk whether to their knowledge they are related to any member of the Council or to the holder of any senior office under the Council; and a candidate who fails so to do shall be disqualified for such appointment and if appointed shall, subject to regulation 127 of these Regulations, be liable to dismissal without notice, but without prejudice to his right of appeal (if any) under regulation 128 of these Regulations. Relatives of members or officers.
- (2) Every member and senior officer of the Council shall disclose to the Council any relationship known to him to exist between himself and a candidate for an appointment of which he is aware.
- (3) It shall be the duty of the clerk to report to the Council or to the appropriate committee any such disclosure made to him.

(4) Where relationship to a member of the Council is disclosed, such member shall, unless the Council invites him to remain, withdraw from the meeting of the Council whilst any question as to the appointment or application for appointment of the candidate to which he is related is being discussed or under consideration by the Council.

(5) For the purpose of this standing order, "senior office" and "senior officer" mean those designated as such by the Minister, and persons shall be deemed to be related if they are husband and wife or if either of them or the spouse of either of them is the son or daughter or grandson or granddaughter or brother or sister or nephew or niece of the other, or of the spouse of the other.

(6) The purport of this standing order shall be stated either in the advertisement inviting applications for appointment or in any form of application supplied for use by candidates.

Inspection
of documents.

20. (1) A member of the Council may for purposes of his duty as such member but not otherwise inspect any document which has been considered by a committee or by the Council, and if copies are available shall on request be supplied for the like purposes with a copy of such documents:

Provided that—

- (i) a member shall not knowingly inspect and shall not call for a copy of any document relating to a matter in which he is professionally interested or in which he has directly or indirectly any pecuniary interest within the meaning of regulation 89 of these Regulations; and
- (ii) this standing order shall not preclude the clerk or the advocate to the Council from declining to allow inspection of any document which is or in the event of legal proceedings would be protected by privilege arising from the relationship of advocate and client.

(2) All minutes kept by any committee shall be open for the inspection of any member of the Council during office hours.

Actions of
councillors
individually
improper.

21. A member of the Council, unless authorized to do so by the Council or a committee, shall not—

- (a) inspect any lands or premises which the Council has the right or duty to inspect, or enter upon or issue any order respecting any works which are being carried out by or on behalf of the Council;
- (b) issue any order with regard to any matter under the jurisdiction of the Council or give instructions to any employee of the Council;
- (c) engage in any correspondence for or on behalf of a Council; or
- (d) write a letter as councillor purporting to convey a decision of the Council or an instruction of the Council without the express approval and authority of the Council.

22. The Council shall at the annual meeting appoint such statutory and standing committees, and may at any time appoint such other committees as are necessary to carry out the work of the Council but, subject to any statutory provision in that behalf—

Appointment
of committees.

(a) shall not appoint any member of a committee so as to hold office later than the next annual meeting of the Council;

(b) may at any time dissolve or alter the membership of a committee.

23. A member of a committee (including the Council in committee) shall not disclose a matter dealt with by or brought before the committee without its permission until the committee has reported to the Council or has otherwise concluded action on that matter.

Proceedings
in committee.

24. (1) The chairman of a committee or the chairman of the Council may, by notice in writing, summon a special meeting of the committee at any time.

Special
meetings of
committees.

(2) A special meeting shall also be summoned by notice in writing on the requisition in writing of at least one quarter of the members of the committee.

(3) The notice of a special meeting shall set out the business to be considered at the special meeting, and no business other than that set out shall be considered at that meeting.

25. (1) Every committee appointed by the Council may appoint subcommittees for purposes to be specified by the committee.

Subcommittees.

(2) Except where powers or duties are delegated to a subcommittee, no act of a subcommittee shall have effect until approved by the committee.

26. (1) Business shall not be transacted at a meeting of any committee unless at least one-quarter of the whole number of the committee, or such larger proportion as the committee may determine, is present:

Quorums of
committees and
subcommittees.

Provided that in no case shall the quorum of a committee be less than three members.

(2) Business shall not be transacted at a meeting of any subcommittee unless at least two members are present.

27. All questions in committee shall be determined by show of hands by a majority of the members of the committee present and voting.

Voting in
committee.

28. An officer who is present at a meeting of a committee of the Council, being a chief officer or an officer instructed by a chief officer to attend such meeting, shall have the right to require his opinion to be recorded in the minutes if the committee arrive at a decision, which, in the officer's opinion, is contrary to his advice.

Opinion of
officers.

29. A member of the Council who has proposed a motion which has been referred to any committee shall have notice of the meeting of the committee at which it is proposed to consider the motion and if he attends shall have an opportunity of explaining it.

Members may
attend
committee
meetings.

Women on health committees.

30. At least two women shall be appointed to serve on each committee dealing with public health matters.

All contracts to comply with standing orders 31 to 38.

31. (1) Every contract whether made by the Council or by a committee to which the power of making contracts has been delegated shall comply with regulation 143 of these Regulations and standing orders 31 to 38 of these Standing Orders, and no exception from any of the provisions of the said standing orders shall be made otherwise than by direction of the Council or the Finance Committee in accordance with regulation 143 (6) of these Regulations.

(2) Every exception made by a committee to which the power of making contracts has been delegated or by the Finance Committee shall be reported to the Council and the report shall specify the emergency by which the exception has been justified.

(3) Express note of any exception as aforesaid and of the emergency (if any) by which the exception has been justified shall, unless recorded in the report of a committee which is laid before the Council, be made in the minutes of the Council.

Prior estimate of expenses to be obtained before entering into contracts.

32. Before entering into a contract for the execution of any work the Council shall obtain from the appropriate officer or other person an estimate in writing of the probable expense of executing the work in a suitable manner and of the annual expenses of maintaining the same.

Contents of invitation for tenders and opening tenders.

33. (1) Where in pursuance of regulation 143 (4) (a) public invitation to tender is required, every notice of such invitation shall state that no tender will be received except in a plain sealed envelope which may bear the word "Tender"—followed by the subject to which it relates, but shall not bear any name or mark indicating the sender, and such envelopes shall remain in the custody of the clerk until the time appointed for their opening.

(2) Tenders shall be opened at one time and only in the presence of—

(a) such member or members of the Council as may have been designated for the purpose by the Council or by the committee to which the power of making the contract to which the tenders relate has been delegated;

(b) the clerk or an official of the Council designated by him; and

(c) representatives (if any) of the persons tendering, if they have made a prior request to attend, to the clerk.

Council to consider certain tenders before acceptance.

34. A tender other than the lowest tender if payment is to be made by the Council, or the highest tender if payment is to be received by the Council, shall not be accepted until the Council has considered a written report from the appropriate officer or other person, and has obtained the consent of the Minister in writing.

Certain contracts to be in writing.

35. Every contract which exceeds two thousand shillings in value or amount shall be in writing.

36. (1) Every written contract shall specify—

- (a) the work, materials, matters, or things, to be furnished, had, or done;
- (b) the price to be paid with a statement of discounts or other deductions; and
- (c) the time or times within which the contract is to be performed.

Obligatory provisions in contracts.

(2) Every contract which exceeds ten thousand shillings in value or amount and is either for the execution of works or for the supply of goods or materials otherwise than at one time shall provide for some pecuniary penalty to be paid by the contractor in case the terms of the contract are not duly performed, and the Council shall require and take sufficient security for the due performance of every such contract.

37. There shall be inserted in every written contract a clause empowering the Council to cancel the contract and to recover from the contractor the amount of any loss resulting from such cancellation—

Obligatory cancellation clause.

- (a) if the contractor shall have offered or given or agreed to give to any person any gift or consideration of any kind as an inducement or reward for doing or forbearing to do or for having done or forborne to do any action in relation to the obtaining or execution of the contract or any other contract with the Council, or for showing or forbearing to show favour or disfavour to any person in relation to the contract or any other contract with the Council; or
- (b) if the like acts shall have been done by any person employed by such contractor or acting on his behalf (whether with or without the knowledge of the contractor); or
- (c) if in relation to any contract with the Council the contractor or any person employed by him or acting on his behalf shall have committed any offence under the Prevention of Corruption Ordinance.

Cap. 65.

38. In every written contract for the execution of work or the supply of goods or materials, the following clause shall be inserted—

Obligatory clause as to rates, wages, hours, etc.

The contractor shall, in respect of all persons employed anywhere by him in the execution of the contract, and further in respect of all persons employed by him otherwise than in the execution of the contract in every factory, workshop or place occupied or used by him for the execution of the contract, observe and fulfil the following conditions:—

- (a) The contractor shall pay rates of wages and observe hours and conditions of labour not less favourable than those established for the trade or industry in the district where the work is carried out by machinery of negotiation or arbitration to which the parties are organizations of employers and trade unions representative respectively of substantial proportions of the employers and workers engaged in the trade or industry in the district.

- (b) In the absence of any rates of wages, hours or conditions of labour so established the contractor shall pay rates of wages and observe hours and conditions of labour which are not less favourable than the general level of wages, hours and conditions observed by other employers whose general circumstances in the trade or industry in which the contractor is engaged are similar.
- (c) Where the absence of established rates of wages, hours and conditions of labour or the dissimilarity of the general circumstances in the trade or industry in which the contractor is engaged prevent the contractor observing rates of wages, hours and conditions of labour ascertained under conditions (a) or (b) of this clause, the contractor in fixing the rates of wages, hours and conditions of labour of his employees shall be guided by the advice of the Labour Department.
- (d) The contractor shall recognize the freedom of his employees to be members of trade unions.
- (e) The contractor shall maintain records in English of the time worked by, and the wages paid to, his employees adequate to show that he is complying with the requirements of this clause.
- (f) The contractor shall at all times during the continuance of the contract display, for the information of his employees in every factory, workshop or place occupied or used by him for the execution of the contract a copy of this clause, together with a notice setting out the general rates of wages, hours and conditions of labour of his employees.
- (g) The contractor shall be responsible for observance of this clause by subcontractors employed in the execution of the contract and shall, if required, notify the Council of the names and addresses of all such subcontractors.
- (h) In the event of default being made in payment of any money in respect of fair wages of any workman employed on the contract and if a claim is made to the Labour Commissioner and proof thereof satisfactory to the Commissioner is furnished, the Council may, failing payment by the contractor, arrange for the payment of such claim as certified by the Labour Commissioner, to be made out of the moneys at any time payable under the said contract and the amount so paid shall be deemed payments to the contractor.
- (i) The contractor shall furnish the Labour Commissioner if called upon so to do such particulars of the rates of wages, hours and conditions of labour referred to above as the Labour Commissioner may direct.

Orders not to
be suspended.

39. (1) Except as provided in paragraph (2) of this standing order a Council shall not have power to suspend any of the standing orders 1 to 39 (inclusive) of these Standing Orders.

(2) In special circumstances or in an emergency which shall be determined by the chairman, standing orders 3 and 6 of these Standing Orders may be suspended so far as regards any business at the meeting where their suspension is moved, but except upon notice of motion duly given in pursuance of standing order 3 of these Standing Orders, shall not be suspended unless there are present at least one-half of the whole membership of the Council.

40. When any member has disclosed a pecuniary interest in any contract, proposed contract or other matter in accordance with regulation 89 of these Regulations, he shall be excluded from the meeting of the Council, and of every committee and subcommittee whilst any such contract, proposed contract or the matter in which he has such an interest as aforesaid is under consideration at such meeting of the Council, committee or subcommittee, as the case may be.

Exclusion of members.

Part II—Optional Orders

41. (1) A member of the Council may ask the chairman of a committee any question upon the proceedings of the committee then before the Council if the question is put before the Council's consideration of those proceedings is concluded.

Questions.

(2) A member of the Council may—

(a) if two clear days' notice in writing has been given to the clerk, ask the chairman or the chairman of any committee any question relating to the business of the Council, other than a matter specifically referred to and awaiting a report from a committee, and

(b) with the permission of the chairman put to him or to the chairman of any committee questions relating to urgent business, of which such notice has not been given, but a copy of any such question, shall, if possible, be sent to the clerk not later than 9.00 o'clock in the morning of the day of the meeting.

(3) Every question shall be put and answered without discussion, but the person to whom a question has been put may decline to answer it.

(4) Where a written question is addressed to the chairman or to the chairman of a committee and the desired information is contained in any of the Council's publications, it shall be deemed sufficient reply if the publication containing the information is indicated.

(5) Where the reply to any question cannot conveniently be given orally, it shall be deemed a sufficient reply if the answer is circulated to members of the Council with the minutes of the meeting at which the question has been asked.

42. (1) No member of the Council shall make personal accusations against nor impute improper motives to any other member or members of the Council in any meeting of the Council.

Personal accusations.

(2) Any such accusations or imputations shall be made in writing and forwarded to the clerk who shall refer the same to the next meeting of the appropriate committee of the Council for investigation.

Standing Orders to apply to committees.

43. The Standing Orders of the Council as to rules of debate at Council Meetings shall, *mutatis mutandis* apply to committee and sub-committee meetings, except those parts of standing order 6 of these Standing Orders which relate to standing, speaking more than once, and to length of speeches.

Voting on appointments.

44. Subject to these Regulations and any other written law, where there are more than two persons nominated for any position to be filled by the Council, and of the votes given there is not a majority in favour of one person, the name of the person having the least number of votes shall be struck off the list and a fresh vote shall be taken, and so on until a majority of votes is given in favour of one person.

Custody of the seal.

45. The common seal of the Council shall be kept in some safe place and shall be secured by two different locks, the keys of which shall be kept respectively by the chairman and the clerk:

Provided that the chairman may entrust his key temporarily to another member of the Council with a written authority to such member to exercise his powers, and similarly the clerk may entrust his key temporarily to the deputy clerk (if such deputy has been appointed by the Council) or to another chief officer of the Council.

Sealing of documents.

46. (1) The common seal of the Council shall not be affixed to any document unless the sealing has been authorized by a resolution of the Council or of a committee to which the Council has delegated its powers in this behalf, but a resolution of the Council (or of a committee where that committee has the power) authorizing the acceptance of any tender, the purchase, sale, letting, or taking of any property, the issue of any stock, the presentation of any petition, memorial, or address, the making of any rate or contract, or any other matter or thing, shall be a sufficient authority for sealing any document necessary to give effect to the resolution.

(2) The seal shall be attested by one at least of the following present at the sealing, namely, the chairman or vice-chairman, or the clerk or deputy clerk, and an entry of every sealing of a document shall be made and consecutively numbered in a book to be provided for the purpose and shall be signed by the person or by persons who attest the seal.

Approval of plans.

47. The consideration of all plans which in virtue of any building by-law in force in the Council's area require approval or disapproval by the Council shall stand referred without motion or debate to the (Town Planning) Committee and it shall be the duty of that committee to consider them accordingly and to meet so often as will ensure exercising the said power within the period prescribed by law.

Right to attend meetings.

48. A member of the Council may attend any meeting of a committee thereof, but not of a subcommittee, but, subject to standing order 29 of these Standing Orders, he shall not have the right to join in any discussion unless he has obtained the consent of the chairman of the committee so to do prior to the commencement of the meeting:

Provided that a member shall not be entitled to claim travelling and other expenses incurred in attending a meeting of a committee of which he is not a member except where under standing order 29 of these Standing Orders he has or should have received notice of the meeting of the committee.

THIRD SCHEDULE

STATUTES, POWERS, DUTIES AND RESPONSIBILITIES OF CERTAIN OFFICERS

Part I—Town Clerk and Clerk (r. 129)

1. He shall be responsible for convening all meetings of the local authority and its committees and subcommittees and for the preparation of agenda, minutes and reports of such local authorities and its committees and subcommittees.

2. (1) He shall advise the local authority and its committees and subcommittees on all matters upon which his advice is necessary, including the standing orders thereof and local government legislation.

(2) If the local authority or any of its committees or subcommittees acts against or rejects his advice, he shall be entitled to require that his advice be recorded in the minutes.

3. He shall, either personally or by his nominee, attend all meetings of the local authority and of its committees and subcommittees.

4. He shall advise the mayor or chairman of the local authority, as the case may be, on all matters apertaining to those offices.

5. Subject to any general directions which the local authority may give, he shall have the charge and custody of, and be responsible for, all charters, deeds, records and other documents belonging to the local authority which shall be kept as the local authority may direct.

6. He shall have the duty of ensuring that the business of the local authority is carried out with order, regularity and expedition in accordance with the by-laws, regulations, resolutions and standing orders of the local authority.

7. He shall have the responsibility for the general correspondence of the local authority.

8. Where any document will be a necessary step in legal proceedings on behalf of the local authority, he shall sign such document unless any written law otherwise requires or authorizes, or the local authority shall have given the necessary authority to some other person for the purpose of such proceedings.

9. He shall have the conduct of such negotiations on behalf of the local authority as the local authority may require.

10. He shall have the responsibility for conveying decisions of the local authority to officers of the local authority relating to their work and conduct.

11. He shall, where legally qualified so to do, give general legal advice to the local authority, and, whether legally qualified or not, to officers of the local authority on questions arising with regard to their official duties and obligations.

12. He shall be responsible for conducting all ballots and all proceedings necessary for determining any question by lot.

Part II—Chief Financial Officer

(r. 130)

1. He shall be the accountant, paymaster and collector and financial adviser of the local authority.

2. He shall advise the local authority and its committees and sub-committees on all matters on which his advice is necessary, including financial orders or regulations and the standing orders and local government legislation so far as financial matters are concerned. If the local authority or any of its committees or subcommittees acts against or rejects his advice, he shall be entitled to require that his advice be recorded in the minutes.

3. He shall attend, either personally or by his nominee, all meetings of the finance committee of the local authority and other committees where business with financial implications may be transacted.

4. He shall be responsible for the organization of the finance department and for the organization of the financial arrangements in all other departments of the local authority.

5. He shall be responsible to the local authority for the maintenance of the local authority's accounting system and for the supervision of all the financial records of the local authority, wherever kept.

6. He shall prepare and submit to the finance committee of the local authority and to the inspector the accounts of the local authority as required by Part XVII of these Regulations.

7. The chief financial officer of a municipal council or county council shall be responsible for printing or reproducing an annual abstract of accounts of the local authority.

8. He shall be responsible for the preparation of all financial returns required by Government departments.

9. He shall supply promptly, in conjunction with other departments where necessary, to the local authority, its committees and departments any financial data they require for management of the local authority's business.

10. Where an internal audit is maintained by the local authority he shall be responsible therefor and shall promptly report to the committee concerned and to the finance committee any irregularities discovered in the course of such internal audit.

11. He shall, subject to the provisions of these Regulations make arrangements for the verification of all accounts for payment and for making all payments, including salaries, wages and pensions.

12. He shall obtain from the chief officers concerned all the information necessary for the proper examination of claims for payment due from the local authority arising from any contract.

13. In accordance with the instructions of the local authority, he shall make arrangements for the collection and recovery of moneys due to the local authority and the handling, custody, security and banking of cash.

14. He shall be responsible for the ordering, control and issue of, and for supplying all departments with, all official receipt forms, books, tickets, stores requisitions and other documents representing money or money's worth.

15. He shall be responsible for compiling, in conjunction with the departments, the estimates of the local authority and for submitting summaries thereof and reports thereon to the finance committee.

16. He shall report to the appropriate committee any over-spending and any unauthorized expenditure, and shall draw attention to any irregularity in respect of any proposed expenditure.

17. He shall manage, subject to the instructions of the finance committee and the local authority, all funds of the local authority.

18. He shall ensure that moneys not required for the time being are suitably invested.

19. He shall advise the finance committee on the raising of capital funds.

20. He shall be responsible for all rating matters of the local authority and for the collection of rates due to the local authority.

21. He shall direct and supervise the financial transactions of the local authority with their bankers.

22. He shall carry out financial negotiations on behalf of the local authority and assist in other negotiations when financial aspects are involved.

23. He shall give such financial evidence, where appropriate, as may be required on behalf of the local authority.

24. He shall effect insurances for all departments of the local authority and make claims on insurance companies and recommend settlements.

25. He shall be responsible for the keeping of true accounts of all moneys received and receivable and paid and payable by the local authority for any charitable purpose of which the local authority may assume the charge.

26. He shall, if required by the local authority, be responsible for the custody and control of the stores of the local authority, and, if not so required, shall be responsible for prescribing the stores accounting procedure of the local authority.

27. He shall prepare and submit to the finance committee of the local authority a report on all proposals involving capital expenditure and on other expenditure not provided for in the estimates of the current financial year of the local authority and on any proposals involving a variation in the income of the local authority.

28. Where the chief financial officer to any local authority is a financial adviser, either seconded from the public service or directly appointed by the local authority, he shall have power to delegate in writing any of his functions as contained in this Schedule to a treasurer in the employment of the local authority.

FOURTH SCHEDULE

AMENDMENT OF WRITTEN LAWS

(r. 273)

- | | | |
|--|------------------|---|
| <p>The Town Planning Ordinance
(Cap. 134) (1948).</p> | <p>s. 2</p> | <p>Delete—</p> <p>From the definition of “preparatory authority” the words “provided that in any municipality constituted under the Municipalities Ordinance the preparatory authority shall be the council or board of such municipality” and the marginal reference to the Municipalities Ordinance, and substitute the following “provided that in any municipality or county, the preparatory authority shall be the municipal council or county council respectively, established or deemed to have been established under the Local Government Regulations, 1963.</p> <p>L.N. 256/63.</p> |
| | <p>s. 23 (1)</p> | <p>(a) Delete “Municipalities Ordinance” and substitute “Local Government Regulations, 1963”.</p> <p>(b) Delete the marginal note “Cap. 136” and substitute “L.N. 256/63”.</p> |
| | <p>s. 30</p> | <p>Add immediately after “Municipalities Ordinance” the words “(repealed) and where that Board is succeeded or replaced by any local authority, the authority responsible for enforcing and executing the said Scheme shall be such local authority”.</p> |
| <p>Interpretation and General
Provisions Ordinance
(Cap. 2).</p> | <p>s. 3 (1)</p> | <p>(a) Delete the definition of “local authority” and substitute the following—
“local authority” has the meaning assigned to it in the Local
L.N. 256/63. Government Regulations, 1963.</p> <p>(b) Delete the definition of “municipality” and substitute the following—
“municipality” has the meaning assigned to it in the Local
L.N. 256/63. Government Regulations, 1963.</p> <p>(c) Delete the definition of “township” and substitute the following—
“township” has the meaning assigned to it in the Local Govern-
L.N. 256/63. ment Regulations, 1963.</p> |
| <p>Advocates Ordinance
(Cap. 16).</p> | <p>s. 9 (f)</p> | <p>Delete and substitute the following—
(f) any person holding office in a municipal council, county
council or urban or area council established or deemed to have been
L.N. 256/63. established by or under the Local Government Regulations, 1963.</p> |

The Election Offences Ordinance (Cap. 66).

s. 2 (1)

(a) Delete the definition of "council" and substitute the following—
"council" means the city council of Nairobi and a municipal council, county council, urban council or area council established or deemed to have been established under the Local Government Regulations.

(b) Delete the definitions of "County Council", "District Council" and "Municipal Board and Municipal Council".

The African Liquor Ordinance (Cap. 122).

s. 2

(a) Delete paragraph (a) of the definition of "local authority" and substitute the following—

(a) in the case of a municipality the municipal council of such municipality established or deemed to have been established under the Local Government Regulations, 1963;

(b) Delete the definition of "township" and substitute the following—
"township" includes a county division under the Local Government Regulations, in respect of which an urban council has been established or deemed to have been established under the said Regulations.

The Education Ordinance (Cap. 211).

Part V

Insert in Part V immediately after section 17 the following section—
Exemption of municipal and county councils in respect of certain schools. 17A. This Part shall not apply in respect of the management by a municipal council or a county council of a school vested in it under section 54A of this Ordinance or of a school the management whereof is transferred to it under section 54B of this Ordinance.

Insert immediately after Part IX a new Part as follows—

PART IXA—MUNICIPAL COUNCILS AND COUNTY COUNCILS

Power to vest Government schools in municipal and county councils. 54A. (1) The Governor in Council may, by order, at the request of a municipal council or a county council, vest in the council any Government school in its area for which, or for a group of schools including which, there is no Board of Governors, and any boarding house accessory thereto.

(2) Upon the vesting of any Government school in a municipal council or county council by order under this section, the duty of management of the school shall, subject to such order, devolve upon such council, and the school shall cease to be a Government school.

The Education Ordinance
(Cap. 211)—(Contd.).

Part V—(Contd.)

Cap. 286.

- (3) Any order made under this section may provide for—
- (a) the respective responsibilities, duties and powers of the council and of trustees incorporated under the Land (Perpetual Succession) Ordinance in whom any land is vested in trust for such school;
 - (b) the exercise of the duty of management by the council under subsection (2) of this section to be subject to such conditions, limitations and restrictions (if any) as may be specified in the order;
 - (c) such financial arrangements and adjustments as may be specified in the order, being arrangements and adjustments as the Governor in Council deems necessary or desirable consequent upon the vesting of the school in the council.

Powers to transfer functions to municipal and county councils.

54B. The Governor in Council may, if a municipal council or a county council so request, transfer to the council such of the functions of the Minister and the Director and the Department under this Ordinance in respect of the area of such council as the Governor in Council may think fit subject to such conditions as he may think fit and subject to compliance with such directions, including directions as to financial arrangements and adjustments consequent upon such transfer, as he may deem necessary or desirable to give proper effect to such transfer.

s. 70 (1)

Add to the proviso thereto, immediately after the words "he shall first consult such Board" the words "and if any such school be under the jurisdiction of a municipal or county council, he shall first consult such council."

The Employment of Children
Rules.
(Cap. 227) (Sub. Leg.).

r. 2

Delete the definition of "township" and substitute the following—
L.N. 256/63. "township" includes a county division under the Local Government Regulations in respect of which an urban council has been established or deemed to have been established under the said Regulations.

The Public Health Ordinance
(Cap. 242).

s. 2

(a) Delete the definition of "local authority" and substitute the following—
L.N. 256/63. "local health authority" means a local authority declared or deemed to have been declared under the Local Government Regulations, 1963, to be a local health authority for the purposes of this Ordinance.

The Public Health Ordinance
(Cap. 242)—(Contd.).

s. 2—(Contd.).

(b) Delete the words “municipality or” which appear in the definition of “medical officer of health” and add at the end of that definition the words “and any duly appointed medical officer of health of any local authority including a public officer seconded by the Government to hold such office.”

s. 8

Delete the proviso thereto.

s. 15

Delete and substitute the following—

Minister to
be consulted
over local
authority
by-laws.

15. The Minister for the time being responsible for local government, shall, before approving any by-law made by a local authority affecting public health, obtain the agreement of the Minister for the time being responsible for health.

Part IX

Insert immediately after section 126 the following four sections—

By-laws as
to buildings
and
sanitation.

126A. (i) Every municipal council and every urban and area may, and shall, if so required by the Minister for the time being responsible for local government with the agreement of the Minister, make by-laws for all or any of the following matters—

(a) as regards buildings—

- (i) for controlling the construction of buildings, and the materials to be used in the construction of buildings;
- (ii) for controlling the space about buildings, the lighting and ventilation of buildings; and the dimensions of rooms intended for human habitation;
- (iii) for controlling the height of buildings; the height of chimneys, not being separate buildings, above the roof of the building of which they form part;
- (iv) for prohibiting the erection or use of temporary or movable buildings, whether standing on wheels or otherwise, and for prohibiting or restricting the use of tents or similar buildings for business or dwelling purposes;
- (v) for requiring and regulating adequate provision for the escape of the occupants of any building in the event of an outbreak of fire;
- (vi) for preventing the occupation of a new or altered building until a certificate of the fitness thereof for occupation or habitation shall have been issued by such local authority;

- (vii) to compel employers to provide housing for their employees;
- (viii) to compel owners to repair or demolish unsafe, dangerous or dilapidated buildings;

(b) as regards works and fittings—

- (i) for regulating sanitary conveniences in connexion with buildings; the drainage of buildings, including the means for conveying refuse water and water from roofs and from yards appurtenant to buildings; the cleansing, drainage and paving of courts, yards and open spaces used in connexion with buildings; cesspools, and other means for the reception or disposal of foul matter in connexion with buildings
- (ii) for regulating excavations of any kind in connexion with buildings;
- (iii) for regulating wells, tanks and cisterns for the supply of water for human consumption in connexion with buildings;
- (iv) for regulating stoves and other fittings in buildings (not being electric stoves or fittings) in so far as by laws with respect to such matters are required for the purposes of health and the prevention of fire;
- (v) for regulating private sewers; communications between drains and sewers and between sewers;
- (vi) for regulating the erection and use of scaffolding and hoarding during the construction, demolition, repair, alteration or extension of any building;
- (vii) for prohibiting, securing the removal of, and regulating projections and obstructions in front of buildings, and projections over streets,

but no such by-law shall be inconsistent with or repugnant to any written law in force in the same area made under any other provision of this Ordinance.

- (2) By-laws made under this section may include provisions—
- (a) as to the giving of notices and the deposit of plans, sections, specifications and written particulars; and

(b) as to the inspection of work; the testing of drains and sewers, and the taking by such local authority as aforesaid of samples of materials to be used in the construction of buildings, or in the execution of other works; and for the payment of such reasonable charges and fees as the local authority may determine, for the doing of any of the things aforesaid.

(3) By-laws under subparagraphs (i), (ii) and (iii) of subsection (1) (a) of this section may be made with respect to—

(a) structural alterations or extensions of buildings, and buildings so far as affected by alterations or extensions;

(b) buildings or parts of buildings in cases where any material change, within the meaning of subsection (4) of this section, takes place in the purposes for which a building or, as the case may be, a part of a building is used,

and, so far as they relate to the matters mentioned in this subsection, may be made to apply to buildings erected before the date on which the by-laws came into force, but, save as aforesaid, shall not apply to buildings erected before that date.

(4) For the purposes of subsection (3) of this section, there shall be deemed to be a material change in the purposes for which a building, or a part of a building, is used if—

(a) a building, or a part of a building, being a building or part which was not originally constructed for occupation as a dwelling, or which though so constructed has been appropriated to other purposes, becomes used as a dwelling; or

(b) a building, or a part of a building, being a building or part which was originally constructed for occupation as a dwelling by one family only, becomes occupied by two or more families; or

(c) where by-laws contain special provisions with respect to buildings used for any particular purpose, a building or a part of a building, being a building or part not previously used for that purpose, becomes so used.

L.N. 256/63.

(5) The procedure for the making, approval and publication of by-laws made under this section shall be that prescribed in the Local Government Regulations, 1963, and for the purposes of the enforcement thereof and the disposal of fines imposed for contravention thereof such by-laws shall be deemed to be by-laws made by the same local authority under those Regulations.

(6) Rules may be made under any other provision of this Ordinance notwithstanding that they may be inconsistent with or repugnant to any by-law made under this section and in force in the area to which such rules apply, and to the extent, if any, of such inconsistency or repugnancy as aforesaid, the rules shall prevail.

Power, with consent, to relax requirements of building by-laws.

126B. Where a local authority considers that the operation of any building by-law made by it under section 126A of this Ordinance would be unreasonable in relation to any particular case, it may, with the consent of the Minister for the time being responsible for local government given with the agreement of the Minister, relax the requirements of the by-law or dispense with compliance therewith:

Provided that the local authority shall give notice of any such proposed relaxation of dispensation in such manner and to such persons, if any, as the Minister for the time being responsible for local government may direct, and the said Minister shall not give his consent before the expiration of one month from the giving of the notice and, before giving his consent, shall take into consideration any objection which may have been received by him.

Passing or rejection of plans and retention of plans, etc.

126C. (1) Where plans of any proposed work are, in accordance with any building by-laws made under section 126A of this Ordinance, deposited with a local authority, the local authority shall, subject to any other provision of this Ordinance, or any rule or by-law made thereunder which expressly requires or authorizes it in certain cases to reject plans, pass the plans unless they either are defective, or show that the proposed work would contravene any of those rules or by-laws, and, if the plans are defective or would contravene any of those rules or by-laws, such local authority shall reject the plans.

(2) The local authority shall within the prescribed period from the deposit of the plans give notice to the person by whom or on whose behalf they were deposited whether or not they are passed, and—

(a) a notice of rejection shall specify the defects on account of which, or the by-law or the provision of this Ordinance or the rule (if any) made thereunder for non-conformity with which, or under the authority of which, the plans have been rejected; and

(b) a notice that plans have been passed shall state that the passing of the plans operates as an approval thereof only for the purposes of the requirements of the said building by-laws and of any such provision of this Ordinance or any rule made thereunder as is referred to in subsection (1) of this section.

(3) Any question arising under this section between a local authority and the person by whom or on whose behalf plans are deposited as to whether the plans are defective, or whether the proposed work would contravene any of the said building by-laws may on the application of that person, be determined by a subordinate court of the first class:

Provided that no such application shall be entertained unless it is made before the proposed work has been substantially commenced.

(4) For the purposes of this section, the prescribed period in relation to the passing or rejection of plans is one month, but building by-laws made under section 126A of this Ordinance by a local authority whose meetings are normally held not more frequently than once a month, may provide that in the case of plans deposited less than three clear days before a meeting of the local authority the prescribed period shall be five weeks:

Provided that the local authority may, within the said period of one month or five weeks, as the case may be, by notice in writing extend such period in the case of any particular application for a further period of one month.

(5) Building by-laws made under section 126A of this Ordinance may—

- (a) require that plans and other documents to be deposited in pursuance of the by-laws shall be deposited in such number of copies as the local authority may stipulate and, if the by-laws contain such a requirement the local authority may retain one or more copy of any plans or other documents so deposited, whether or not the plans are passed; and
- (b) require the payment of such reasonable fee as the local authority may determine for the examination by it of any plans or other documents deposited with it pursuant to such by-laws; and
- (c) stipulate the period within which a building shall be commenced and completed.

Power to
require
removal or
alteration
of work in
certain
cases.

126D. (1) If any work, to which building by-laws made under section 126A of this Ordinance are applicable, contravenes any of those by-laws the local authority which made them, without prejudice to its right to take proceedings in respect of the contravention, may by notice require the owner either to pull down or remove the work or, if he so elects, to effect such alterations therein as may be necessary to make it comply with the by-laws.

(2) In a case where the local authority is, by any provision in this Ordinance other than section 126C thereof or by any rules made thereunder other than building by-laws made under section 126A of this Ordinance, expressly required or authorized to reject plans, then, if any work to which such building by-laws are applicable is executed either without plans having been deposited, or notwithstanding the rejection of the plans, or otherwise than in accordance with any requirements subject to which the local authority passed the plans, the local authority may by notice to the owner either require him to pull down or remove the work, or, if he so elects, to comply with any other requirements specified in the notice, being requirements which the local authority might have made under the provision or rule in question as a condition of passing plans.

(3) A notice under subsection (1) or subsection (2) of this section may be served either personally or by registered post or by attaching the same to such work or by advertisement in not less than two consecutive issues of a newspaper circulating in the area in which such work is situate.

(4) Where such local authority is unable to ascertain the name and address of the owner of the work, the owner of the land upon which the work stands shall, upon being required in writing so to do by the local authority within twenty-eight days of the date of the service of such requirement, furnish the local authority with full particulars of the name and address of the owner of such work, and if the owner of the land without reasonable excuse fails to furnish the said particulars within the time prescribed and if he in furnishing the particulars makes any statement which proves to be false he shall be guilty of an offence and shall be liable to a fine not exceeding one thousand shillings, and if he shall thereafter continue to withhold the said particulars he shall be liable to a further fine not exceeding thirty shillings for every day during which such offence shall continue.

(5) If a person to whom notice has been given under subsection (1) or subsection (2) of this section fails to comply with the notice before the expiration of twenty-eight days, or such longer period as may be specified in the notice or as a subordinate court of the first class may on his application allow, the local authority which gave the notice may pull down or remove the work in question, and may if it thinks fit sell the materials thereof or effect such alterations therein as it deems necessary.

(6) The amount of any expenses incurred by a local authority under subsection (5) of this section, after giving credit for any amount realized by the sale of materials if sold, shall be a civil debt recoverable summarily by the local authority from the owner of the work and the owner of the land upon which the work is situate jointly and severally and the right of a local authority to recover any such amount, or any part thereof, from any person under this subsection shall not be barred by reason only of the local authority having obtained judgement for the same, or any part thereof, against any other person, and where any person liable therefor pays to such local authority the full amount of any such expenses, he may recover from any other person liable jointly therefor such contribution, if any, as a subordinate court of the first class may determine to be just and equitable.

(7) Any surplus in the hands of the local authority shall be paid by it to the owners of the work and the land on which the same is situate as those owners agree; and if the owners do not agree as to the division of such surplus the local authority shall be deemed by virtue of this subsection to be a trustee of the surplus for such owners, and section 63 of the Trustee Ordinance (which relates to payment into court by trustees) shall have effect accordingly.

(8) The court, in determining for the purposes of this section the shares in which any expenses shall be contributed by, or any surplus shall be divided between, two or more persons, shall have regard to their respective interests in the work and the land on which the same is situate, the right (if any) of the owner of the work to remove the same, the respective obligations and liabilities of the parties in respect of the maintenance and repair of the work, and all the other circumstances of the case.

(9) By-laws made under section 126A of this Ordinance may provide for compensation to be payable by the local authority to the owner or occupier of any work pulled down or removed, for such reasons or in such circumstances as may be specified in the by-laws by such local authority under subsection (3) of section 126A of this Ordinance but, save as aforesaid, no compensation shall be payable for any work so removed or pulled down.

(10) No such notice as is mentioned in subsection (1) or subsection (2) of this section shall be given after the expiration of twelve months from the date of the completion of the work in question, and, in any case where plans were deposited, it shall not be open to the local authority to give such a notice on the ground that the work contravenes any building by-laws made under section 126A of this Ordinance, or, as the case may be, does not comply with its requirements under any other provision of this Ordinance or rules made thereunder as aforesaid, if either the plans were passed by the local authority, or notice of their rejection was not given within the prescribed period from the deposit thereof, and if the work has been executed in accordance with the plans and of any requirement made by the local authority as a condition of passing the plans.

(11) Nothing in this section shall affect the right of a local authority, or of the Attorney-General, or of any other person, to apply for an injunction for the removal or alteration of any work on the ground

that it contravenes any by-law or any provision in this Ordinance, but if the work is one in respect of which plans were deposited and the plans were passed by the local authority or notice of their rejection was not given within the prescribed period after the deposit thereof, and if the work has been executed in accordance with the plans, the court on granting the injunction shall have power to order the local authority to pay to the owner of the work such compensation as the court thinks just, but before making any such order the court shall cause the local authority if not a party to the proceedings, to be joined as a party thereto.

Part XI

Insert immediately after section 135 the following section—

Powers of
certain local
authorities
respecting
milk, etc.

135A. (1) Every municipal council and every urban and area council may with the approval of the Minister make by-laws applicable to its area for all or any of the following purposes:—

- (a) for regulating, supervising and licensing purveyors of milk and ice-cream makers and vendors;
- (b) for regulating, inspecting, supervising and licensing dairies, milk-shops and cowsheds;
- (c) for regulating the conveyance and distribution and securing the identification of the source of milk or milk products distributed, offered for sale or sold within its area of jurisdiction;
- (d) for prescribing the conditions subject to which any milk or milk products, wherever produced or prepared, may be introduced, distributed, stored sold or used within its area of jurisdiction;
- (e) for enabling such local authority to certify the quality of any milk and prohibiting the unauthorized use of any terms employed by the local authority in denoting such quality; and
- (f) for prohibiting the introduction, distribution, storage, sale or use within its area of jurisdiction of any milk or milk products from any source within or without such area where it appears to such local authority or a committee thereof, on the certificate of its medical officer of health or such other person as the local authority may authorize in that behalf, that the consumption of such milk or milk products is likely to cause the outbreak or spread of any infectious or contagious disease;

but no such by-law or rule shall be inconsistent with or repugnant to any rule or order under section 134 or section 135 of this Ordinance in force in the area of jurisdiction of such local authority.

The Public Health Ordinance
(Cap. 242)—(Contd.)

Part XI—(Contd.)

L.N. 256/63. (2) The procedure for the making, approval and publication of by-laws or rules made under this section shall be that prescribed in the Local Government Regulations, 1963, and for the purpose of the enforcement thereof, and the disposal of fines imposed for contravention thereof, such by-laws or rules, as the case may be, shall be deemed to be by-laws or rules made by the same local authority under this Ordinance.

(3) Rules may be made under section 134 of this Ordinance and orders may be made under this section 135 of this Ordinance notwithstanding that they may be inconsistent with or repugnant to any by-law or rule of a local authority and in force in the area to which such rules or orders apply, and to the extent, if any, of such inconsistency of the rules or orders, as the case may be, shall prevail over such by-law or rules of the local authority.

Part XV

Insert immediately after section 168 the following section—

Power of
local
authorities
respecting
mosquitoes,
flies, etc.

168A. (1) Every local authority may with the approval of the Minister make by-laws for preventing and abating conditions permitting or favouring the breeding of mosquitoes and flies, and, generally, for the prevention of malaria and other insect-borne diseases.

(2) Subsection (2) of section 135A shall apply in respect of any by-laws made under this section as it applies to by-laws made under that section.

s.s. 13, 14, 19, 22
23, 24, 25, 26,
37, 61, 106, 117,
119, 120, 121,
122, 123, 124,
132 and 140.

Delete the words "local authority" wherever they appear and substitute "local health authority".

The Local Authorities
(Recovery of Possession of
Property) Ordinance
(Cap. 273).

s.2

Delete the definition of "local authority".

The Electric Power Ordinance
(Cap. 314)

s.2

Delete the definition of "Local authority".

(a) Insert immediately after subsection (2) a new subsection as follows—

(2A) Any rule made under subsection (1) of this section may empower local authorities generally, or particular local authorities or classes of local authorities, with the approval of the Minister given after consultation with the Minister for the time being responsible for local government and the Board (Scheduled Areas), to make by-laws, applicable to their respective areas or any part thereof, for any of the purposes for which rules may be made under that subsection, and any such rule, and any such by-law, may empower the Director of Agriculture to issue such orders as are referred to in subsection (2) of this section.

(b) Insert in subsection (3) immediately after “Any rule or regulation” the words “or by-law”.

(c) Add immediately after subsection (3) four new subsections as follows—

(4) Where in this Ordinance or in any other written law, reference is made to rules or regulations made under this section or this Part, such reference shall, except where the context otherwise requires, be deemed to include a reference to any by-laws made under rules made under this section.

L.N. 256/63. (5) The procedure for the making, approval and publication of by-laws made under rules made under this section shall be that prescribed under the Local Government Regulations, 1963, and for the purposes of the enforcement thereof and the disposal of fines imposed for contravention thereof such by-laws shall be deemed to be by-laws made by the same local authority under those Regulations.

L.N. 256/63. (6) All by-laws made by a county council and in force in any area in the Scheduled Areas immediately before the coming into operation of the Local Government Regulations, 1963, which could be validly made under any rule made by the Minister under this section shall remain in force as if so made and the county council which, under the said Regulations, has jurisdiction in that area in place of the county council which made such by-laws shall be deemed to have been empowered by the Minister under this section to make by-laws for the purposes for which such by-laws were made.

(7) Rules may be made by the Minister under this section notwithstanding that they may be inconsistent with or repugnant to any by-law of a local authority in force in the area to which such rules apply, and to the extent, if any, of such inconsistency or repugnancy as aforesaid such rules shall prevail.

(a) Insert immediately after subsection (2) a new subsection as follows—

(2A). Any rule made under subsection (1) of this section may empower local authorities generally, or particular local authorities or classes of local authorities, with the approval of the Minister given after consultation with the Minister for the time being responsible for local government and the Board (Non-scheduled Areas), to make by-laws, applicable to their respective areas or any part thereof, for any of the purposes for which rules may be made under that subsection, and any such rule, and any such by-law, may empower the District Commissioner of any district to which such rule or by-law applies (being a district within the Non-scheduled areas), to issue such orders as are referred to in subsection (2) of this section.

(b) Insert in subsection (3) immediately after "rules and regulations" the words "and by-laws".

(c) Add immediately after subsection (3) three new subsections as follows—

(4) Where in this Ordinance or any other written law, reference is made to rules or regulations made under this section or this Part, such reference shall, except where the context otherwise requires, be deemed to include a reference to any by-laws made under rules made under this section.

(5) Section 48 (5) of this Ordinance shall apply in respect of by-laws made under rules made under this section.

(6) All by-laws made by an African District Council and in force in any area in the Non-scheduled Areas immediately before the coming into operation of the Local Government Regulations, 1963, which could be validly made under any rule made by the Minister under this section shall remain in force as if so made and the county council which, under the said Regulations, has jurisdiction in that area in place of the African District Council which made such by-laws shall be deemed to have been empowered by the Minister under this section to make by-laws for the purposes for which such by-laws were made.

L.N. 256/63.

Delete and substitute the following—

Rules to
override
by-laws.

153. Rules may be made under section 148 of this Ordinance by the Minister notwithstanding that they may be inconsistent with or repugnant to any by-law of a local authority in force in the area to which such rules apply, and to the extent, if any, of such inconsistency or repugnancy as aforesaid such rules shall prevail.

The Agriculture Ordinance
—(Contd.)

s. 184 (4)

Delete and substitute the following—

(4) The procedure for the making, approval and publication of by-laws made under rules made under this section shall be that prescribed by the Local Government Regulations, 1963, and, for the purposes of the enforcement thereof, such by-laws shall be deemed to be by-laws made under those Regulations.

s. 184 (6)

Delete— “law under which the local authority is established” and substitute L.N. 256/63. “Local Government Regulations, 1963”.

s. 222

Delete the words “a county district council under the Local Government (County Councils) Ordinance, 1952, or by an African District Council under the African District Councils Ordinance, 1950”, and the marginal references to the said Ordinances, and substitute the following—

L.N. 256/63. “a county council or urban or area council under the Local Government Regulations, 1963”.

The Crop Production and
Livestock Ordinance.
(Cap. 321).

Insert immediately after section 4 the following new section—

Power of certain local authorities to make by-laws.

4A. (1) Subject to the approval of the Minister for the time being responsible for animal husbandry, a municipal council, and an urban or area council, may make by-laws applicable to their respective areas or any part thereof, for all or any of the following purposes for which no rules made under section 4 of this Ordinance are in force in such area—

(a) for prohibiting the keeping or grazing of any livestock on any agricultural land in such area;

(b) for regulating or controlling the numbers and kinds of livestock which may be kept on any such agricultural land;

(c) for requiring male livestock to be castrated;

(d) for licensing male breeding livestock;

(e) for providing for the compulsory reduction of the numbers of livestock in any such area; and

(f) for imposing and collecting grazing fees.

(2) Subject to the approval of the Minister for the time being responsible for animal husbandry, a county council may, where no scheme for the artificial insemination of cattle exists in the county, make by-laws providing for schemes for the artificial insemination of cattle.

The Crop Production and Livestock Ordinance (Cap. 321)—(Contd.)

L.N. 256/63. (3) The procedure for the making, approval and publication of by-laws made under this section shall be that prescribed in the Local Government Regulations, 1963, and for the purposes of the enforcement thereof and the disposal of fines imposed for contravention thereof such by-laws shall be deemed to be by-laws made by the same local authority under those Regulations.

s. 5 Insert next after the words "any rule" the words "or by-law".

The Land and Agricultural Bank Ordinance (Cap. 323).

s. 46 (4) Delete and substitute the following—

Cap. 339 (4) For the purposes of this section, "local authority" includes any district road board established under the Public Roads and Roads of Access Ordinance.

The Suppression of Noxious Weeds Ordinance (Cap. 325).

s. 2 (a) Add at the end of the definition of "inspector" the words "and any person appointed by or under any by-laws made under section 9A of this Ordinance in respect of the area of jurisdiction of the local authority which made the by-laws".

(b) Delete the definition of "local authority".

Insert immediately after section 9 the following section—

Powers of local authorities. 9A. (1) Subject to the provisions of this Ordinance, with the consent of the Director of Agriculture, every local authority may make by-laws for securing the eradication of any noxious weed from any land within its area and for compelling owners or occupiers of any such land to cause any such weed to be eradicated from their land, and for such purposes any such by-laws may appoint or provide for the appointment of inspectors.

L.N. 256/63. (2) The procedure for the making, approval and publication of by-laws made under this section shall be that prescribed in the Local Government Regulations, 1963 and for the purposes of the enforcement thereof and the disposal of fines imposed for contravention thereof, such by-laws shall be deemed to be by-laws made by the same local authority under those Regulations.

**The Grass Fires Ordinance
(Cap. 327).**

s. 2

Delete the definition of "local authority" and substitute the following—
"local authority" means—

- (a) in the case of a municipality, the municipal council thereof;
- (b) in the case of a county division, the urban or area council thereof;
- (c) in the case of a township, the District Commissioner;
- (d) in the case of any other area, the District Commissioner, or such person, body of persons or authority as the Governor may, by notice in the Gazette, appoint to be the local authority for the purposes of this Ordinance.

**The Branding of Stock Ordinance
(Cap. 357).**

s. 11 (2) (a)

Delete "paragraph (d) or paragraph (e)" and substitute "or paragraph (d)".

s. 20 (1)

(a) Delete "African District Council" and substitute "local authority".

(b) Delete the words "such Council" in each of the three cases they appear and substitute "such local authority".

s. 20 (2)

Delete "an African District Council" and substitute "a local authority".

s. 20 (3) (b)

Delete "African District Council" and substitute "local authority".

**The Water Ordinance
(Cap. 372).**

s. 124 (5)

Delete and substitute the following—

(5) No local authority shall supply more than two households, and no local authority shall supply more than one thousand gallons of water a day, unless it is a water undertaker, and no person who is not a local authority shall supply more than twenty households, and no person who is not a local authority shall supply more than five thousand gallons of water a day for domestic purposes or more than twenty thousand gallons of water a day for any purpose, or purposes, unless he is a water undertaker, and any local authority or other person who supplies water in contravention of any provision of this subsection shall be guilty of an offence and liable, in the case of a first offence, to a fine not exceeding five thousand shillings or, in default of payment thereof, to imprisonment for a term not exceeding six months, and in the case of a second or subsequent offence, to a fine not exceeding ten thousand shillings or, in default of payment thereof, to imprisonment for a term not exceeding twelve months:

Provided, however, that the provisions of this subsection shall not apply in respect of the supply of water by any local authority or other person to its or his employees, or in respect of the supply of water on the premises of any hospital, factory, school, hotel, brewery, research station or institution to the occupants thereof, in cases where the source of supply is under the control of such local authority, person, hospital, factory, school, hotel, brewery, research station or institution, or where the water is supplied in bulk to such local authority, person, hospital, factory, school, hotel, brewery, research station or institution by a water undertaker;

The Water Ordinance
(Cap. 372)—(Contd.).

- s. 143 (1) Insert immediately after the words "A water undertaker" the words "who is not a local authority".
- s. 143 (3) Delete subsection (3) and substitute two new subsections as follows—
- (3) Every local authority which is a water undertaker may, with the approval of the Minister, and shall, if so required by the Minister, in accordance with subsection (3A) of this section, make by-laws for any purpose or matter for which regulations may be made under subsections (1) and (2) of this section.
- (3A) The procedure for the making, approval and publication of by-laws made under subsection (3) of this section shall be that prescribed by the Local Government Regulations, 1963, and for the purposes of the enforcement thereof, and the disposal of fines imposed for contravention thereof, such by-laws shall be deemed to be by-laws made by the same local authority under those Regulations.
- L.N. 256/63.
- s. 143 (4) Insert immediately after the word "regulations" where it first appears therein, the words "or by-laws made or deemed to have been", and where it next appears therein, the words "or by-laws".
- s. 143 Insert immediately after subsection (5) two new subsections as follows—
- (6) Any by-laws made by a local authority which is a water undertaker on the coming into operation of the Local Government Regulations, 1963, and which were in force on the same date, shall, to the extent that such by-laws may, by virtue of subsection (3) of this section, be made under that subsection by that local authority, remain in force and shall be deemed to have been made under subsection (3) of this section.
- L.N. 256/63.
- (7) Any reference in this or any other written law to regulations made by a water undertaker under this section shall, except where the context otherwise requires, be construed as including a reference to any by-laws made or deemed to have been made under this section.
- s. 145 Add immediately after subsection (6) the following four new subsections—
- (7) A water undertaker which is a local authority may, with the approval of the Minister, make by-laws for all or any of the purposes for which regulations may be made under subsection (1) of this section.
- (8) Section 143 (3A) of this Ordinance shall apply in respect of by-laws made under this section.

The Water Ordinance (Cap. 372)—(Contd.).	s. 145—(Contd.)	L.N. 256/63.	(9) Any by-laws made by a local authority which is a water user on the coming into operation of the Local Government Regulations, 1963, and which are in force on the same date, shall to the extent that such by-laws may by virtue of subsection (7) of this section be made under that subsection by that local authority, remain in force and shall be deemed to have been made under this section. (10) References in this section to regulations and references in any other provision of this Ordinance and in any other written law to regulations made under this section shall, except where the context otherwise requires, be construed as including references to by-laws made under this section.
The Water (General) Rules (Cap. 372) (Sub. Leg.).	r. 103 (1) (c)	Delete “under the Local Government (County Councils) Ordinance, 1952”, and the marginal reference to that Ordinance, and substitute the following— L.N. 256/63.	“or deemed to have been established under the Local Government Regulations, 1963.”.
The Water (Undertakers) Rules (Cap. 372) (Sub. Leg.).	r. 2	Delete the definition of “owner” and substitute the following— L.N. 256/63.	“owner” has the meaning assigned to it in regulation 2 of the Local Government Regulations, 1963.
The Public Roads and Roads of Access Ordinance (Cap. 399).	s. 2	Delete the definition of “board” and substitute the following— “board” means— (a) in respect of a county, the county council thereof, including, in respect of any power or duty delegated by a county council under section 3A of this Ordinance to an urban or area council, such urban or area council; and (b) a district road board appointed under section 3 of this Ordinance.	
	s. 3	Add a new subsection as follows— L.N. 256/63.	(7) This section shall not apply to or with respect to any county under the Local Government Regulations, 1963.
	s. 3A	Insert a new section as follows— Certain local authorities to be district road boards. L.N. 256/63.	3A. (1) Every county under the Local Government Regulations, 1963, shall be deemed to be a district under this Ordinance, and the county council thereof shall be the district road board therein:

- The Public Roads and Roads of access Ordinance (Cap. 399)—(Contd.)
- s. 13 Add immediately after subsection (8) a new subsection as follows—
(9) An owner or occupier of land who makes an application under subsection (8) of this section, shall serve a copy of his application by personal service or by post on the person to whom the road of access has been granted and to the owners or occupiers of the land through which the road of access passes.
- s. 14 (a) Number as subsection (1) thereof.
(b) Add a new subsection as follows—
(2) The board shall have power to make an order for giving effect to any matter or thing over which the board has jurisdiction under this Ordinance, or for the cancellation or alteration of any order previously made:
Provided that the provisions of this Ordinance respecting the procedure to be followed and the notices to be given as respects an application to construct a road of access shall apply *mutatis mutandis* to the cancellation or alteration of any order previously made, and to any other order made under this Ordinance.
- s. 15 Delete “public interest” and substitute “interests of the persons entitled to use the road”.
- s. 16 (3) Delete and substitute the following—
(3) Every such appeal shall be filed within thirty days of the date when the decision of the board was communicated in writing to the applicant or his representative and every other party affected by such decision.
- s. 16A Insert immediately after section 16, a new section as follows—
Power of county councils to make by-laws. 16A. A county council may make by-laws regulating the conduct of its business as a district road board and for controlling roads of access within its area.
- The Road Authority Ordinance (Cap. 401).
- s. 11 (a) Renumber as subsection (1) thereof.
(b) Add three new subsections as follows—
(2) There shall be paid annually out of the Fund—
(a) to every local authority which constructs, reconstructs or maintains any trunk road or secondary road within the meaning of the Local Government Regulations, 1963, to such standard as the Authority may approve, a sum equivalent to the cost of such construction, reconstruction or maintenance:
L.N. 256/63.

The Road Authority Ordinance (Cap. 401)—(Contd.)

s. 11—(Contd.)

Provided that, in the event of any such road being constructed, reconstructed or maintained to a higher standard than that approved by the Authority, any additional expenses thereby occasioned shall be met from the revenue of the local authority concerned:

(b) to every local authority which constructs, reconstructs or maintains any unclassified road, within the meaning of the aforesaid Regulations to the satisfaction of the Authority, a sum equivalent to such percentage of the cost of such construction, reconstruction, or maintenance as the Authority may determine:

Provided that, in the event of any such road being constructed, reconstructed or maintained to a higher standard than is, in the opinion of the Authority, necessary in all circumstances of the case, the additional expenses thereby occasioned shall not, in calculating the sum payable under this paragraph, be included in the cost of such construction, reconstruction or maintenance.

(3) In exercising its powers under subsection (2) of this section the Authority shall have regard to the needs of traffic having its origin or destination outside the local government area in which such road is situate.

(4) Every local authority shall cause a special account to be kept of expenditure incurred on the construction, reconstruction and maintenance of all roads in respect of which a grant has been made under subsection (2) of this section, and where any question arises as to the correctness or admissibility of any charge against such special account, the decision of the Governor in Council shall be final.

The Traffic Ordinance (Cap. 403).

s. 118A

Insert immediately after section 118 a new section as follows—

Local authorities may make by-laws regulating taxicabs, etc.

118A. (1) A municipal council, and a county council may make by-laws for controlling taxicabs within its area, for fixing the number of the taxicabs permitted in its area, for requiring the installation and providing for the inspection of meters on such taxicabs, for licensing the drivers of such taxicabs, for fixing the fees for any such licences, and for prohibiting the parking of taxicabs, except for the purpose of picking up or depositing passengers or loads, elsewhere than in stands provided for taxicabs.

(2) Every municipal council, urban council and area council may make by-laws for controlling animal or human drawn vehicles which are not licensed under any of the other provisions of this Ordinance.

- The Traffic Ordinance
(Cap. 403)—(Contd.)
- s. 118A—(Contd.)
L.N. 256/63.
- (3) The procedure for the making, approval and publication of by-laws made under subsection (3) and subsection (4) of this section shall be that prescribed in the Local Government Regulations, 1963. and for the purposes of the enforcement thereof and the disposal of fines imposed for contravention thereof, such by-laws shall be deemed to be by-laws made by the same local authority under those Regulations.
- (4) In this section, “controlling” includes regulating, inspecting, supervising and licensing.
- The Traffic Rules
(Cap. 403) (Sub. Leg.)
- r. 9 (2) (a)
- Delete paragraphs (ii), (iii), (iv) and (v) and substitute the following—
(ii) municipal councils;
(iii) urban or area councils;
(iv) county councils;
- The Transport Licensing Ordinance.
(Cap. 404).
- s. 7
- Add the following proviso thereto—
Provided that the Licensing Authority shall before granting any road service licence in respect of any vehicle or vehicles for the carriage of passengers from, through or into, the area of jurisdiction of any county council or municipal council consult and have regard to the wishes of such council respecting the place or places in the area of such council and, or from which the vehicle may stop or start and the route to be taken by such vehicle.
- s. 8
- Insert immediately after subsection (4) a new subsection as follows—
(5) In the exercise of its powers under this section, the Licensing Authority shall have regard to the wishes of every council consulted under the proviso to section 7 of this Ordinance.
- The Traders Licensing Ordinance
(Cap. 497).
- s. 2
- (a) Delete paragraphs (a), (b) and (c) of the definition of “local authority” and substitute the following—
L.N. 256/63.
(a) a municipal council established or deemed to have been established under the Local Government Regulations, 1963; or
(b) an urban council established or deemed to have been established under the Local Government Regulations, 1963; or
(c) an area council established or deemed to have been established under the Local Government Regulations, 1963.
- (b) Delete the words “District Council area, African District Council area” in paragraph (e) of the definition of “local authority” and substitute “county division”.

The Traders Licensing Ordinance (Cap. 497—(Contd.))	s. 5 (3) (b)	Delete.
	s. 19	Delete.
	s. 20	Delete.
The Land Control Regulations, 1961 (L.N. 142/1961).	r. 19	Add at the end thereof the following new paragraph— (3) Nothing in this regulation contained shall apply to a local authority or to the subdivision of any land by a local authority.
The Streets Adoption Ordinance, 1963. (5 of 1963)	s. 2	Delete paragraphs (b) and (c) and substitute the following— (b) all county divisions established or deemed to have been established by or under the Local Government Regulations, 1963. L.N. 256/63
	s. 3 (1)	In the definition of “local authority” delete the words “county district council” and substitute “urban or area council”.
The Children and Young Persons Ordinance, 1963. (8 of 1963).	s. 58 (1)	Delete and substitute the following— (1) The Minister may from time to time, with the agreement or at the request of a municipal or county council, or group of such councils, by order appoint such council or group of councils, to be an appointed local authority for the purposes of this Ordinance, and a council or group of councils so appointed shall, subject to the provisions of section 59 of this Ordinance, perform the duties imposed and have the powers conferred upon appointed local authorities under this Ordinance.
	s. 59 (1) (a)	Delete the words “or board”.
	s. 59 (1) (c)	Delete.
	s. 60 (1)	Delete “county district” and substitute “county division”.
	s. 60 (2)	Delete “county district” and substitute “county division”.

Made this 30th day of April, 1963.

E. N. GRIFFITH-JONES
Acting Governor.