



# GOVERNMENT GAZETTE

OF THE

# REPUBLIC OF NAMIBIA

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WINDHOEK — 31 August 1992

No. 469

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## Government Notice

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### OFFICE OF THE PRIME MINISTER

No. 115

1992

### PROMULGATION OF ACT OF THE NATIONAL ASSEMBLY

The following Act which has been passed by the National Assembly and signed by the President in terms of the Namibian Constitution is hereby published in terms of Article 56 of that Constitution.

No. 22 of 1992: Regional Councils Act, 1992.

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# ACT

**To establish regional councils in respect of regions determined in accordance with Article 103 of the Namibian Constitution; to provide for the election by regional councils of members of the National Council; and to define the rights, powers, duties and functions of such regional councils; and to provide for incidental matters.**

*(Signed by the President on 28 August 1992)*

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### SCHEDULE 1

#### REGIONS IN RESPECT OF WHICH REGIONAL COUNCILS HAVE BEEN ESTABLISHED AND SEATS OF REGIONAL COUNCILS

### SCHEDULE 2

#### NUMBER OF MEMBERS OF REGIONAL COUNCILS AND CONSTITUENCIES OF REGIONAL COUNCILS

BE IT ENACTED by the National Assembly of the Republic of Namibia, as follows:-

#### INTRODUCTORY PROVISIONS

Definitions.

1. In this Act, unless the context indicates otherwise -

“chairperson” means the Governor of a regional council referred to in section 18;

“local authority council” means a local authority council as defined in section 1 of the Local Authorities Act, 1992;

“management committee” means the management committee of a regional council established by section 18;

“magistrate” includes any additional magistrate or assistant magistrate;

“Minister” means the Minister of Local Government and Housing;

“region” means the region in respect of which a regional council has been established and which is specified in column 2 of Schedule 1;

“regional council” means a regional council established under section 2;

“regional officer” means the regional officer of a regional council appointed under section 23;

“settlement area” means a settlement area declared under section 31.

PART I  
ESTABLISHMENT AND CONSTITUTION OF  
REGIONAL COUNCILS

Establishment of regional councils.

2. (1) There shall be a regional council for every region specified in column 2 of Schedule 1, to be known as the regional council for that region.

(2) The boundaries of a region shall -

(a) in the case of a regional council established by this section on the date of commencement of this Act, be the boundaries which have been established by the President in terms of the provisions of Article 137(4) of the Namibian Constitution by Proclamation 6 of 1992; or

(b) in the case of a region of which the boundaries have been changed, or of a new region created, in terms of Article 103(2) of the Namibian Constitution after the commencement of this Act, be the boundaries made known by the President by Proclamation in the *Gazette* in terms of section 5(3) of this Act.

(3) As from the date on which the election for its first members takes place, a regional council shall under its name be a juristic person.

Seats of regional councils.

3. The place specified in column 3 of Schedule 1 opposite the name of the region of a regional council shall be the seat of that regional council.

Constitution of regional councils.

4. (1) A regional council shall consist of the number of persons determined in terms of Article 105 of the Namibian Constitution and specified in column 3 of Schedule 2 opposite the name of such region specified in column 2 of that Schedule.

(2) A member of a regional council shall be elected in respect of a constituency specified in column 4 of Schedule 2 of which the boundaries have been fixed in accordance with the provisions of Article 106(1) of the Namibian Constitution and which -

(a) in the case of a constituency situated within a region contemplated in section 2(2)(a), shall be made known by the President by proclamation in the *Gazette* as soon as possible after the commencement of this Act; or

(b) in the case of the division or re-division of regions or new regions into constituencies after the commencement of this Act as contemplated in section 5(3), have been made known by the President by proclamation in the *Gazette* in terms of that section.

Appointment of delimitation commission for purposes of changes to boundaries of regions or creation of new regions, or division or re-division of regions into constituencies.

5. (1) The President -

(a) may at any time with a view to changing the boundaries of any region, or to creating any new region;

(b) shall at intervals of not less than six years and not more than 12 years, commencing from the commencement of this Act, with a view to re-dividing the regions into constituencies,

appoint, in accordance with the provisions of Article 104(1) of the Namibian Constitution, by proclamation in the *Gazette* a delimitation commission to make recommendations to him or her in relation to such change, new region or constituencies, as the case may be, and, in consequence of any such change, the re-division of a region into constituencies, or in relation to the division of a new region into constituencies.

(2) The delimitation commission appointed in terms of subsection (1) -

(a) shall, for purposes of determining the boundaries of any region, new region or constituency, give due regard to -

(i) the number of eligible voters ordinarily resident therein in comparison to the number of such eligible voters in existing regions and constituencies;

(ii) the geographical features thereof;

(iii) the infrastructure, resources and means of communication which are situated therein;

(iv) the socio-economic characteristics and circumstances which exist therein;

(v) the boundaries of districts, the areas of local authorities and settlement areas;

(vi) the effective exercise and performance of its powers, duties and functions by the regional council therein,

and generally any such other matter as may be necessary or expedient in achieving the objects of this Act;

(b) shall submit to the President a report containing -

(i) particulars of the change or new region contemplated in paragraph (a) of subsection (1) determined by the delimitation commission, with the recommended name for such region or new region and a definition of the boundaries of such region or new region;

(ii) the number of constituencies into which a region or new region is to be divided or re-divided, with recommended names for such constituencies and a definition of the boundaries of such constituencies;



## REGIONAL COUNCILS ACT, 1992

(iii) a map showing the change or new region and the constituencies into which any region or new region is to be divided or re-divided;

(iv) such other particulars as it may deem necessary or appropriate.

(3) The President -

(a) may refer to the delimitation commission for its further consideration and final recommendation any matter relating to its report or arising out of its powers, duties and functions;

(b) shall -

(i) in the case of any recommendation relating to a change or new region referred to in paragraph (a) of subsection (1) which has been accepted by him or her;

(ii) in the case of the division or re-division of a region or new region into constituencies,

as soon as possible make known by proclamation in the *Gazette* the definition of the boundaries of any such region of which the boundaries have been changed or any new region created or constituencies into which a region or new region is to be divided or re-divided in accordance with the report referred to in subsection (2), together with the names allotted by the President to such region, new region or constituencies.

(4) A proclamation referred to in paragraph (b) of subsection (3) -

(a) shall come into operation in relation to the next general election for members of regional councils held after the date on which that proclamation is published and not earlier;

(b) may, if the boundaries of a region have been changed, provide -

- (i) that anything done under this Act by or in respect of a regional council specified in such proclamation, shall, after the boundaries of its region have been changed, be deemed, subject to the limitations, qualifications and conditions, if any, as may be so specified, to have been done by or in respect of such other regional council established in respect of such other region as may be so specified;
  - (ii) that the assets, liabilities, rights and obligations of the regional council in respect of which the boundaries of its region have been changed, shall, subject to the limitations, qualifications and conditions, if any, as may be so specified, as from a date specified in such proclamation, vest in any other regional council as may be so specified;
  - (iii) that any person who immediately before the commencement of such proclamation held an appointment as regional officer or other officer or employee of a particular regional council shall, as from such commencement and subject to such conditions and in accordance with such directives as may be contained in such proclamation, be appointed by any other regional council specified in such proclamation;
- (c) shall amend, substitute or repeal any proclamation referred to in paragraph (a) of section 2(2) or paragraph (a) of section 4(2) in consequence of any change of the boundaries of any region or the creation of any new region or any division or re-division of a region or new region into constituencies;
- (d) shall, in the event of any change in the number and names of regions or constituencies into which regions are divided or re-divided, amend or substitute Schedule 1 or 2 so as to bring such Schedule in line with such change, division or re-division.
- (5) (a) The registrar of deeds shall, in the case of any asset referred to in subparagraph (ii) of paragraph (b) of subsection (4) consisting of immovable

property which vests by virtue of the provisions of that subparagraph in a regional council upon production to him or her of the deed of any such immovable property, endorse such deed to the effect that the immovable property described therein vests in that regional council and shall make the necessary entries in his or her registers, and thereupon that deed shall serve and avail for all purposes as proof of the title of that regional council.

- (b) No transfer duty, stamp duty or any other fee or charge shall be payable in respect of any endorsement or entry referred to in paragraph (a).

PART II  
QUALIFICATIONS OF, AND DATES FOR ELECTIONS FOR,  
MEMBERS OF REGIONAL COUNCILS, AND MEETINGS  
OF REGIONAL COUNCILS

Qualifications of members of regional councils.

6. (1) Subject to the provisions of Article 17(2) of the Namibian Constitution, no person shall be qualified to be a member of a regional council -

(a) unless he or she -

- (i) is registered, in terms of the laws governing elections for members of regional councils, as a voter for an election for members of regional councils;
- (ii) is qualified to be elected as a member of the National Council in terms of Article 72 of the Namibian Constitution;
- (iii) is ordinarily resident within the constituency for which he or she is elected, or, if such person is not so resident at the time of his or her election, becomes so ordinarily resident within a period of three months as from the date of his or her election as such a member;

(b) if he or she is a member of any other regional council.


(2) (a) Notwithstanding anything to the contrary contained in any law, but subject to the provisions of paragraph (b), a remunerated member of the public service, contemplated in paragraph (e) of Article 47(1) of the Namibian Constitution, may accept nomination as candidate for election as a member of a regional council, but shall, if he or she is elected as such a member, be deemed to have resigned from the public service, as so contemplated, with effect from the date on which he or she is so elected.

(b) A remunerated member of the public service referred to in paragraph (a) who has been nominated as candidate for election as a member of a regional council shall be deemed to be on leave until the date on which such election takes place as if such leave were granted to him or her in terms of the laws governing the conditions of employment of members of such public service or any agreement governing the conditions of employment of such member, as the case may be.

(3) For purposes of paragraph (a)(iii) of subsection (1), a person shall be regarded as being ordinarily resident in the constituency in question if his or her home or the place where he or she normally lives and to which he or she returns regularly after any period of temporary absence, is within such constituency.

(4) Any person who is in terms of the provisions of the Namibian Constitution and this section disqualified to be a member of a regional council and who, while he or she is so disqualified and knowing or having reasonable grounds for knowing that he or she is so disqualified, sits as a member of such regional council, shall be liable to a penalty of R500 for each day on which he or she so sits, which may be recovered by such regional council by action in any competent court for the benefit of the funds of such regional council.

7. (1) After the election for the first regional councils held by virtue of the provisions of Article 137(6) of the Namibian Constitution, a general election of members of regional councils shall be held on a date, not later than six years as from the date on which such election for the first regional councils has been held, determined by the President by proclamation in accordance with the provisions of Article 106(5) of the Namibian Constitution, and thereafter at intervals not exceeding six years on a date so determined.



Dates for elections for members of regional councils.

(2) Any general election of members of regional councils or any election to fill a casual vacancy for a member of a regional council shall be held in accordance with the laws governing elections for members of regional councils.

Periods of office of members of regional councils.

8. A member of a regional council shall, subject to the provisions of section 10(1), hold office as such a member for a period of six years -

- (a) in the case of the first election for members of regional councils, as from the date of such election;
- (b) in the case of any general election for members of regional councils held after such first election, as from the date following the date of expiry of the period of office of the members elected at such first election or general election held from time to time after such first election.

Oath by, and code of conduct for, members of regional councils.

9. (1) Every member of a regional council shall, before assuming his or her duties, make and subscribe before the magistrate referred to in section 19 or, if such member assumes his or her duties after a chairperson has been elected, the chairperson, an oath in the following form:

*I, A.B., do hereby swear and solemnly and sincerely promise to be faithful to the Republic of Namibia, to uphold and defend the Namibian Constitution and the laws of the Republic of Namibia and to perform my duties as member of the regional council for the ..... region diligently, honestly, fairly and to the best of my ability.*

*So help me God.*

(2) A member of a regional council may, in lieu of an oath, make and subscribe a solemn affirmation in corresponding form.

(3) The Minister may from time to time by notice in the *Gazette* prescribe a code of conduct for members of regional councils.

Vacation of office by members of regional councils, and filling of casual vacancies.

10. (1) A member of a regional council shall vacate his or her office if he or she -

- (a) becomes disqualified to be a member of a regional council;
- (b) is convicted of any offence in terms of section 16(3) or 17(2);
- (c) in the case of a member who has been nominated as a candidate by a political party in accordance with the laws governing elections for members of regional councils, ceases to be a member of that political party;
- (d) is absent, without the leave of the regional council or, if authorized thereto by the regional council, the chairperson on three consecutive sitting days of the regional council, and his or her absence is not condoned by the regional council,

and may resign his or her office as member of the regional council by writing under his or her hand addressed to the regional officer of the regional council.

(2) When a member of a regional council has vacated his or her office as such a member in terms of this section or has died, the regional officer shall forthwith by notice in the *Gazette* give notice that a vacancy in the membership of the regional council has occurred, the date on which it occurred, the cause thereof and the constituency in respect of which it has occurred.

(3) A casual vacancy in a regional council shall be filled within three months after it has occurred by the election, on a date to be determined by the President by proclamation in the *Gazette*, of a member as contemplated in section 7(2) for the unexpired portion of the period of office of the member who has vacated his or her office, unless the period of office of the member who has so vacated his or her office expires during the said period of three months.

(4) In paragraph (d) of subsection (1) "sitting days" mean separate days for which a meeting of the regional council has been convened and on which the regional council has actually sat.

Meetings of regional  
councils.

- 11. (1)(a)** The first meeting of a regional council after a general election for members of regional councils shall be held at the seat of the regional council and at such time, being a date not later than seven days after such general election, as may be determined by the Minister, and meetings thereafter shall be held at such seat and at such times as may from time to time be determined by the chairperson or, if, and for so long as, the office of chairperson is vacant, by the regional officer.
- (b) The chairperson or, if, and for so long as, the office of chairperson is vacant, the regional officer may at any time or, at a request in writing signed by not less than half of the members of the regional council, shall within 14 days after receipt of such request or, if the National Council is then in session, within 14 days after such session, convene a special meeting of the regional council.
- (c) Notwithstanding the provisions of paragraph (a) or (b), no meeting of a regional council shall be convened during any period during which the National Council is in session.
- (d) A notice signed by the regional officer and containing the time, date and place of, and the matters to be dealt with at, every meeting of the regional council shall be delivered to every member of the regional council so as to reach such member at least 72 hours before such meeting.
- (2) (a) Every meeting of a regional council shall be open to the public, except on any matter relating to -
- (i) the appointment, promotion, conditions of employment and discipline of any particular officer or employee of a regional council;
- (ii) any offer to be made by the regional council by way of tender or otherwise for the purchase of any property;

- (iii) the institution of any legal proceedings by, or opposition of any legal proceedings instituted against, a regional council,

unless the regional council by a majority of at least two-thirds of its members present at the meeting in question determines such meeting to be so open.

- (b) The regional council may allow the regional officer or any other officer or employee of the regional council or other interested person to attend any proceedings of a regional council and to take part in any such proceedings, but such regional officer or other officer or employee or person shall not have the right to vote in respect of any decision of the regional council.

(3) The majority of the members of a regional council shall form a quorum for a meeting of the regional council.

(4) If the chairperson is absent from a meeting of a regional council, the members present shall elect a person from amongst its members to preside at such meeting, and such person shall, while he or she so presides, have all the powers and shall perform all the duties and functions of the chairperson.

(5) The decision of the majority of the members of a regional council present at a meeting thereof shall constitute a decision of the regional council, and, in the event of an equality of votes relating to any matter, the member presiding at the meeting shall have a casting vote in addition to his or her deliberative vote.

- (6) (a) A regional council may make standing rules in connection with the convening and holding of, and procedure at, meetings of the regional council or any committee established by the regional council, including the conditions under which a language other than the official language may be used by a member during discussions at meetings of the regional council.

- (b) The Minister shall as soon as possible after the commencement of this Act make standing rules contemplated in paragraph (a) which shall apply in respect of every regional council until such time



as a regional council by any standing rules made under that paragraph provides otherwise.

- (7) (a) Subject to the provisions of any rules made under subsection (6), there shall be freedom of speech and debate in any meeting of a regional council.
- (b) No member of a regional council shall be subject to any legal proceedings by reason of his or her speech or vote in any meeting of the regional council.

Minutes of meetings.

12. (1) The regional officer or, if he or she is absent from a meeting of the regional council, the chairperson shall cause minutes to be kept in the official language of all proceedings at meetings of the regional council, and the regional officer shall cause such minutes to be entered in one or more books kept by the regional officer for that purpose.

(2) The regional officer shall within seven days of any meeting of the regional council or such longer period as the Minister may allow, submit a copy of the minutes of such meeting to the Minister, together with a copy of the agenda of such meeting and any other connected documents or reports as may be required by the Minister.

(3) The minutes of the proceedings at any meeting of a regional council shall be submitted at the next ordinary meeting of the regional council for confirmation under the signature of the chairperson and the regional officer.

(4) Any document purporting to be certified by or on behalf of the regional officer as a true copy of or extract from any minutes of a meeting of the regional council shall on its mere production by any person at any judicial proceedings be evidence of the taking place of anything which according to that document took place at that meeting.

Inspection of, copies of and extracts from, minutes.

13. (1) The minutes of a meeting of a regional council as confirmed in accordance with the provisions of section 12(3), excluding the minutes or part of such minutes relating to any matter referred to in section 11(2)(a) considered during a period during which a meeting of the regional council was not open to the public, shall during ordinary office hours be available for inspection by any person.

(2) A regional council shall at the request of any person and on payment of an amount determined by the regional council, furnish such person with a copy of or extract from the minutes which may be inspected by such person under subsection (1).

Validity of certain decisions taken by regional councils and acts performed on authority of regional councils.

**14. (1)** No decision taken by a regional council or act performed under the authority of a regional council shall be invalid by reason only of a vacancy or of the fact that a person who is not entitled to sit as a member of a regional council sat as such a member at the time when the decision was taken or the act was authorized, if the decision was taken or the act was authorized by the requisite majority of the members who were present at the time and entitled to sit as members.

(2) No irregularity in the election of any person as a member of a regional council or of a member as chairperson shall affect the validity of an act performed by such person or member under a provision of this Act or on the authority of the regional council.

(3) For the purposes of this section, "regional council" shall include its management committee.

Remuneration, allowances and benefits of members of regional councils.

**15. (1)** A regional council may -

(a) pay or provide to a member of a regional council any remuneration, allowances or other benefits not exceeding such remuneration, allowances or other benefits as may be determined by the President by proclamation in the *Gazette* subject to such conditions as may be so determined by the President;

(b) indemnify its members in respect of any harm, damage or loss suffered by them in the course of the exercise or performance of their powers, duties and functions.

(2) Any allowances or other benefits determined under subsection (1) may differ in respect of different regional councils, and any remuneration, allowances and benefits so determined may differ in respect of different members of a regional council according to -

(a) the different offices held by them in the regional council; or

