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CHAPTER 230

DECENTRALIZATION

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Act 13 of 1997
Act 17 of 1998
Act 17 of 2000
Act 41 of 2000
Act 7 of 2007
Act 24 of 2010
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Act 16 of 2013
Act 37 of 2013
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Act 14 of 2018

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DECENTRALIZATION

An Act to make provisions for the decentralization and establishment of Provincial Government Regions and for matters connected therewith.

PART 1 – DEFINITIONS

1. Definitions

In this Act, unless the context otherwise requires:

"accountant" means the Public Servant seconded to a Provincial Government Council under section 18F;

"administration subsidy" means a subsidy provided by the Executive to a Provincial Government Council for administration purposes such as salaries, accounting and office systems and office equipment;

"by-law" means a by-law made by each Provincial Government Council under the provisions of this Act;

"Department" means the Department of Local Authorities;

"equipment grant" means a grant by the Executive to a Provincial Government Council for development purposes such as agricultural, construction and maritime projects;

"Executive" means the Executive under Article 39(1) of the Constitution;

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

"Provincial Government Council" means a Council established under section 4 comprising representatives of each Provincial Government Region;

"Provincial Government Region" means a region declared under section 3(1)(a);

"Provincial Government Region Executive Officer" means an officer appointed under section 19 of this Act;

"Secretary General" means the public servant seconded to a Provincial Government Council under section 18E.

2. *(Repealed)*

PART 2 – CREATION OF PROVINCIAL GOVERNMENT REGIONS

3. Establishment of Provincial Government Regions

(1) The Prime Minister may by Order:

(a) declare a Provincial Government Region;

(b) give a name to a Provincial Government Region;

(c) define the boundaries of a Provincial Government Region and alter them.

(2) The number of Provincial Government Regions to be so declared under subsection (1) shall not be less than 4 and not more than 6.

4. Establishment of Provincial Government Councils

When the Prime Minister declares a Provincial Government Region under section 3(1), he shall in the Order establish a Provincial Government Council for that Region.

4A. Division of Provincial Government Region into Area Council Divisions

The Minister on the advice of each Provincial Government Council shall by order divide a Provincial Government Region into area council divisions or districts and may alter those divisions or districts.

4AA. Functions of an area council

The functions of an area council are to:

(a) review and consolidate community action plans for each community within that area council division or district; and

(b) develop an area council Strategic Development Plan for the relevant area council division or district; and

(c) coordinate, monitor and report to the relevant Provincial Government Council on the implementation of the relevant area council Strategic Development Plan.

4AB. Appointment of members of an area council

(1) The Minister may by Order, upon the recommendation of the relevant Local Government Council, appoint members for each area council in the relevant Local Government Region.

(2) The members of an area council appointed under subsection (1) consist of:

(a) chiefs appointed by the relevant Provincial Government Council from amongst persons nominated by representative bodies of chiefs in the relevant area council division or district; and

(b) women representatives appointed by the relevant Provincial Government Council from amongst persons nominated by representative bodies of women in the relevant area council division or district; and

(c) youth representatives appointed by the relevant Provincial Government Council from amongst persons nominated by representative bodies of youth in the relevant area council division or district; and

(d) church representatives appointed by the relevant Provincial Government Council from amongst persons nominated by representative bodies of churches in the relevant area council division or district; and

(e) business representatives appointed by the relevant Provincial Government Council from amongst persons nominated by representative bodies of businesses in the relevant area council division or district.

(3) A member appointed under subsection(1) is to hold office for period of 4 years and is eligible for reappointment.

4AC. Conduct of business of an area council

(1) The Minister may by order and upon the recommendation of the relevant Local Government Council designate an office space to be the headquarter of the relevant area council.

(2) An area council must hold its meetings in public at the headquarter of the relevant area council.

(3) An area council must hold its meetings at least 4 times each year.

(4) Despite subsection (3), an area council may hold extraordinary meetings at the request of the relevant Provincial Government Council or of more than half of the members of the area council.

(5) The Chairperson of an area council must be a Chief appointed under paragraph 4AB(2)(a).

(6) The Chairperson is to preside at all meetings of an area council.

(7) If the Chairperson is absent, the Deputy Chairperson is to chair the meetings of an area council.

(8) The members appointed under paragraphs 4AB(2)(b) to (e) are to nominate from amongst themselves a member to be the Deputy Chairperson of an area council.

(9) An elected member of a Provincial Government Council may attend a meeting of an area council on the request of that area council.

(10) The Chairperson and members of an area council are entitled to the following sitting allowances:

(a) Chairperson –VT5,000 per sitting;

(b) member –VT 3,000 per sitting.

(11) An area council is to make its own standing orders.

4AD. Funds of an area council

(1) The funds of an area council consist of:

(a) monies received from the relevant Provincial Government Council; and

(b) monies received from other sources.

(2) An area council is to open its own bank account in any financial institution provided for under the Financial Institutions Act [CAP 254].

4B. Provincial Government Councils to be bodies corporate

A Provincial Government Council shall be a body corporate with perpetual succession and power to:

(a) sue and be sued in its corporate name; and

(b) purchase, acquire, hold, manage and dispose of movable and immovable property.

4C. Seal

Each Provincial Government Council shall have a seal of a design approved by such Provincial Government Council which shall be kept in the custody of the Secretary to the Provincial Government Council.

4D. Establishment of Technical Advisory Commission

(1) The Technical Advisory Commission is established within each Local Government Region.

(2) The Commission consists of the following members:

(a) the Secretary General of a Provincial Government Region, who is to be the Chairperson of the Commission; and

(b) heads of government departments based in a Provincial Government Region.

(3) The functions of the Commission are to:

(a) review and consolidate action plans for each area council in the relevant Local Government Region; and

(b) develop a Provincial Government Region Strategic Development Plan for the relevant Provincial Government Region; and

(c) coordinate, monitor and report to the relevant Provincial Government Council on the progress of implementation of the relevant Provincial Government Region Strategic Development Plan; and

(d) assist the relevant Secretary General in the coordination of Government services in the relevant Provincial Government Region.

(4) The Commission must hold its meeting once in each month and may hold such other meetings as may be requested by the Chairperson.

(5) The quorum at a meeting of the Commission is a simple majority of the members present at that meeting.

(6) The Commission may regulate its own procedures.

(7) A Provincial Government Region Strategic Development Plan must be approved by the relevant Provincial Government Council before it can be implemented.

PART 3 – COMPOSITION, NAME AND DUTIES OF PROVINCIAL GOVERNMENT COUNCILS

5. Composition of Provincial Government Councils

Each Provincial Government Council shall be composed of elected members and appointed members.

6. *(Repealed)*

7. Appointment of members of Provincial Government Councils

(1) The Minister may by Order provide for appointed members of each Provincial Government Council in respect of its Provincial Government Region and such members shall consist of:

(a) chiefs appointed by the Minister from among persons nominated by representative bodies of chiefs;

(b) women appointed by the Minister from among persons nominated by representative bodies of women;

(c) youth representatives appointed by the Minister from among persons nominated by representative bodies of youth;

(d) church representatives appointed by the Minister from among persons nominated by representative bodies of churches.

(2) The appointed members –

(a) shall hold office for a period of four years and shall be eligible for reappointment; and

(b) shall be consulted on any matter, question or issue coming before the Provincial Government Council for its decision.

(3) The appointed members shall not be entitled to vote at the meetings of the Provincial Government Councils.

(4) The appointed members shall not be more than half the number of elected members.

8. Conduct of business

(1) The Provincial Government Council shall hold its meetings in public at the Headquarters of the Provincial Government Region. The Headquarters shall be designated through an order to be issued by the Minister upon the recommendation of the Provincial Government Council.

(2) The Provincial Government Council shall hold two ordinary meetings during one calendar year. The first ordinary meting, being the budgetary meeting, shall commence on the first working day in the month of November and may last for a period not exceeding ten days.

(3) The second ordinary meeting, being the administrative meeting, shall commence on the first working day in the month of May and may last for a period not exceeding ten days.

(4) Apart from such meetings, the Provincial Government Council may hold extraordinary meetings at the request of the Minister or if more than half of the elected members so request.

(5) The duration of an extraordinary session shall not exceed three days.

(6) The Provincial Government Council shall meet by right on the first Thursday following the publication of the official results of the Provincial Government Council election. Members of the Provincial Government Council shall appoint among themselves a Chairman and no more than three deputy chairmen. They shall be appointed by a majority voting. The voting shall be done by secret ballot.

(7) The Chairman and deputy chairmen shall hold office for a term of two years.

(8) (Repealed)

(9) The Chairman shall preside at all meetings in compliance with the provisions of the Standing Orders of the Council. Upon evidence of his absence or incapacity, one of the deputy chairmen shall, in the order of their appointments, replace him. The Chairman or the deputy chairman substituting for him may, if he deems necessary, request the assistance of any Police Officer to restore order in the meeting chamber.

(10) Members of Parliament elected within the Provincial Government Region may at the request of the Provincial Government Council of that region attend and address any meeting of that Council on any specific matter or issue.

9. Procedure for enacting by-laws

(1) The Provincial Government Council shall deal with draft by-laws tabled by any member of the Provincial Government Council with the Chairman of the Council.

(2) Draft by-laws and proposals shall be voted on by the Council after having heard the opinion of the appointed members.

10. Standing orders

(1) Each Provincial Government Council shall make its own standing orders.

(2) The Provincial Government Council shall vote on the approval of the standing orders of the Council after having heard the views of the appointed members. The Chairman shall draw up the Order of Business.

11. Setting up of a committee

A Provincial Government Council may, from time to time, from among its members, appoint and dissolve a committee responsible for matters relating to draft by-laws or for any general or specific purposes which in the opinion of the Provincial Government Council would be better regulated and managed by a committee. The composition of such a committee shall be proportional to the various opinions held within the Council.

12. Voting and quorum

(1) All decisions shall be determined by a majority of the votes of the elected members present. Each elected member present shall have the right to cast only one vote.

(2) The quorum required for meetings of the Council shall be more than half of the total number of elected members.

(3) In case of a tie vote, the Chairman shall have a casting vote.

13. New election, dissolution of Provincial Government Council and delegation of responsibility

(1) If for any reason half of the seats of a Provincial Government Council become vacant, a new election shall be called within the two months following the date the latest seat became vacant.

(2) If this latest vacancy occurs in the last six months of the normal term of the Council, the Prime Minister shall, upon the recommendation of the Minister, issue an order to dissolve the Provincial Government Council.

(3) Day-to-day on-going business shall then be attended to by the Minister or he may delegate this responsibility to a public servant or another person with suitable qualification or experience.

14. Dissolution of Provincial Government Council and election of new Council

(1) Should the normal running of a Provincial Government Council be impeded, such as being unable to sit for three consecutive sittings for lack of a quorum, the Prime Minister shall, upon recommendation from the Minister, issue an order to dissolve the Council for cause.

(2) Elections for a new Council shall be held not later than six months following the date on which the order was published in the Official Gazette. During this period, the day-to-day on-going business shall be attended to by the Minister or he may delegate this responsibility to a public servant or another person with suitable qualification or experience.

(3) No dissolution shall be made within the next twelve months following the election of a new Provincial Government Council which is taking over from the one dissolved. However, if during this period the running of the Council is again impeded on similar grounds as those in subsection (1) of this section, the Prime Minister may, upon recommendation of the Minister, issue an order to temporarily suspend the Council for a period not exceeding six months. During this period of suspension the day-to-day on-going business shall be attended to by the Minister or he may delegate this responsibility to a public servant.

15. Approved by-laws

(1) The Chairman of the Provincial Government Council shall submit at the earliest opportunity a copy of all approved by-laws to the Provincial Government Region Executive Officer and shall have a copy displayed on the Provincial Government Region headquarters notice board.

(2) During fifteen days following the display of the by-law on the notice board, the population of the Provincial Government Region concerned and the Provincial Government Region Executive Officer may submit their complaints on the legality or relevancy of the said by-law to the Chairman of the Provincial Government Council.

(3) At the end of this fifteen-day period the Chairman of the Provincial Government Council may then either:

(a) submit the by-law to the Minister for publication in the Official Gazette if no compliant has been received;

(b) if a complaint is received in that period –

(i) and he thinks that the complaints made may be justified, convene a meeting of the Council to debate the issue;

(ii) but if he thinks that the complaint is not justified or is substantially similar to matters already considered, he shall notify the complainant in writing and may then submit the by-law to the Minister as in paragraph (a) at the expiry of 15 days from such notification.

16. Publication and commencement of by-laws

(1) Subject to the provisions of section 18 upon receiving the by-law submitted to him under section 15(3)(a), the Minister shall ensure its publication in the Official Gazette. This by-law shall come into force as from the date of its publication in the Official Gazette.

(2) Within the fifteen days following the commencement date of the by-law, if a person feels that the by-law was unfair to him or if he feels that the content of the said by-law contradicts the essence of the Constitution or existing laws, he may request an enquiry to be conducted on the legality of the said by-law by a competent court.

(3) The filing of such a request shall not prevent the by-law from being implemented.

17. Supreme Court to assess the legality of by-laws

The Supreme Court shall be the competent judicial body to assess the legality of by-laws enacted by Provincial Government Councils.

18. Procedure on receipt of by-laws by the Minister

(1) Where the Minister receives a by-law under the provisions of section 15(3) above, he may either:

(a) proceed with the publication of the said by-law according to the conditions and with the consequences provided for under section 16 above; or

(b) request the Supreme Court to assess its legality. In this case he shall not proceed with the publication of the by-law and shall immediately inform the Chairman of the Provincial Government Council which enacted the by-law in question.

(2) The Supreme Court may either:

(a) rule out the whole text or part thereof; or

(b) confirm the legality of the said by-law. In the latter case the Minister shall therefore ensure the official publication of the by-law within eight days following the date of the Supreme Court's decision. The by-law shall henceforth be enforced according to the conditions specified under section 16, and no other request for assessment of the legality of the said regulation shall be received by the Supreme Court from any persons or body corporate.

PART 3A – TERM OF OFFICE OF MEMBERS OF PROVINCIAL GOVERNMENT COUNCILS

18A. Term of office of members of Provincial Government Councils and elections thereto

(1) Members of Provincial Government Councils shall be elected or appointed as the case may be for a period of 4 years and together with any councillor elected or appointed to fill a vacancy shall retire together at the end of that period

(2) *(Repealed)*

(3) *(Repealed)*

(4) Subject to the provisions of the Constitution and this Act, the Electoral Commission may by Order provide for the regulation and conduct of elections to be held under the provisions of this Act and, without prejudice to the generality of the foregoing, may provide for the regulation and conduct of elections to be held under the provisions of Act and, without prejudice to the generality of the foregoing, may provide for –

(a) the date for election of elected members of a Provincial Government Council. If the Electoral Commission fails to fix such date the election shall take place on a date that is 1 calendar month before the end of the term of office of the members presently in office. If the date is a Saturday, Sunday or public holiday the election shall take place on the next preceding day that is not one of those days;

(b) the qualifications and disqualifications of electors;

(c) the registration of electors in any Provincial Government Region or in any area council division;

(d) the ascertainment of the qualifications and disqualifications of candidates for election as members of Provincial Government Councils;

(e) the method of making and disposing of claims or objections in connection with the registration of electors;

(f) the procedure for the nomination of candidates for election as members of Provincial Government Councils;

(g) the method of election in any Provincial Government Region;

(h) the determination of any question which may arise whether any person has been elected as a member of a Provincial Government Council;

(i) the nature of corrupt and illegal practices in connection with elections and penalties in relation thereto:

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

(j) such forms as the Commission may consider necessary to be used in connection with elections.

(5) Election of members of Provincial Government Councils under this Act shall be on the bases of direct universal franchise which shall include an element of proportional representation.

18AB. Constituencies and number of elected councillors

(1) The Minister may by Order in writing divide each Provincial Government Region into several constituencies for the purposes of a Provincial Government Council election.

(2) Subject to subsection (3), the Minister may by Order in writing prescribe the number of elected members for each Provincial Government Region on the basis that each member for each constituency must represent at least 1,500 people in that constituency.

(3) If the Minister is satisfied that the rule in subsection (2) cannot be complied with for one or more constituencies in a Provincial Government Region, the Minister may by Order in writing prescribe the number of members for that constituency based on each island or island group in that region being fairly represented in the Provincial Government Council.

18AC. Election deposits

(1) Subject to subsection (2), the Minister may by Order in writing prescribe an amount to be deposited by each candidate in a Provincial Government Council election.

(2) The amount prescribed cannot exceed VT 20,000.

18B. Disqualification for election or appointment as member of Provincial Government Council

(1) The following persons shall not be qualified for election or appointment as members of Provincial Government Councils –

(a) the President;

(b) Judges and Magistrates;

(c) members of Parliament;

(d) members of the police force;

(e) members of the National Council of Chiefs;

(f) public servants;

(g) members of the teaching service;

(h) a person who is in the service of the Provincial Government Council; and

(i) a municipal councillor;

(j) a person who is in default of payment of any rates, charges or other debts due to the council for a period exceeding 2 months after the same is due.

(2) Any member of the district council of chiefs, island council of chiefs and area council of chiefs who holds the position of chairman, vice-chairman, secretary or treasurer, shall not be qualified for election as a member of a Provincial Government Council.

(3) A Council member shall vacate his seat if any circumstances arise that, if he were not a member of the Council would cause him to be disqualified from election or appointment as such.

18BA. Arrangement for payment of any rates, charges or other debts due to the council

(1) For the purpose of paragraph 18B(1)(j), an arrangement with the council for payment of any rates, charges or other debts due to the council after the period set out in that paragraph disqualifies a person for election to a Provincial Council.

(2) A person must provide to the Electoral Commission, an original copy of the receipt certifying that the council has received such payment referred to in paragraph 18B(1)(j).

18C. Vacation of office

If any member of a Provincial Government Council –

(a) is found to have been unqualified or disqualified for election or appointment to a Provincial Government Council;

(b) does, or permits or suffers any act, matter or thing which would, under the provisions of section 18B disqualify him for appointment or election;

(c) resigns from the Provincial Government Council;

(d) fails to attend 3 consecutive meetings of the Provincial Government Council or of any committee of the Provincial Government Council of which he is a member, unless he

has obtained the prior permission of the Provincial Government Council to absent himself throughout such period,

he shall cease to hold office.

18D. Filling of vacancies

(1) Whenever a vacancy occurs in the office of an elected member of a Council such vacancy shall be filled in accordance with Orders made under the provisions of section 18A.

(2) Notwithstanding the provisions of subsection (1), if –

(a) a vacancy occurs in the office of a councillor within 6 months preceding the date on which such councillor would ordinarily retire;

(b) the total of unfilled vacancies does not exceed a third of the total number of councillors; and

(c) no local council division will thereby be unrepresented;

such vacancy shall not be filled under the provisions of this section and such vacancy shall remain unfilled until the time of the next ordinary election.

(3) A person elected under the provisions of this section to fill a vacancy shall hold office until the date upon which the person in whose place he is elected would ordinarily have retired, and he shall then retire.

(4) Whenever there is a vacancy in the office of an appointed member of a Provincial Government Council the Minister shall appoint another person to fill that vacancy in accordance with subsection (3).

PART 3B – OFFICERS AND STAFF

18E. Secretary to Provincial Government Council

(1) The Public Service Commission shall appoint a fit person, who is a public servant, to be Secretary for each Provincial Government Council.

(2) The Secretary shall be the Chief Executive Officer of the Provincial Government Council for which he is appointed and shall have the charge and custody of and be responsible for all books, records and other documents of the Provincial Government Council.

(3) The Secretary General is to be the senior public servant in the Provincial Government Region and is responsible for coordinating the services and activities of all other public sector agencies within that Region.

(4) For the avoidance of doubt, no Provincial Government Council shall have power to suspend or dismiss the Secretary.

18EA. Assistant Secretary General

(1) The Public Service Commission is to appoint in writing an Assistant Secretary General and may determine the terms and conditions of the appointment.

(2) The Assistant Secretary General for each Provincial Government Council has the charge and responsibility to assist in carrying out the duties of the Secretary General.

(3) The Assistant Secretary General is to be supervised by and to act only on the lawful direction of the Secretary General.

(4) To avoid doubt, the Provincial Government Council does not have the power to remove or suspend the Assistant Secretary General.

18F. Accountant to Provincial Government Council

(1) The Public Service Commission shall appoint a fit person, who is a public servant, to be accountant for each Provincial Government Council.

(2) For the avoidance of doubt, no Provincial Government Council shall have power to suspend or dismiss the accountant.

18FA. Cashier

(1) The Public Service Commission is to appoint in writing a Cashier and may determine the terms and conditions of the appointment.

(2) The cashier is to assist the accountant in carrying out his or her duties under this Act.

(3) The cashier is to be supervised by the accountant and is to act only on the lawful direction of the accountant.

(4) To avoid doubt, the Provincial Government Council does not have the power to remove or suspend the cashier.

18G. Treasurer and other officers

(1) Subject to subsection (3), a Provincial Government Council shall appoint a treasurer.

(2) A Provincial Government Council may appoint such other officers, as it may consider necessary for the proper performance of its functions, upon such terms and conditions as it may determine and may define the powers and duties of such officers.

(3) Until such time as the Minister is satisfied that suitable persons are otherwise available the treasurer and such other officers as he may consider necessary shall be seconded to a Provincial Government Council from the public service.

18GA. Planner

(1) The Public Service Commission is to appoint in writing a Planner and may determine the terms and conditions of the appointment.

(2) The planner is responsible for the development planning and all matters relating to physical planning of the Local Government boundary.

(3) The planner is to be supervised by the Assistant Secretary General and the Secretary General, and to act only on their lawful directions.

(4) To avoid doubt, the Provincial Government Council does not have the power to remove or suspend the planner.

18GB. Area Council Administrator

(1) The Public Service Commission is to appoint in writing an Area Council Administrator.

(2) The provisions of the Public Service Act [CAP 246] apply in relation to this appointment.

18H. Power to engage staff

Subject to section 18G(3), a Provincial Government Council may from time to time employ, on such terms and conditions as it may determine, such agents, servants and workmen as may be necessary for the proper performance of its functions.

18HA. Transitional provision for persons occupying the position under sections 18EA, 18FA, 18GA

A person who is occupying any of the positions referred to in section 18EA, 18FA or 18GA immediately before the commencement of this Act must cease to hold that office upon the appointment of a person to the office by the Public Service Commission, unless he or she is appointed by the Public Service Commission to the relevant position.

18HB. Staffing structure

The Minister may make staffing structure of a Provincial Government Council on the recommendations of that Council acting on the advice of the Department.

18I. Staff regulations

(1) A Provincial Government Council shall make staff regulations, which, subject to the provisions of this Act, may make provision for all or any of the following matters relating to persons in the service of the Council other than persons seconded to it –

(a) grades and salary scales;

(b) appointments, promotions, leave, termination of appointments and dismissals;

(c) maintenance of discipline;

(d) disciplinary offences;

(e) interdiction and payment of salary or wages during any period of interdiction;

(f) punishments in respect of disciplinary offences including the withholding or deferment of increments, fines, reductions in rank or salary and deductions from salary in respect of damage to property of the Provincial Government Council by reason of misconduct or breach of duty by an officer, servant or employee;

(g) training;

(h) payment of allowances; and

(i) terms and conditions of service generally including matters relating to procedures and the duties and responsibilities of officers, servants and employees.

(2) Staff regulations made under the provisions of subsection (1) shall be published in the Gazette.

18IA. Staff Regulations

The Minister may make staffing regulations of a Provincial Government Council on the recommendation of that Council acting on the advice of the Department.

PART 3C – POWERS AND DUTIES OF COUNCILS

18J. General powers and duties of Councils

(1) Every Provincial Government Council shall be generally responsible for the good government of its Provincial Government Region and shall do all such things as it lawfully may and as it considers expedient to promote and plan for the health, welfare, economic and social development of the people in the Provincial Government Council Region.

(2) The provisions of this Act relating to the powers and duties of Provincial Government Councils are in addition to, and not in derogation of, the provisions of any other written law relating to such powers and duties and in the exercise of their powers and the performance of their duties in relation to any matter for which provision is made by other law, a Provincial Government Council shall act in conformity therewith.

18K. Contracts

(1) Subject to the provisions of subsection (2), to any order made under section 35 and to any conditions or limitations imposed by its Standing Orders, a Provincial Government Council may enter into contracts for the purpose of any works, services or other matters which it is required or empowered to undertake, carry out and manage.

(2) Except as may be permitted by its Standing Orders, a Provincial Government Council shall not enter into any contract –

(a) for the supply of goods or materials; or

(b) for the execution of any works or provision of any services, other than professional services to or for the Provincial Government Council;

except after publicly calling for tenders for the same.

(3) A contract purporting to be made by a Provincial Government Council which is –

(a) sealed with the seal of a local government;

(b) signed by an officer of the Provincial Government Council duty authorized in that behalf by any resolution or standing order of the Provincial Government Council,

shall not be invalid by reason only of any failure to observe any Standing Order made under the provisions of this Act.

PART 3D – INQUIRIES AND SUSPENSIONS

18L. Inquiries and suspension

(1) If the Minister –

(a) has cause to suspect that a Provincial Government Council has failed to observe and perform any of the duties and powers conferred or imposed upon it by the provisions o this Act or any other law; or

(b) has cause to suspect that a Provincial Government Council has done or performed any act, matter, or thing without due authority; or

(c) is otherwise of the opinion that an investigation should be made into the affairs of a Provincial Government Council;

he may in his discretion, appoint a person or persons to inquire into such matter.

(2) If upon an inquiry under this section the Minister is satisfied that the Provincial Government Council has done or suffered any of the act, matter or thing contained in paragraphs (a) and (b) of subsection (1), he may by directive in writing require the Council to remedy the same within such time as he may appoint.

(3) If a Provincial Government Council fails to comply with the terms of a directive of the Minister made under subsection (2) or if the Minister, having appointed a person or persons to make an inquiry under subsection (1) considers it expedient so to do, the Minister may in addition to any other powers conferred upon him by the provisions of this Act –

(a) suspend the exercise by the Council of any of the powers conferred upon it by this or any other Act for such period as he may think fit; or

(b) dissolve the Council and, in his discretion, appoint or direct the election of new councillors;

and during such period, or, as the case may be, pending the appointment or election of new councillors, confer upon a public servant or another person with suitable qualification or experience the exercise of any powers so suspended or of the powers of the Council so dissolved.

(4) The expenses incidental to –

(a) any inquiry under this section; or

(b) the exercise of any of the powers of the Council under this section;

shall be a debt due by the Provincial Government Council to the Government and shall be paid and discharged out of the funds or revenues of the Council in such manner as the Minister shall direct. Any such direction may include a direction that the expenses shall be deducted from any grant payable by the Government to the Provincial Government Council.

18M. Reduction or refund of grants

(1) If on receipt of the report of an auditor, or of an inspector appointed under the provisions of section 18L(1) the Minister is satisfied that any duty or power of a Provincial Government Council is being exercised in an improper or inefficient manner the Minister may in respect of any such duty or power reduce or withhold any further grants to such Council or any part of such grants until he is satisfied that the duty or power will be exercised in a proper manner.

(2) In any case where the Minister has reduced or withheld a further grant or part of such grant under the provisions of subsection (1) it shall be in the Minister's discretion at the time he restores the grant whether he restores any part of the grant that was reduced or withheld.

(3) The Minister before reducing or withholding a grant under subsection (1) shall give the Provincial Government Council an opportunity of making representations to him why such grant should not be reduced or withheld.

PART 4 – *(Repealed)*

PART 5 – POWERS OF PROVINCIAL GOVERNMENT COUNCILS TO MAKE BY-LAWS

20. Power to make by-laws

As from the dates they are established, Provincial Government Councils are empowered to make by-laws, on the matters listed below:

(1) Choose the location and be responsible for constructing, maintaining and managing public facilities such as: primary schools, health facilities, bridges and roads (except road network under the responsibility of the national government), water supply, wharves and jetties, commercial centres, libraries, museums and cultural centres;

(2) Management and control of public market places;

(3) Rules and regulations governing matters relating to hygiene and public heath in compliance with the general conditions set out under the law;

(4) Rules and regulations governing professional activities relating to the issuing of licences payable to Provincial Government Councils;

(5) Rules and regulations governing fishing and conditions relating to the issuing of fishing licences covering six nautical miles as from the low tide foreshore of all islands making up the Provincial Government Region;

(6) Set out conditions of the issuing of licences for operating cinemas, commercial businesses, individual or group land or sea transport services within the Provincial Government Region;

(7) *(Repealed)*

(8) Clearly set out the economic development policies and plans of the Provincial Government Region;

(9) Outline, create and draw up regulations governing the environmental protection zones (natural parks, natural reserves or tourist-attraction areas) subject to any legislation creating environmental protected areas in the national interest;

(10) Decide on penalties to be imposed on persons involved in breaking the by-laws approved by the Provincial Government Council. The maximum amount for such penalties shall not exceed VT 50,000 for each conviction.

21. Power to make by-laws fixing rates and taxes for issue of licences

(1) The Provincial Government Councils shall have the power to make by-laws fixing:

(a) rates and taxes payable for the issue of licences for professional activities as stated in section 20(5) and (6); and

(b) rates and taxes payable for the landing and take-off of aircraft, landing of ships and boats.

Revenue from these rates and taxes shall be paid directly to the Provincial Government Councils.

(2) Where the Government rates and taxes exist regarding international connections, the Provincial Government Councils shall have the power to make by-laws for additional amounts which may not exceed 10% of the existing tax. These by-laws must be specifically endorsed by the Minister after consultation with the Minister of Finance.

22. Power to make by-laws specifying rates and taxes for local purposes

Provincial Government Councils shall have the power to make by-laws specifying rates and taxes for local purposes on the people, properties and services within their area of jurisdiction.

PART 6 – ALLOWANCES

23. Allowances to members

(1) Members of Provincial Government Councils and the members of any committees set up by the Provincial Government Councils are entitled to an allowance the amount of which shall be determined by the Council but shall not exceed the maximum amount of VT 5,000 per day's sitting.

(2) Members of Provincial Government Councils and the members of any committees set up by the Provincial Government Councils are entitled to a refund of their travelling expenses when travelling to attend Council or committee meetings as the case may be. Reimbursement shall not be paid unless proof of payment is provided. Procedures for reimbursement and calculation of attendance shall be specified in the Council's standing orders.

(2A) A member of a Provincial Government Council and a member of any committee set up by a Provincial Government Council (other than the President) is entitled to a reasonably affordable rented apartment for the duration of a Council or committee meeting.

(2B) In the event that the entitlement under subsection (1) is not available, the member of a Provincial Government Council and a member of any committee set up by the Provincial Government Council, is to be paid an allowance of up to and not more than VT7,500 per day to meet his or her accommodation for the duration of a Council or committee meeting.

(3) A member of a Provincial Government Council is entitled to a constituency allowance of up to and not more than VT1,500,000 per annum.

(4) Subject to the availability of funds from the Government, the Minister is to determine when the constituency allowance is to be paid and is to determine the rate of the constituency allowance.

(5) A member of the Provincial Government Council is entitled to an annual responsibility remuneration as set out in the table below:

Minimum	Midpoint	Maximum
1	2	3
VT1,345,100	VT1,434,600	VT1,482,500

(6) Subject to the availability of funds from the Government, the Minister is to determine when the Grades set out in the table in subsection (5) are to be paid and determine the rate of the responsibility remuneration.

(7) A member of a Provincial Government Council is not entitled to any form of take home pay entitlements as from the date on which this Act commences.

(8) For the purposes of this section:

"take home pay entitlements" includes all of the following allowances:

(a) child, family, spouse allowances; and

(b) cost of living allowance; and

(c) entertainment allowance; and

(d) fuel allowance; and

(e) housing allowances; and

(f) telephone allowance.

23A. Housing provision

A President of a Provincial Government Council is entitled to the housing provisions determined by the Government Remuneration Tribunal under the Government Remuneration Tribunal Act [CAP 250].

24. Payment of gratuities

(1) Elected and appointed members of Provincial Government Councils shall receive, at the end of their term of office, a payment of gratuity and the rate of that gratuity shall be determined by the by-laws made by the Provincial Government Councils.

(2) The gratuity payable to each elected and appointed member under subsection (1) shall not exceed an amount equal to 15 per cent of all monthly allowances received by such member during his term in office.

PART 7– FUNDING OF PROVINCIAL GOVERNMENT COUNCILS

25. *(Repealed)*

26. Determination of administration subsidy

(1) The amount of the administration subsidy shall be determined by the Executive, after consultation with the Minister, each year during the budget session.

(2) The Minister may, by written instrument, stipulate the amount of the subsidy to be allocated to each Provincial Government Region and when and to where the funds are to be distributed in accordance with substantiated accounts provided by the Provincial Government Council.

27. Grants for material supplies

(1) The amount of the equipment grant shall be determined by the Executive, after consultation with the Minister, each year during the budget session.

(2) The Minister may, by written instrument, stipulate the amount of the grant to be allocated to each Provincial Government Region and when and to where the funds are to be distributed, provided however such sums may only be distributed to projects previously approved by the Minister and in accordance with substantiated accounts provided by the Provincial Government Council.

27A. Financial year

The financial year of a Provincial Government Council shall be a period of 12 calendar months commencing on 1 January.

27B. Local Government Fund

There shall be for every Provincial Government Council a fund to be called the "Local Government Fund".

27C. Particulars of the Fund

The fund of a Provincial Government Council shall consist of –

(a) all local taxes lawfully levied by the Provincial Government Council;

(b) fees and charges payable in respect of licences and permits which have been lawfully issued or authorized for issue by the Provincial Government Council, whether under this or any other Act;

(c) all other fees, charges, rents and dues payable to or recoverable by the Provincial Government Council or to which the Provincial Government Council is entitled under the provisions of this or any other law;

(d) all fines, penalties and forfeitures recovered by the Council under the provisions of this Act or any other written law or declared to form part of the revenues of or directed to be paid to the Council by the provisions of any written law;

(e) all charges or profits arising from any trade, service or undertaking carried on by the Provincial Government Council in exercise of the powers vested in it;

(f) interest on moneys invested by the Provincial Government Council, except where other provision is made in respect thereof under the provisions of this or any other law;

(g) grants paid by the Government under sections 26 and 27;

(h) all rents from lands leased by the Provincial Government Council;

(i) such other revenues as the Minister responsible for finance may declare in writing to be revenues for the purposes of this section;

(j) all moneys received by way of a duly authorized loan;

(k) gifts and legacies;

(l) proceeds from the sale of Provincial Government Council property;

(m) any other unusual or temporary income.

27D. Expenditure

A Provincial Government Council may, subject to the provisions of this or any other law, expend moneys in the proper exercise of its duties and powers and in the proper performance of matters necessarily incidental thereto or arising there from, and for the purpose of meeting its lawful debts and obligations.

27E. Power to raise loans

(1) A Provincial Government Council may from time to time, –

(a) with the consent of the Minister responsible for finance;

(b) and with the approval of the Head of the Department of Finance, which approval may only be made on the Head being satisfied that a study has shown that the project for which the loan is being sought is viable,

raise loans by way of mortgage, issue of stock, or any other method, in such amounts not exceeding VT 100,000,000 (one hundred million) and on such conditions as the Minister responsible for finance in each case, may approve and all such loans shall be charged upon the revenues and assets of the Provincial Government Council and shall rank equally without priority.

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

27F. Trust Fund

(1) There is hereby established a fund to be known as the "Trust Fund" for each Provincial Government Council.

(2) Not less than 5% of the National Government grant to each Provincial Government Council each year shall be deposited in the Trust Fund.

(3) The purpose of the Trust Fund is to provide guarantee for loans provided for under section 27E.

(4) Interest accumulating from the Trust Fund shall be taken to be part of the Fund and shall not be used in any way whatsoever.

27G. Bank account

(1) All moneys belonging to a Council shall be paid into such bank as the Council may from time to time appoint.

(2) Subject to the provisions of section 27H, all moneys paid by a Council shall be drawn from the Council's bank by cheque signed by –

(a) the Chairman; or

(b) the deputy chairman; or

(c) one councillor authorized in that behalf by the Council,

and countersigned by the Secretary.

27H. Imprest account

(1) A Council may by resolution establish an imprest account which shall be kept at the bank at which the Local Government Fund account is kept.

(2) The imprest account shall be held jointly in the names of, and operated by, the Secretary and the treasurer.

(3) The Council shall from time to time fix the maximum amount that may be held at any time in an imprest account.

(4) Moneys in the imprest account shall be available only for the payment of casual wages and for emergency expenditure.

(5) A statement of all payments made from the imprest account shall be submitted to the Council at its first ordinary meeting after such payments have been made.

27I. Estimate of expenditure

(1) Every Provincial Government Council shall on or before the annual meeting to be held during the month of November in every year, prepare and approve an estimate of the income and expenditure of the Council for the next succeeding year. Such estimate must comprise a balanced budget.

(2) Every Provincial Government Council may at any time during the year for which an estimate has been made cause a revised or supplementary estimate to be prepared and, where appropriate submitted for approval.

(3) Re-appropriation of funds referred to in an estimate may be made from time to time with the approval of the Council.

(4) No expenditure of local government funds shall be incurred except by or under a law.

27J. Failure to approve estimate of expenditure

Where a Provincial Government Council's estimate of expenditure for its succeeding financial year remains not approved by 31 December the Minister with the approval of the Minister of Finance shall by order issue the draft estimate as the approved estimates of the Provincial Government Council for its ensuing year.

27K. (*Repealed*)

28. *(Repealed)*

PART 7A – ACCOUNTS AND AUDIT

28A. Accounts

Every Provincial Government Council shall –

(a) cause proper books and accounts to be kept and true regular records entered therein of all financial transactions of the Provincial Government Council;

(b) have a general account which shall be kept and credited with all moneys not required by this Act or otherwise to be carried to any other account and debited with expenditure in payment of the general debts and liabilities of the Council which are not included in any special appropriation and of the general expenses incident to the administration of this Act and the affairs of the Provincial Government Council;

(c) have separate accounts which shall be kept of all moneys raised or levied for or appropriated or allocated to or held in trust for any special purpose.

28B. Transfer from general fund to meet deficiencies

If the balance in any of the separate accounts referred to in paragraph (c) of section 28A is at any time insufficient to meet the lawful charges thereon, the Council may, subject to the approval of the Minister, transfer such sums as are necessary from the general account to meet such charges and may at any time repay such advances out of any excess in the receipts over the liabilities of any such account, but no transfer shall be made from any one to any other of such separate accounts.

28C. Audit

(1) A Provincial Government Council may subject to the approval of the Auditor-General appoint a fit and proper person to be the auditor of the Provincial Government Council at such rate of remuneration as the Provincial Government Council may determine for the purpose of auditing and reporting on the accounts of the Provincial Government Council.

(2) If the Auditor-General so directs, a Provincial Government Council shall reimburse to the Government such sum in respect of the Auditor-General's expenses as the Minister may fix.

(3) A Provincial Government Council shall –

(a) produce to the auditor within 3 months of the conclusion of the year to which they relate all the books and accounts of the Provincial Government Council together with all deeds, contracts, documents, receipts and vouchers relating thereto;

(b) permit the auditor to inspect all stores and other assets of the Provincial Government Council as he may require; and

(c) give to the auditor such information, explanation and facilities as he may require to be given to enable him to perform the duties of an auditor.

(4) It shall be the duty of the auditor to report to a Provincial Government Council not less than once in each year separately in respect of each of the following matters, that is to say, whether or not –

(a) he has obtained all such information, explanation and facilities as he may have required to be given to enable him to perform the duties of an auditor;

(b) the accounts of the Provincial Government Council are in order and present a true view of the financial position of the Provincial Government Council;

(c) separate accounts of all undertakings and other accounts required to be kept by the provisions of this Act have been kept;

(d) due provision has been made for redemption and repayment of all moneys borrowed by the Provincial Government Council;

(e) due provision has been made for depreciation or renewal of the assets of the Provincial Government Council.

(5) In addition to the report required under subsection (4) the auditor shall report to the Minister and to the Provincial Government Council any matter or thing which is discovered during the course of the audit and which appears to have been done or performed without due authority.

(6) The Secretary shall –

(a) within 30 days of the receipt of the auditor's report on the accounts of the Provincial Government Council for any year submit the accounts together with such report to the Minister; and

(b) lay the accounts of the Provincial Government Council for each year together with the auditor's report thereon before the Provincial Government Council within 30 days of the receipt of such report or if the Council is not sitting, at its next meeting.

28D. Powers of auditor to require production of documents

(1) For the purpose of any audit, an auditor may by notice in writing require any person holding or accountable for any books, records, accounts, vouchers, deeds, contracts or other documents which he may require for the purpose of such audit or examination to appeal before him at the time and place specified in the notice and to produce any such document as aforesaid for his inspection.

(2) Any such person who fails without reasonable cause to appear and produce any such documents when required so to do shall be guilty of an offence and shall be liable on conviction to a fine not exceeding VT 50,000.

28E. Auditor to report errors and deficiencies
If the auditor finds the account or statement submitted for audit to be erroneous or deficient in any particular, he shall –

(a) report thereon, and forward a copy of his report and findings, to the Minister; and

(b) forward a copy of his report by registered post to the Secretary.

28F. Matters required to be mentioned in report
The auditor shall, in respect of the accounts for the full financial year, satisfy himself –

(a) whether or not in his opinion –

(i) due provision has been made for the repayment of loans;

(ii) the value of assets has, so far as the auditor can judge, been in all cases fairly stated;

(iii) due diligence and care has been shown in the collection and banking of income;

(iv) the expenditure incurred has been duly authorized, vouchered and supervised;

(v) any of the moneys or others properties of the Council have been misappropriated or improperly or irregularly dealt with; and

(b) as to any other matters which in his judgment call for special notice or are prescribed.

28G. Auditor may take legal advice
The auditor may at the expense of the Council obtain and act upon legal opinion on a question arising in the course of an audit.

28H. Destruction of any books, etc.
A Provincial Government Council may, with approval of the auditor, destroy used or obsolete receipt books, bank pass books or statements, cheque books, registers, cash books and documents relating to the accounts of the Council if they have not been in use for more than six years.

28I. Annual statement
An annual statement showing the financial position as regards the general and special accounts of the local government fund in a form approved by the Minister shall be prepared by each Council on or before the 31st day of May in every year showing the assets and liabilities of the Council on the 31st day of December immediately preceding and the income from all sources and expenditure during the immediately preceding year. This statement shall be audited and if found correct shall be certified by the auditor as correct and a copy thereof shall be displayed at the Provincial Government Council office.

PART 8 – PROVINCIAL GOVERNMENT COUNCIL BUDGET

29. Preparation and approval of budget
The Provincial Government Councils shall approve their own budget in the form of an order. The draft budget, as has been prepared by the Chairman, shall be tabled with the Provincial Government Council not later than 1st October of each year.

30. Council to approve true balanced budget
The Council shall approve a true balanced budget. No additional expenditure shall be allowed unless it is offset by new revenue or an equivalent cut in the approved budget.

31. Failure to approve budget

(1) If the Provincial Government Council fails to approve the budget during its budgetary meeting or, at the latest, by midnight on 31st December, the Minister shall issue an order duly countersigned by the Minister responsible for Finance to release the draft budget.

(2) The ministerial order shall come into force on the date of its publication in the Official Gazette.

PART 9– MISCELLANEOUS AND TRANSITIONAL PROVISIONS

32. Election and appointment of members

(1) Elections for Provincial Government Councils shall be held during 1994.

(2) Appointment of members of the Provincial Government Councils shall be made within 3 weeks following the date of the election under subsection (1).

(3) The Prime Minister may in order to provide for election for the Provincial Government Councils under this Act, dissolve any Provincial Government Council which continues to be in existence after the commencement of this Act, in pursuance of section 36 of this Act.

(4) The date for the elections of the Provincial Government Councils shall be established by the Electoral Commission in consultation with the Minister.

33. Department to assist and advise the Minister

The Department shall be responsible for assisting the Minister and advising Provincial Government Councils on matters relating to this Act.

34. Provisions not to be applicable within Municipalities and their boundaries

(1) The provisions of this Act shall not apply within Municipality boundaries and Municipalities are deemed not to be included in any Provincial Government Region.

(2) In subsection (1) "Municipality" means a municipality established under the Municipalities Act [Cap. 126].

35. Regulations made by the Minister

The Minister may make regulations not inconsistent with this Act, for and in respect of matters necessary for the better carrying out of the provision of this Act.

36. Repeal and savings

(1) The Decentralization Act [Cap. 127] is hereby repealed.

(2) Notwithstanding the repeal of the Decentralization Act [Cap. 127]:

(a) Provincial Government Councils established under that Act shall continue to be in existence and the members of those Councils shall continue to remain in office until those Councils are dissolved by the Prime Minister under section 32(3) of this Act;

(b) All regional laws and any statutory orders made under the Decentralization Act [Cap. 127] and in force immediately prior to the coming into operation of this Act, shall so far as they are not inconsistent with the provisions of this Act, continue in force until amended or replaced by by-laws or statutory orders, as the case may be, made under this Act.

Table of Amendments

Title of Act	*Substituted by Act 13 of 1997*
1	*Substituted by Act 13 of 1997; amended by Act 17 of 1998; Act 24 of 2010*
2	*Repealed by Act 13 of 1997*
3	*Inserted by Act 24 of 2010; Renumbered by Act 24 of 2010*
4A, 4B, 4C	*Inserted by Act 13 of 1997*
4AA – 4AD	*Inserted by Act 16 of 2013*
4D	*Inserted by Act 16 of 2013*
6	*Repealed by Act 13 of 1997*
8(2), (3)	*Amended by Act 13 of 1997*
8(2), (3)	*Amended by Act 7 of 2007*
8(8)	*Repealed by Act 13 of 1997*
13(3)	*Amended by Act 7 of 2007*
14	*Amended by Act 13 of 1997*
14(2)	*Amended by Act 7 of 2007*
18A-18M	*Inserted by Act 13 of 1997*
18A(2),(3)	*Repealed by Act 41 of 2000*
18AB, 18AC	*Inserted by Act 41 of 2000*
18B(1)(j)	*Inserted by Act 7 of 2007*
18B(1)(j)	*Substituted by Act 35 of 2017*
18BA	*Inserted by Act 35 of 2017*
18E	*Inserted by Act 24 of 2010*
18FA	*Inserted by Act 24 of 2010*
18GA	*Inserted by Act 24 of 2010*
18GB	*Inserted by Act 35 of 2017*
18HA & 18HB	*Inserted by Act 24 of 2010*
18IA	*Inserted by Act 24 of 2010*
18J(1)	*Amended by Act 24 of 2010*
18L(3)	*Amended by Act 7 of 2007*
19	*Repealed by Act 13 of 1997*
20(7)	*Repealed by Act 13 of 1997*
23(1),(3)(i),(3)(ii)	*Amended by Act 13 of 1997*
23(2)	*Amended by Act 14 of 2018*
23(2A) and (2B)	*Inserted by Act 14 of 2018*
23(3)(a)	*Amended by Act 16 of 2013*
23(3)	*Substituted by Act 14 of 2018*
23(4) – (8)	*Inserted by Act 14 of 2018*
23A	*Inserted by Act 14 of 2018*
25	*Repealed by Act 13 of 1997*
26	*Substituted by Act 17 of 1998*
27	*Substituted by Act 17 of 1998*
27A-27K	*Inserted by Act 13 of 1997*
27K	*Repealed by Act 7 of 2007*
28	*Repealed by Act 13 of 1997*
28A-28I	*Inserted by Act 13 of 1997*
31A-31J	*Inserted by Act 17 of 2000*
Part 8A	*Repealed by Act 24 of 2010*
31A	*Inserted by Act 24 of 2010*
31A	*Repealed by Act 17 of 2012*
33	*Amended by Act 24 of 2010*
Whole of the Act	*Amended by Act 37 of 2013 Local Government Council replaced with Provincial Government Council; Local Government Region replaced with Provincial Government Region*