

PASSED in the National Assembly this 24th day of March in the year of Our Lord Two Thousand and One

Ag. Clerk of the National Assembly

CTION

LOCAL GOVERNMENT ACT, 2002

ARRANGEMENT OF SECTIONS

Short title

THIS PRINTED IMPRESSION has been carefully compared by me with the interpretation which has passed in the National Assembly, and found by me to be a true and correct copy of the said Bill.

Ag. Clerk of the National Assembly

PART II - LOCAL GOVERNMENT AREAS

Local Government Areas

Districts

Wards

Factors to be taken into account by the Independent Electoral Commission

Objections to demarcation proposed by the Independent Electoral Commission

Laying before National Assembly

Local Government elections

PART III - LOCAL GOVERNMENT COUNCILS

Establishment

Composition

The Mayor or Mayoress

Election of Chairperson

Qualifications of Chairperson

Functions of Chairperson

Deputy Chairperson

Qualification and disqualification of Councillors

Cessation of office of assets

Removal of Chairperson from office

Right of Appeal

22. Revocation of mandate of Chairperson or member of Council
23. By-elections
24. Emoluments of Chairperson
25. Retirement and pension benefits of Chairperson
26. Offices for Chairperson and Deputy Chairperson
27. Allowances for members of a Council
28. Meetings of the Council
29. Conflict of interest
30. Meeting to be open to the public
31. Language
32. Minutes
33. Rules of procedure
34. Committees of Council
35. Dissolution of Committees or Ad hoc-committees
36. Functions of the Finance Committee
37. Functions of the Establishment Committee
38. Functions of the Development Committee
39. Joint Committees of Councils
40. Expenses of Joint Committees
41. Disqualification for membership of Committees
42. The Chief Executive
43. Functions of the Chief Executive
44. Clerk of the Council
45. Removal of Chief Executive and Clerk
46. Departments
47. Community development staff to be transferred to Councils

PART IV - POWERS AND FUNCTIONS OF LOCAL GOVERNMENT INSTITUTIONS

48. General powers of a Council
49. Devolution of functions from Central Government to Councils
50. Functions to be transferred on request of a Council
51. Devolution to be effected gradually
52. Reversion of devolved powers
53. Delegation of functions from Council to District Authorities
54. Enactment of Council By-laws
55. By-laws may create offences and penalties

1. By-laws may impose fees, etc for services
2. Scope of a By-law
3. Effective date of By-laws
4. Councils not to legislate on judicial powers
5. By-laws for committees
6. Definition of school
7. Power to establish schools
8. Education services
9. Local Education Committee
10. Transfer of existing schools
11. Education By-laws
12. Agricultural services
13. Transfer of agricultural infrastructures
14. Local Agricultural Committee
15. Agricultural staff
16. Other natural resources service
17. Local Natural Resources Committees
18. Secretary of State to designate forests
19. Transfer of existing Central Government staff
20. Transfer of infrastructure
21. Health services
22. Public Health Committee
23. Local Health Officers
24. Definition of secondary road
25. Local Roads Authority
26. Acquisition of land by agreement
27. Acquisition of land compulsorily by Council
28. Appropriation of land by Council
29. Disposal of land by Council
30. Provision of offices, etc. by Council
31. Standing Orders with respect to contracts
32. Emergencies
33. Acceptance of gifts
34. Provision of information on services

PART V - DEVELOPMENT

10. Planning powers
11. Support from Central Government

PART X - MISCELLANEOUS

153. Notice of suit to be given to Council
154. Mode of service on Council
155. Occupier to provide specified particulars
156. Power of entry
157. Persons acting under directions of Council
158. Power of arrest
159. Books to be *prima facie* evidence
160. Appearance of Council
161. Publication of notices
162. Obstruction
163. Corruption and extortion
164. Disobedience to summons
165. General offences
166. General penalties
167. Freedom of speech and proceedings in Council
168. Immunity from proceedings for acts in Council
169. Immunity from service as juror or member of tribunal
170. Immunity from service of process and arrest
171. Immunity from publication of proceedings
172. Privileges of witnesses
173. Contempt of Council
174. Regulations and amendment to Schedules
175. Repeal
176. Transfer of assets and liabilities
177. Existing officers

SCHEDULES

- Schedule I - Local Government Areas
- Schedule II - Functions and services of the Central Government in the Local Governments



THE GAMBIA

NO. 5 OF 2002.

Assented to by The President,

this 17th day of April, 2002.

President.

AN ACT to establish and regulate a decentralised local government system for The Gambia; to make provision for the functions, powers and duties of local authorities and for matters connected therewith

ENACTED by the President and the National Assembly.

PART I - PRELIMINARY

1. This Act may be cited as the Local Government Act, 2002.
2. In this Act, unless the context otherwise requires -

"Alkalo" and "Alkalolu" mean a village headperson or village headpersons, respectively;

"Area" means a Local Government Area;

"Area Administrator" means the public officer appointed under section 123 to represent the Central Government in each Local Government Area and include the Commissioner;

"By-law" means laws made by a Council under this Act;

"Central Government" means the Government of The Gambia;

"Chairperson" means a Chairperson of a Council and includes a Mayor or Mayoress as the case may be;

"Chief Executive" means the Chief Executive of the Council;

"Council" means a City, Municipal or Area Council established under section 10 of this Act;

"Councillor" means a member of the Council;

"Department of State" means the Department of State responsible for the administration of this Act;

"Deputy Chairperson" includes a Deputy Mayor and Mayoress;

"District" means an area demarcated under section 4 of this Act;

"District Authority" means the District Authority established under section 132 of this Act;

"Independent Electoral Commission" means the Commission established under section 42 of the Constitution of the Republic of The Gambia, 1997;

"Local Authority" includes a Council and District Authority;

"Local elector" means a person who is registered to vote in any Local Government Area;

"Local Government Area" means a Division, City, or Municipality as demarcated under Part I of Schedule I to this Act;

"Local Government Authority" means a Council established under this Act;

"Local Government Service" means service in any civil capacity in a Local Government Authority;

"Local Government Service Commission" means the Service Commission established under section 118 for a Local Government Authority;

"misconduct" means conduct which brings or is likely to bring the office which a person holds into contempt or disrepute or any dishonest act or omission affecting money or public property of which a person has charge;

"Provinces" means the Western, Lower River, Central River, North Bank, Upper River Divisions and such other Divisions as may be established;

"public officer" means a person who holds any office in Government or Local Government Service;

"responsible Secretary of State" in relation to any law, matter, or function, means the Secretary of State to whom the administration of that law, matter or function is,

for the time being, assigned and "responsible Department of State" shall be construed accordingly;

"road" has the meaning assigned to it under the Roads and Highways Act as amended from time to time;

"Secretary of State" means the Secretary of State responsible for the administration of this Act;

"Seyfo" means a District Seyfo.

PART II - LOCAL GOVERNMENT AREAS

Demarcation of Local Government Areas

3. (1) For the purpose of local administration, The Gambia shall be divided into the Divisions, Areas, Cities, and Municipalities set out in Part I of Schedule 1 to this Act.

(2) The geographical boundaries of each Local Government Area shall be demarcated by the Independent Electoral Commission on the request of the Department of State.

(3) The geographical boundaries demarcated by the Independent Electoral Commission in accordance with subsection (2) shall be published by an Order in the Gazette and shall, when approved in accordance with section 8 of this Act, be deemed to be Part II of Schedule 1 of this Act.

(4) Notwithstanding any other provision in this Act, powers of the Independent Electoral Commission to demarcate boundaries shall be done on the request of the Department of State for Local Government Lands.

4. (1) The Independent Electoral Commission shall, by Order published in the Gazette, further divide each Division into such districts as the Independent Electoral Commission may deem expedient and may alter or vary them in such manner as may be convenient.

(2) An Order made by the Independent Electoral Commission under subsection (1) shall, when approved in accordance with section 8 of this Act, be deemed to be Part III of Schedule 1 to this Act.

5. (1) For the purpose of electing representatives to each Local Government Authority, the Independent Electoral Commission shall divide a Local Government Area into such number of Wards as the Independent Electoral Commission shall determine.

(2) The Independent Electoral Commission shall, before each Local Government elections, review the existing Wards for the purpose of determining whether or not there is need to vary the boundaries of any Ward.

(3) Any Order made by the Independent Electoral Commission under this section shall, when approved in accordance with section 8 of this Act, be deemed to be Part IV of Schedule 1 to this Act.

6. (1) In exercising its powers under section 3, 4 and 5 of this Act, the Independent Electoral Commission shall seek the views of the local inhabitants of the area to be demarcated, and shall disregard any consideration of the ethnic origin of the inhabitants and shall consider factors including -

- (a) the density of the population;
- (b) geographical features;

(c) the boundaries of existing Local Government Areas, and

(d) economic potential.

(2) For the purpose of this section -

"economic potential" means the ability of a Local Government Area to provide the basic infrastructure and other developmental needs from human, financial and other resources generated in the area.

7.(1) Any person who has any objection to the manner in which a ward, district or Local Government Area in which the person is resident has been demarcated by the Independent Electoral Commission, within fourteen days of the publication of the Order of the Independent Electoral Commission under section 4 or 5, submit the objection to the Independent Electoral Commission.

(2) The Independent Electoral Commission shall consider and take into account any objection made under subsection (1) and may, in consultation with the Secretary of State, revise its findings and amend its Orders accordingly.

8. An Order made by the Independent Electoral Commission under section 3, 4 or 5 shall be laid before the National Assembly at its next meeting after the Order had been made and shall come into effect approved by the National Assembly and published in the Gazette.

9. Local Government elections shall be held every five years for the election of members of Local Government Authorities, provided that there shall be at least twelve months between any local government election and the elections to the National Assembly.

Objections to demarcation proposed by the Independent Electoral Commission

Laying Orders before the National Assembly

Local Government elections

PART III - THE LOCAL GOVERNMENT COUNCILS

The Councils

10. (1) There shall be established for the Local Government Areas set out in Column A of Part 1 of Schedule 1, the Councils listed in Column B of that Part which shall be constituted and have such functions as are vested in it by this Act.

(2) Each Council shall be a body corporate by the name "Area Council", "Municipal Council" or "City Council", as may be appropriate, preceded by the name of the Local Government Area for which the Council is established.

(3) Each Council shall have perpetual succession and a common seal with power to sue and be sued in its corporate name.

(4) The Secretary of State may, by Order published in the Gazette, establish such additional Councils as he or she may deem necessary for the administration of a Local Government Area.

11. (1) The Council shall consist of -

(a) a Chairperson elected in accordance with section 13;

(b) a member from each Ward elected by the Ward;

(c) except in the case of the City of Banjul -

(i) a Seyfo representative member selected by all the District Seyfolu, or

(ii) in the case of a Municipality, Alkalo representative selected the Alkalolu in the Municipality;

(d) a Chief representative member elected District Seyfolu or in the case of a Municipality, a representative of the Alkalolu in the Municipality;

(d) a youth nominated to represent the youth of the Area;

(e) a woman nominated to represent women in the Area whenever more than one-third of the members elected in the Area are male;

(f) nominated members, consisting of not more than one-fifth of the elected members of the Council, representing local, commercial, social interest groups.

(2) Nominated members shall be proposed by the organisations or interest groups they represent, appointed by the Chairperson with the concurrence of the Secretary of State.

The Mayor or Mayoress

12. The Chairperson of a City Council or Municipal Council shall be known as the Mayor or Mayoress, in the case may be.

Election of Chairperson

13. (1) A Chairperson shall be elected by universal suffrage of all eligible voters in the Local Government Area.

(2) The term of office of the Chairperson shall be for four years.

(3) A Chairperson shall be eligible for re-election for two further terms of office only.

14. (1) A person qualifies to be elected Chairperson if he or she holds the qualifications prescribed for Council members under subsection (1) of section 17 and is not disqualified under subsection (3) of that section, and in addition -

- (a) is at least a secondary school graduate; and
- (b) is not less than thirty years old.

(2) A Chairperson shall, unless he or she resigns or becomes disqualified, continue in office until his or her successor becomes entitled to act as Chairperson.

15. (1) A Chairperson shall be the political head of the Local Government Area and shall -

- (a) preside at Council meetings;
- (b) supervise the general administration of the Area; and
- (c) perform such other functions as may be imposed on the Chairperson by this or any other enactment that may be necessary for the efficient conduct of the business of a Council.

(2) The Chairperson shall be answerable to the Council in the performance of his or her functions and shall uphold the Constitution, the Council's By-laws and the laws of The Gambia.

(3) The Chairperson shall submit to the Council an annual report on the state of affairs of his or her Local Government Area.

Deputy
Chairperson

16. (1) A Council shall elect a Deputy Chairperson from among the Councillors who shall serve for the term of the Council unless removed from office and may be eligible for re-election for one further term of office only.

(2) The election of a Deputy Chairperson shall be the business transacted at the first meeting of a Council after a Local Government Election.

(3) A Deputy Chairperson may be removed from office by resolution supported by a simple majority of members of the Council.

(4) The Deputy Chairperson shall -

(a) perform such functions as are conferred on him or her by this Act or are assigned to him or her by the Chairperson; and

(b) in the absence of the Chairperson, perform functions of the Chairperson.

17. (1) A person qualifies to be elected or nominated as a member of the Council if he or she -

(a) is a citizen of The Gambia and is not less than 21 years of age;

(b) is a registered voter;

(c) is ordinarily resident in the Local Government Area in which he or she seeks election;

(d) is able to speak the English language to a degree of proficiency sufficient to enable him or her to take part in the proceedings of the Council;

(e) has made a declaration of his or her assets required by section 4(7) of the Elections Decree, 1996, as amended; and

Qualification
and disqualifi-
cation of
Councillors

(f) has paid all his or her taxes and rates or made arrangements satisfactory to the appropriate authority for the payment of his or her taxes and rates and has been issued with a certificate to that effect by the Commissioner of Income Tax or the appropriate rating authority as required by section 42(7) of the Elections Decree, 1996, as amended.

(2) For the purposes of paragraph (c) of subsection (1) of this section, a person shall be deemed to be ordinarily resident in a Local Government Area if, within the four years prior to the holding of the elections or his or her nomination to the Council, he or she has lived in the area for an aggregate period of not less than twelve months.

(3) A person shall not qualify to be elected or nominated as a member of a Council if he or she -

(a) is of unsound mind;

(b) has been sentenced to death or imprisonment for an offence involving fraud, dishonesty or violence or has been convicted of an offence relating to or connected with elections under any enactment in force in The Gambia at the time;

(c) being a professional person, he or she is disqualified from practising his profession on grounds of malpractice, fraud or dishonesty by the competent professional body;

(d) is a person exempted from payment of rates under any enactment;

(e) is a member of a disciplined force;

(f) is a Member of the National Assembly;

(g) a District Seyfo or an Alkalo, except a District Seyfo or an Alkalo selected pursuant to section 11(1)(c) of this Act;

(h) is an undischarged bankrupt;

(i) is a person holding judicial office; or

(j) is a member of the Independent Electoral Commission.

(4) Subsections (1) (c) and (2) of this section shall not apply to the Chairperson.

(5) Subject to subsection (3) of this section, no person shall be disqualified from being elected or nominated to a Council by reason only of his or her status, position, profession, religion, creed, ethnic origin, race, occupation, traditional standing, gender or physical disability.

(6) Notwithstanding paragraph (b) or (c) of subsection (3) of this section, a person shall qualify to be elected or nominated to a Council if ten years have elapsed since the end of a sentence or disqualification or if he or she has been pardoned.

(7) No person shall -

(a) be eligible for election to a Council for more than two terms of office;

(b) be eligible for nomination to a Council for more than two consecutive terms of office; or

(c) at any one time, be a member of more than one Council.

(8) A Councillor shall hold office for a term of four years and be eligible for re-election.

Declaration of assets
18. The Independent Electoral Commission shall prescribe the form in which declaration of assets shall be made by candidates to the office of Chairperson or Councillor.

Cessation of office of members of Council
19. (1) Subject to subsection (2) of this section, a person shall cease to be a member of a Council -

(a) upon his or her death;

(b) upon revocation of his or her original mandate and shall be disqualified from standing as a candidate for the two terms immediately following the revocation;

(c) if by writing addressed to the Chairperson of the Council he or she resigns as a member;

(d) if he or she becomes disqualified under any of the circumstances specified in subsection (3) of section 17 of this Act;

(e) if he or she is removed from office under section 22 of this Act; or

(f) if he or she absents himself or herself from more than three consecutive ordinary meetings of the Council without the written permission of the Chairperson of the Council.

(2) The Council shall, upon a complaint made to it that a member of the Council is disqualified under paragraph (d) or (f) of subsection (1) of this section, appoint an ad-hoc committee to investigate the complaint.

(3) An ad-hoc committee shall consist of such members as the Council may determine.

(4) The ad-hoc committee shall submit a report on its findings to the Council within the period specified by the Council on its appointment.

(5) Where the Council, after studying the report is satisfied that a member is affected by paragraph (d), (e) or (f) it shall, by resolution, decide that the member shall cease to be a member of the Council.

(6) A member of the Council who is aggrieved by a decision of the Council that he or she should cease to be a member of the Council may have recourse to the High Court.

20. (1) Subject to subsection (2), a Chairperson may be removed from office by a Council by a resolution supported by two-thirds of all the members of the Council on any of the following grounds -

(a) abuse of office;

(b) corruption;

(c) misconduct; or

(d) such physical or mental incapacity as would render him or her incapable of discharging the duties of office.

(2) For the purposes of removing the Chairperson under subsection (1) of this section, a notice in writing signed by less than two-thirds of all members of the Council shall be submitted to the Deputy Chairperson -

(a) stating that they intend to pass a resolution to remove the Chairperson on any of the grounds set out in subsection (1);

(b) setting out, in the case of removal under subsection (1), other than paragraph (d), the particulars of the charge, supported by necessary documents, where applicable, on which it is claimed that the conduct of the Chairperson be investigated for the purpose of removal.

(3) The Deputy Chairperson shall, within twenty-four hours of receipt of the notice referred to him or her under subsection (1), cause a copy to be transmitted to the Chairperson, the Chief Justice and the Secretary of State.

(4) The Chief Justice shall, within seven days after receipt of notice under subsection (3), constitute a Tribunal comprising such number of Judges of the High Court as the Chief Justice determines to -

(a) investigate the allegations contained in the notice and

(b) report its findings to the Council, stating whether or not there is a case for the removal of the Chairperson.

(5) The Chairperson is entitled to appear at the proceedings of the Tribunal and to be represented by a legal practitioner or other expert or person of his or her own choice.

(6) If the Tribunal determines that there is a *prima facie* case for the removal of the Chairperson under subsection (1), other than under paragraph (d), the Chairperson shall cease to hold office.

(7) For the purpose of removing the Chairperson under paragraph (d) of subsection (1), the resolution submitted to the Deputy Chairperson under subsection (2) shall -

(a) state that it is intended to remove the Chairperson on grounds of physical or mental incapacity; and

(b) give particulars of the alleged incapacity.

(8) In the case of removal under paragraph (d) of subsection (1), the Chief Justice shall, within seven days after the receipt of the notice transmitted under subsection (3), and in consultation with the Director of Medical Services, constitute a Medical Board comprising three qualified medical specialists -

(a) to examine the Chairperson in respect of the alleged incapacity; and

(b) report its findings to the Council.

(9) The Medical Board shall examine the Chairperson within fourteen days after it is constituted.

(10) The Chairperson shall submit himself or herself to the Medical Board for examination on a day and time determined by the Board.

(11) The Chairperson shall cease to hold office, if the Medical Board -

(a) determines that the Chairperson is by reason of physical or mental incapacity unable to perform the functions of his or her office; or

(b) reports that the Chairperson has failed or refused to submit himself or herself to the Medical Board examination.

(12) Failure by the Deputy Chairperson to convene a meeting of the Council within fourteen days after receipt of the report of the Medical Board, or by the Council to move the resolution for the removal of the Chairperson within fourteen days after receipt of such report, shall render the resolution time-barred provided that where the Deputy Chairperson fails to convene a meeting of the Council, a meeting may be convened by a two-thirds majority of the members of the Council.

(13) The expenses of the Tribunal and Medical Board shall be met by the relevant Council.

Right of appeal
21.(1) A Chairperson who is removed from office on the grounds set out in subsection (1) (a), (b) or (c) of section 20, may appeal to the Court of Appeal within fourteen days of the decision of the Tribunal removing him or her.

(2) The decision of the Court of Appeal on any appeal by a Chairperson under subsection (1) shall be delivered within ten days of the filing of the appeal and shall be final.

Revocation of mandate of a Chairperson or member of Council
22.(1) Subject to this section, the mandate of a Chairperson or an elected member of a Council may be revoked by the electorate.

(2) For the purpose of revoking the mandate of the Chairperson or an elected member of a Council, at least fifty per cent of the registered voters in the electoral area shall petition the Independent Electoral Commission for the revocation.

(3) On receipt of the petition referred to in subsection (2), the Independent Electoral Commission shall organise a referendum to decide the issue whether or not such Chairperson or member shall be recalled.

(4) The issue at the referendum shall be decided if at least -

(a) fifty per cent of the registered voters in the electoral area vote on the issue; and

(b) sixty per cent of the votes cast are in favour of the recall of the Chairperson or member.

(5) The nomination of a Nominated Member of a Council may be revoked by the Secretary of State in consultation with the Chairperson -

(a) in the exercise of his or her discretion on grounds which shall be stated;

(b) on the recommendation of three-quarters of the members of the Council, on grounds that the member has -

(i) systematically neglected his or her duties,

(ii) committed acts incompatible with his or her office as a member of the Council for which sufficient evidence is available; or

(c) on a complaint made of wrong doing or improper conduct which is established to be true after investigation by an ad-hoc committee of the Council.

(6) Where the appointment of a Nominated Member of a Council is revoked, another person representing the same interest may be nominated in his or her place.

(7) Where a person is nominated under subsection (6) of this section he or she shall serve the remainder of the term of the member whose nomination has been revoked, and may be re-nominated.

By-elections

23. Where an elected member of a Council ceases to hold office under sections 19 to 22 of this Act, a by-election shall be held within two months to elect another person to replace her, except that where he or she ceased to hold office within months before the end of his or her tenure of office, the election shall be held.

Emoluments of Chairperson

24. The emoluments of a Chairperson shall be determined by an Act of the National Assembly.

Retirement and pension benefits of Chairperson

25. (1) Subject to subsection (2), a Chairperson shall be entitled to retirement benefits from the resources of the Council if he or she has served at least four years in office and is not removed from office, other than for physical or mental incapacity.

(2) A Chairperson shall be entitled to pension if he or she has served a continuous period of twelve years as Chairperson of the Council.

(3) The pension rights or other retirement benefits of a Chairperson shall not be altered to his or her disadvantage if he or she has ceased to hold office.

Offices for Chairperson and Deputy Chairperson

26. A Council shall provide offices from which the Chairperson and the Deputy Chairperson shall discharge their functions.

Allowances for members of a Council

27. The Secretary of State shall, by regulations, determine the allowances and any other benefits which shall be paid by a Council to its members.

Meetings and Proceedings

Meetings of the Council

28. (1) A meeting of a Council shall be convened at least once in every month by the Chairperson and at such other times as the Council may prescribe.

(2) Decisions of a Council shall be by simple majority of the elected members present and voting and in the event of an equality of votes the Chairperson or Mayor or Mayoress shall have a casting vote.

(3) Nominated and selected members of the Council shall not have the right to vote at Council meetings.

(4) Two-thirds of the members shall constitute a quorum.

(5) The validity of proceedings of a Council shall not be affected by a vacancy among its members or by a defect in the election, nomination or qualification of a member.

(6) A Council may, at any time, summon any public officer in its Local Government Area to attend any of its meetings to provide such information or assistance as the Council may reasonably request.

29. (1) No member of a Council shall take part in the discussion of any matter before a Council or a Committee of a Council in which he or she may directly or indirectly, have any pecuniary interest.

(2) No member of a Council shall receive, exact or accept any fee or reward whatsoever for or on account of anything done or to be done by him or her by virtue of this Act, or on any account whatsoever relating to this Act.

(3) A member who contravenes subsection (2) commits an offence and, in addition to any proceedings which may be instituted for his or her removal, is liable to a term of imprisonment not exceeding six months or to a fine not exceeding five thousand dalasis.

30. Every meeting of a Council, other than a committee meeting, shall be open to the public.

Language

31. A Council may conduct its business in English and Gambian language common to the communities within the Government Area.

Minutes

32.(1) Minutes of all meetings of a Council shall be recorded and kept in the English language.

(2) Copies of all minutes of meetings of Council shall be made available for inspection by members of the public.

Rules of procedure

33. The Council shall prescribe standing orders to regulate its proceedings and those of any of its committees and the conduct of its members.

Committees of Council

Committees of Council

34.(1) A Council shall establish the Committees referred to in Part IV and the following other Committees -

- (a) Finance;
- (b) Establishment;
- (c) Development; and
- (d) such other Committees as the Council may deem fit.

(2) Each Committee shall consist of such members of the Council, which shall not be more than one third of their number and such other persons, as it shall determine.

(3) The term of office of the Committee shall be determined by the Council.

(4) A Committee may co-opt any person whose contribution is deemed essential, provided that a person so co-opted shall have a right to vote.

(5) A Committee may establish such Ad hoc-committees as it may deem necessary for the efficient conduct of its business to which the committee may delegate any of its functions as it may deem expedient.

(6) Heads of Departments of the Council or other authorised officers shall attend meetings of the committees and Ad hoc-committees and shall advise them on the execution of their functions, but shall not have a right to vote.

(7) Subject to such procedural rules as a Council may prescribe, a Committee or Ad hoc-committee shall regulate its own procedure.

(8) A Council may, subject to the provisions of this Act, delegate such of its functions to a Committee as it deems fit.

(9) The delegation of any functions of a Council to a Committee shall not prevent the Council from exercising those functions.

35. (1) A Council may by resolution of two-thirds of its members dissolve a Committee if it is satisfied that the Committee is not performing efficiently the functions assigned to it under this Act or by the Council.

(2) For the purposes of subsection (1), a Committee shall be deemed not to have performed its functions efficiently if its action or omissions -

- (a) bring or are likely to bring the Council into disrepute, ridicule, hatred or contempt; or
- (b) are prejudicial or inimical to the economic, social or political development of the Local Government Area or the national interest.

(3) A Committee may at any time dissolve an Ad hoc-committee established by it.

Functions of
the Finance
Committee

36. A Finance Committee shall, subject to this Act and any other enactment, be responsible for –

- (a) reviewing the estimates of its Council;
- (b) considering and making recommendations on any financial matter to be laid before its Council;
- (c) offering advice on the fiscal policies of its Council;
- (d) keeping under review the financial policy of its Council and advising its Council on the policy; and
- (e) such other functions as its Council may delegate or assign to it.

Functions of
the Establishment
Committee

37. The Establishment Committee shall, subject to this Act and any other enactment, be responsible for –

- (a) recommending to its Local Government Service Commission the appointment, dismissal, conditions of service and discipline of officers and other employees of its Council and any matters connected therewith; and
- (b) such other functions as its Council may deem fit.

Functions of
Development
Committees

38. The Development Committee shall be responsible for –

- (a) co-ordinating plans and programmes of development in its Area;
- (b) promoting economic, social, spatial and human settlement policies relating to the development of its Area;

- (c) harmonising development policies of its Area with national development policies;
- (d) integrating and co-ordinating the processes of planning, programming and implementation;
- (e) initiating and implementing development programmes and projects;
- (f) monitoring and evaluating all policies, programmes and projects of development; and
- (g) such other functions as the Council may deem fit.

39. (1) Subject to subsection (2) of this section, two or more Councils may discharge any of their functions jointly and any such arrangements may include the discharge of those functions, or, the implementation of any project in which they are interested, by a Joint Committee of the Councils.

- (2) The power to levy rates or other taxes or to borrow money shall be exercised solely by a Council.
- (3) This section shall not authorise a Council to arrange for the discharge, by any Joint Committee or Ad hoc committee, of any functions which by this or any other enactment is required to be discharged by the Council or a specified Committee.

40. The expenses incurred by a Joint Committee of two or more Councils whether appointed or established under this Act or by any other enactment shall be defrayed –

- (a) by those Councils in such proportions as they may agree; or
- (b) in the case of disagreement, as may be determined by a single arbitrator –

- (i) agreed by the appointing authorities, or
- (ii) in default of agreement, appointed by the Secretary of State.

Disqualification
for member-
ship of
Committees

41. (1) A person who is disqualified from being elected a member of a Council shall be disqualified from being a member of a Committee or Ad-hoc committee of the Council or of a Joint Committee.
- (2) A person shall not by reason of his or her being a teacher or being otherwise employed in any educational institution be disqualified from membership of a Committee or Ad hoc committee relating to education.

Administration

The Chief
Executive

42. (1) There shall be a Chief Executive for each Council whose office shall be an Office in the Local Government Service, shall, subject to the provisions of this Act, be subject to the terms and conditions which may be prescribed for the Local Government Service.

- (2) A Chief Executive shall be appointed by a Local Government Service Commission after consultation with the Chairperson who may attend all proceedings and deliberations of the Commission when considering the appointment of a Chief Executive.

- (3) Applications for the office of Chief Executive shall be submitted to the Council for its prior comments.

Functions
of the Chief
Executive

43. (1) The Chief Executive shall manage the affairs of the Council and shall be answerable to the Council and be subject to its direction and control.

- (2) A Chief Executive shall, in the exercise of his or her functions, report to the Chairperson.

- (3) Without prejudice to the generality of the provisions of this section, a Chief Executive shall -

- (a) be an *ex-officio* member of all Committees of the Council;
 - (b) be responsible for the day-to-day performance of the executive and administrative functions of the Council and the implementation of all its decisions;
 - (c) supervise, monitor and co-ordinate the activities of the departments of the Council and ensure accountability and transparency in the management and delivery of the Council's services;
 - (d) be the accounting officer of the Council;
 - (e) be the custodian of all documents and records of the Council; and
 - (f) perform such other functions as are required by this Act, or any other enactment.
44. (1) There shall be a Clerk of each Council who shall be appointed by the Local Government Service Commission.
- (2) The Clerk of a Council shall be responsible for -
- (a) taking minutes of Council meetings;
 - (b) keeping records of Council meetings;
 - (c) organising meetings of the Council and its committees; and
 - (d) discharging such other duties as may be assigned to him or her.

(3) The Clerk shall be answerable to the Chairperson in the performance of his or her functions.

Removal
of Chief
Executive
and Clerk

45. The Council may recommend to the Local Government Service Commission the removal of a Chief Executive or Clerk, as the case may be, on any of the following grounds -

- (a) abuse of office;
- (b) incompetence;
- (c) misconduct; or
- (d) such physical or mental incapacity as would render him or her incapable of performing functions of his or her office.

Departments

46. (1) Subject to subsection (2), a Council shall establish Departments as it shall deem appropriate for the day-to-day execution of its functions.

(2) The Departments of a Council shall include -

- (a) Finance;
- (b) Services;
- (c) Planning and Development; and
- (d) Administration.

(3) The Departments of a Council shall have such terms of reference, and such staff as a Council shall determine.

(4) Each Department shall be headed by a Director who shall be an office in the Local Government Service and subject to the provisions of this Act, be subject to the terms and conditions which may be prescribed for the Local Government Service Commission.

(5) The Directors shall be responsible for the day-to-day implementation of the functions of their Departments and shall, in the performance of those functions, report to the Chief Executive.

47. (1) Subject to subsection (2), the Secretary of State shall, after consultation with the Councils, determine which of the community development staff operating at Local Government level shall be transferred to the Councils.

(2) All persons occupying positions transferred to a Council under subsection (1) shall be deemed to be Local Government Service staff with effect from the date of the transfer, but without prejudice to any rights which have accrued to them or any liability to which they are subject, shall be assumed by, or be due to the Council, as the case may be.

PART IV - POWERS AND FUNCTIONS OF LOCAL GOVERNMENT INSTITUTIONS

General Powers

48. (1) Subject to the provisions of this Act and any other enactment, a Council shall, within its area of jurisdiction -

- (a) exercise all political and executive powers and functions;
- (b) provide services as it deems fit;
- (c) promote on a sound basis community development and self help;
- (d) have power to perform such functions as are necessary to facilitate, or are conducive or incidental to, the discharge of any of its functions;
- (e) protect the Constitution and other laws of The Gambia and promote democratic governance; and

- (f) ensure implementation and compliance with Government policy.

(2) Without prejudice to the generality of subsection (1), a Council shall, in addition to the functions on Councils, a Council shall, in addition to the powers and functions specified in this Part, perform and carry out the functions and services specified under Part II of Schedule II to this Act.

Part II
Schedule II

(3) A Council shall not, by virtue of this section, do anything which requires the approval of any body or person by the Council or any other enactment unless the approval is obtained in accordance with this Act or the enactment.

49. (1) A Secretary of State responsible for any other Department of State may, after consultation with the Secretary of State, devolve functions, services and powers vested in the Department of State to a Council.

(2) A devolution under subsection (1) of this section shall be effected unless -

- (a) the Government and the Council are in agreement;
- (b) adequate human, financial and material resources are made available for the performance of the functions, provision of the services and the exercise of the powers, so devolved; and
- (c) appropriate measures are taken to bring the change to the attention of the public.

Part I
Schedule II

(3) The services and functions specified under Part I of Schedule II shall be exclusive to the Central Government.

50. (1) A Council may, where any provision is made for the devolution of any functions, services or powers under this Act at the discretion of a Secretary of State or any other authority, request that it be allowed to perform the functions, provide the services or exercise the powers.

(2) Where a request made by a Council under subsection (1) is not granted within six months of the submission of the request to the Secretary of State or authority, the request may be made to the President, who shall, within three months of the receipt of the request, determine whether the request ought to be granted.

(3) The decision of the President under subsection (2) of this section shall be final.

51. The devolution of functions, services and powers from the Central Government to Councils shall be effected gradually and shall take into account the capacity of a Council to perform the functions, provide the services and exercise the powers.

52. (1) Where a Secretary of State has reasonable grounds to believe that any function, service or power transferred to a Council is not being effectively performed, provided or exercised, he or she may, after investigation and in consultation with the Secretary of State, submit to the President proposals for addressing the situation, which may include, the performance, provision or exercise by his or her Department, whether temporary or otherwise, of that function, service or power, as the case may be.

(2) The President shall not approve any proposals made by a Secretary of State under subsection (1) of this section without first obtaining the views of the Council concerned.

Delegation
of function
from Council
to District
Authorities
Part II
Schedule II

53. (1) Subject to the provisions of this Part, a Council may delegate to a District Authority or Joint Committee of a District Authority any of the functions specified under Part II of Schedule II to this Act.

(2) A delegation under subsection (1) of this section shall not be effected unless –

- (a) the Council and the District Authority are in agreement;
- (b) the necessary resources are made available for the performance of those functions; and
- (c) the delegation of those functions are brought to the attention of the public.

(3) A delegation under this section shall not prevent the Council from exercising the function and may be revoked as the Council may deem fit.

Legislative Powers

Enactment
of Council
By-laws

54. (1) A Council shall have powers to make laws not inconsistent with the Constitution or any other law made by the National Assembly.

(2) The power of a Council to make laws shall be exercised by the passing of local bills into By-laws signed by the Chairperson.

(3) A local bill passed by a Council shall, before it is signed by the Chairperson, be forwarded to the Secretary of State, who shall request the Attorney General to advise him or her whether or not the local bill is inconsistent with the Constitution or any other law of the National Assembly.

(4) Where the Secretary of State, on the advice of the Attorney General, is of the opinion that the local bill –

(a) is inconsistent with the Constitution or any law of the National Assembly, he or she shall, within ninety days of receipt of the local bill, return it with his or her comments to the relevant Council for modification or other appropriate action;

(b) is not inconsistent with the Constitution or any law of the National Assembly, the Secretary of State shall certify accordingly and return the local bill to the Council to be signed into a By-law by the Chairperson.

(5) A By-law enacted by a Council, certified by the Secretary of State and signed by the Chairperson shall be a By-law of the Council and shall be published in the Gazette and the local media.

(6) The public shall be given access to any By-law passed by a Council.

(7) The procedure for the passing of a By-law by the Council shall be prescribed by regulations made under this Act.

55. A By-law made under section 54 of this Act may –

(a) create an offence for a breach of a provision of the By-law;

(b) prescribe a penalty of a fine not exceeding twenty thousand dalasis or a term of imprisonment not exceeding one year or both in respect of an offence created under paragraph (a);

(c) provide that, where a person is convicted of an offence created by a By-law which prohibits possession of an article, object or thing, the Court may order the forfeiture or destruction of the article, object or thing in addition to the penalty imposed under paragraph (b).

(d) prescribe that in addition to or substitution for a penalty, if the breach is in relation to a condition of a licence or permit under the By-law, the licence or permit be suspended or cancelled;

(e) provide that in addition to the penalty, any expenses incurred by the Council or any person or other public body as a result of the breach, provision of a By-law or non-performance of a requirement under the By-law, shall be paid by the person or body convicted and the expenses shall be recovered summarily as a civil debt.

By-laws may impose fees, etc for services

56. A By-law made under section 54 of this Act may prescribe fees or charges equivalent to full cost recovery in relation to any act done or to be done or service provided under the By-law and may require any act to be done or performed to the satisfaction of a prescribed person or body.

Scope of a By-law

57.(1) A By-law may be made to apply to the whole Local Government Area or any part of it or to a particular section of the people or a profession and the power to make By-laws shall include power to regulate different matters in respect of different parts in the Local Government Area.

(2) For the avoidance of doubt, no By-law shall be made in respect of any matter or issue for which an adequate provision is made under the Constitution or any law passed by the National Assembly except for the purpose of reference, in which case the By-law shall reproduce the provisions of the Constitution or law in its entirety.

Effective date of By-laws

58. The effective date of a By-law made under this Act shall be the date it is signed by the Chairperson or as may be provided in the By-law.

59. A Council shall have no power to make any By-law relating to the establishment or administration of courts or to the exercise of judicial powers.

60. A Council may make By-laws for the guidance of its local committees, District, Ward or Village Committees within its jurisdiction.

Education

61. For the purposes of this heading and unless the context otherwise requires -

"school" means an assembly of not less than ten pupils meeting for the purpose of receiving regular instructions, and includes the following -

- (a) basic cycle schools grades 1 to 9;
- (b) lower basic schools grades 1 to 6;
- (c) upper basic schools grades 7 to 9;
- (d) secondary schools grades 10 to 12;
- (e) non-formal education schools;
- (f) madarasas; and
- (g) early childhood care centres for development and growth.

62. From such date as the responsible Secretary of State shall appoint, the sole authority within a Local Government Area for the establishment of such categories of schools as shall be specified, shall be the Council for the Area.

Education
services

63. A Council shall, within its area of jurisdiction -

- (a) ensure that schools are established and operated in accordance with the Education Act for the time being in force and national policy guidelines;
 - (b) ensure that the establishment and management of Council schools are properly monitored and supervised;
 - (c) monitor the establishment and operations of categories of schools, other educational institutions, training facilities, (whether private or public) to ensure compliance with national policy guidelines;
 - (d) encourage the establishment of income generating and skills enhancing projects or programmes in schools; and
 - (e) carry out such other functions as the responsible Secretary of State shall, by regulations, prescribe.
64. (1) There shall be a Local Education Committee for each Local Government Area through which the Council shall perform the functions specified under section 63 of this Act.
- (2) The members of a Local Education Committee shall be appointed by the Council after consultation with the responsible Secretary of State and shall comprise -
- (a) a Chairperson appointed by the Council;
 - (b) the Principal Education Officer;
 - (c) the officer of the Council in charge of educational matters;

- (d) two women to represent women groups in the Area;
 - (e) three persons to represent organisations closely involved in the development of education in the Area;
 - (f) three persons professionally qualified in education; and
 - (g) such other persons as the Council shall determine.
65. (1) The responsible Secretary of State may, on such date as he or she shall by Order published in the Gazette appoint, direct that any Government school within a Local Government Area shall be transferred to and be under the jurisdiction of the Council.
- (2) Any order made under subsection (1) shall make provision for:
- (a) the transfer of the land and buildings of the school;
 - (b) the employment, service and pension rights of teachers; and
 - (c) such other provisions as shall facilitate the efficient transition of the school from a Government to a Local Government school.
66. Subject to such regulations as the Secretary of State may prescribe, a Council may make By-laws for -
- (a) the fees to be paid by pupils of schools, other than private schools;

(b) the maintenance and use of school buildings, premises and play grounds, and their equipment, furnishing, and for all matters connected therewith and

(c) the condition for the award of scholarships and bursaries.

Agriculture

67. (1) Every Council shall be responsible for providing agricultural services to the communities within its jurisdiction in accordance with national policy guidelines.

(2) Without prejudice to the generality of subsection (1), Council shall -

- (a) provide extension services for the delivery and promotion of agricultural and natural resource information;
- (b) operate extension centres at such levels as it may deem necessary;
- (c) participate in and promote research and planning;
- (d) make contributions to research funding;
- (e) participate in policy planning and formulation at local level;
- (f) provide support to producer associations; and
- (g) perform such other functions as shall be transferred to, or assigned to it.

68. (1) As from the commencement of this Act, all seed storage facilities shall be transferred to and vested in the Council in whose jurisdiction they are situated.

(2) On such date as the responsible Secretary of State shall, by Order published in the Gazette appoint, all district extension centres shall be transferred to and vested in the Council in whose jurisdiction they are situated.

69. (1) There shall be a Local Agricultural Committee in each Local Government Area through which the Council shall perform the functions specified under section 67 of this Act.

(2) The members of the Local Agricultural Committee shall be appointed by the Council after consultation with the Secretary of State for Agriculture and shall consist of-

- (a) a chairperson;
- (b) the officers of the Council in charge of agriculture, natural resources and life stock management;
- (c) two women to represent women groups;
- (d) two persons to represent producer associations;
- (e) two persons to represent organisations actively involved in agriculture and life stock development; and
- (f) such other members as the Council may deem fit.

70. For the purpose of performing its functions under this Act, a Council shall establish a Department of Agriculture and Life Stock Services to which shall be transferred relevant Government extension workers, and such other personnel, as shall be determined by the Director of Agricultural Services in consultation with the Council.

Natural Resources

Other
natural
resources
services

71. (1) A Council shall, in its area of jurisdiction, be responsible for -

- (a) the management, protection and conservation of the environment;
 - (b) the protection, control and management of the resources;
 - (c) the control, development and sustainable management of fisheries resources;
 - (d) the conservation, sustainable management and bio-diversity of the environment;
 - (e) the rational management, utilisation and conservation of water resources; and
 - (f) such other functions as may be assigned under this Act and any other enactment.
- (2) Without prejudice to the generality of subsection (1), a Council shall -
- (a) monitor the state of the environment within its area and the impact on the environment of developmental activities;
 - (b) address public concerns on environmental issues;
 - (c) foster education of the community on environmental issues;
 - (d) regulate and control the exploitation of natural resources;

- (e) monitor community forest management agreements concluded under the Forest Act, 1997;
- (f) promote community participation in micro project planning implementation and management of local resources;
- (g) control and conserve areas identified as having high ecological value;
- (h) implement any bio-diversity action plan for its Area;
- (i) create local awareness of the value of wildlife;
- (j) create wildlife reserves as protected areas;
- (k) promote the rational use of available water resources;
- (l) promote crop irrigation, the abatement of soil erosion, flooding and sanitation;
- (m) implement a licensing system for all uses and users of water;
- (n) regulate the use and management of wells and water reticulation systems;
- (o) promote the centralised inventory of all water points;
- (p) promote sanitation practices; and
- (q) perform such other functions as shall be transferred to or assigned to it.

Local
Natural
Resources
Committee

72. (1) There shall be a Local Natural Resources Committee in each Local Government Area through which the Council shall carry out the functions specified under section 71.

(2) The members of the Local Natural Resources Committee shall be appointed by the Council after consultation with the responsible Secretary of States and shall consist of -

- (a) a Chairperson;
- (b) the officers of the Council in charge of environmental matters, forestry, wildlife and fisheries;
- (c) representatives of the Heads of the Government in charge of environmental matters, forestry, wildlife, and fisheries;
- (d) two persons to represent of women groups;
- (e) two persons to represent organisations actively involved in the management and development of environmental matters, forestry, wildlife and fisheries; and
- (f) such other members as the Council may deem fit.

Secretary
of State to
designate
forests

73 (1) A Council may request the responsible Secretary of State to designate as forest parks any Council land or any other land in respect of which it appears to the Council that forest growth should be protected preserved or established

(2) Where a request is made to the responsible Secretary of State under subsection (1) of this section, he or she shall, in accordance with the provisions of the Forest Act, 1997, give notice published in the Gazette, designate the land to be a Council forest under the Forest Act.

74. For the purpose of performing its functions under this Act, a Council shall establish such Departments as it may deem appropriate to which shall be transferred existing Central Government extension workers, and such other personnel, as shall be determined by the responsible Secretaries of State.

75. With effect from the date of coming into force of this Act, the Secretary of State in consultation with the responsible Secretaries of State shall determine the facilities which shall be transferred to and vested in the Council in whose jurisdiction they are situate for the performance of the functions imposed on the Council under section 71 of this Act.

Public and Environmental Health

76. (1) Subject to national policy guidelines and such regulations as the Secretary of State for the time being responsible for the administration of the Public Health Act may prescribe, every Council shall be responsible for the promotion and preservation of health within its area of jurisdiction.

(2) Without limiting the generality of subsection (1) of this section, a Council shall, within its jurisdiction, be responsible for-

- (a) major health centres, sub-dispensaries and all primary health care services;
- (b) maternal and child health services;
- (c) distribution of pharmaceutical products and vaccines to health facilities;
- (d) general hygiene and sanitation.

77 (1) There shall be Local Public Health Committees for each Local Government Area through which the Council shall perform its functions under section 76 of this Act.

(2) The members of a Local Public Health Committee shall be appointed by the Council after consultation with the Director of Health Services and shall consist of -

- (a) a Chairperson appointed by the Council,
- (b) the Area Medical Officer;
- (c) the senior public health officer;
- (d) the public health nurse;
- (e) two women representing women groups;
- (f) two representatives of organisations active in the health sector;
- (g) two members who hold qualifications in health related fields; and
- (h) two prominent members of the community within the Local Government area.

Health Services

78. (1) The Council shall, for the purposes of performing its functions under this Act, establish a Department of Health Services to which shall be transferred the existing Division of Health Teams.

(2) In addition to the officers transferred to the Council under subsection (1) of this section, the Council shall, in consultation with the responsible Secretary of State, appoint such other health officers as it may determine who shall have such powers and privileges as are conferred on health officers under the Public Health Act.

Cap 40:07

Roads

79. For the purposes of this heading Act -

"secondary road" means any road, which borders off a trunk road or highway to which the public has lawful access and which does not form part of the National Road Network.

80. (1) A Council shall establish a Local Roads Authority for its area of jurisdiction which shall be responsible for the upkeep and maintenance of all secondary roads.

(2) The Secretary of State responsible for the administration of the Roads and Highways Act shall by Order published in the Gazette, specify the date on which subsection (1) of this section shall take effect.

(3) A Local Roads Authority may perform the same functions in relation to secondary roads in its Area as are vested in the Highways Authority in relation to the National Road Network.

(4) The Highways Authority may, with the approval of the responsible Secretary of State, issue guidelines to the Councils with respect to the performance of their functions under this section.

(5) A Local Roads Committee shall consist of such members as its Council shall determine after consultation with the responsible Secretary of State.

Land Transactions

81. (1) The Council may, for the purpose of -

- (a) any of its functions under this or any other enactment; or
- (b) the benefit, improvement or development of its Area,

acquire, by agreement, any land, whether situated inside or outside its Area.

(2) A Council may acquire by agreement any land for any purpose for which it is authorised by this or any other enactment, notwithstanding that the land is not immediately required for that purpose and until it is required for the purpose for which it was acquired, a land acquired under this subsection may be used for the purpose of any of the Council's functions.

(3) References in this section to acquisition by agreement, references to acquisition for money or money's worth, and purchaser or lessee.

Acquisition
of land
compulsorily
by Councils
No 5 of 1991

82.(1) Subject to subsection (2) of this section, a Council may, for any purpose for which it is authorised by this or any other enactment to acquire land, be authorised by the responsible Secretary of State to purchase compulsorily any land whether situated inside or outside its Area in accordance with the Land Acquisition and Compensation Act, 1991.

(2) Where one or more Councils propose, in exercise of the power conferred by subsection (1) of this section, to acquire land for more than one purpose, the responsible Secretary of State or Secretaries of State whose authorisation is required for the exercise of that power shall not be concerned to make an apportionment between those purposes or, where there is more than one Council, between those Councils, but -

(a) the purposes shall be treated as a single purpose and the compulsory acquisition shall be treated as requiring the authorisation of the Secretary of State or responsible Secretaries of State concerned with those purposes; and

(b) where there is more than one Council concerned, the Councils may nominate one of them to acquire the land on behalf of all of them and

Council so nominated shall accordingly be treated as the acquiring authority for the purposes of any enactment relating to the acquisition.

(3) The Land Acquisition and Compensation Act 1991 (except section 3 thereof) shall apply in relation to the compulsory acquisition of land in pursuance of subsection (1) of this section as if all references to Board are replaced by references to the Council.

83.(1) Subject to the provisions of subsection (2) of this section, a Council may appropriate, for any purpose for which a Council is authorised by this or any other enactment to acquire land by agreement, any land which belongs to the Council and is no longer required for the purpose for which it is held immediately before the appropriation, but the appropriation of land by a Council by virtue of this subsection shall be subject to the rights of other persons in, over or in respect of the land concerned.

(2) A Council shall not appropriate, under subsection (1) of this section, any land whether consisting of or forming part of an open space or otherwise, unless before appropriating the land it -

(a) caused notice of its intention to do so, specifying the land in question, to be advertised in two consecutive weeks in a newspaper circulating in the area in which the land is situated, or on public radio; and

(b) considers any objections to the proposed appropriation which may be made to it.

84.(1) Subject to the provisions of this section, a Council may dispose of any land held by it in any manner it deems fit.

(2) Except with the consent of the Secretary of State, a Council shall not dispose of land under this section, other than by way of a short tenancy, for a consideration less than the best that can reasonably be obtained.

(3) For the purposes of this section, a disposal of land by way of a short tenancy if it consists of the grant of a lease for a term not exceeding seven years.

Provision
of offices,
etc. by
Council

85. A Council may acquire or provide or furnish halls, or buildings, whether within or outside the Area of the Local Authority, for use as offices for public meetings or assemblies.

Miscellaneous Powers

Standing
Orders
with respect
to contracts

86. A Council may make Standing Orders with respect to the making of contracts by them or on their behalf for the supply of goods or materials or for the execution of works in accordance with tender rules prescribed under the Local Government (Finance and Audit) law referred to under section 130 of this Act.

Emergencies

87. Where an emergency or disaster involving destruction of or danger to life or property occurs or is imminent or there is reasonable ground for apprehending such an emergency or disaster, and the Council is of the opinion that it is likely to affect the whole or part of its Area, or all or some of its inhabitants, the Council may -

- (a) incur such expenditure as it considers necessary in taking action itself (either alone or jointly with any other person or body and either within the Area or elsewhere in or outside the Area) which is calculated to avert, alleviate or remove the potential effects of the emergency or disaster.

- (b) make grants or loans to other persons or bodies on conditions determined by the Council in respect of any such action taken by those persons or bodies.

88. Subject to the provisions of this section, a Council may -

- (a) for the purpose of discharging any of its functions; or
- (b) for the benefit of the inhabitants of its Area or of some part of it,

accept, hold or administer gifts of property, whether movable or immovable, made for that purpose, and may execute any work (including works of maintenance or improvement) incidental to or consequential on the exercise of the powers conferred by this section.

89. (1) A Council may make, or assist in the making of, arrangements by which the public may, on application, readily obtain from its offices or any other public place, information concerning the services available within its Area provided either by the Council or by other authorities, Government Departments or voluntary organisations.

(2) A Council may arrange for the publication within its Area, through audio and visual means, of information relating to the functions of the Council and arrange for the delivery of lectures and addresses and the holding of discussions on such matters.

PART V - DEVELOPMENT

90. (1) Every Council shall be the planning authority for its Area and may plan and implement any programme or project for developing the infrastructure, improving social services, developing human and financial resources and for the general upliftment of the community.

(2) Every Council shall -

- (a) prepare a comprehensive and unified development plan for its Area incorporating ward plans;
 - (b) co-ordinate all donor support;
 - (c) approve all project agreements; and
 - (d) perform such other functions as may be assigned to it.
- (3) In performing its functions under this section, a Council shall adopt such processes and procedures and ensure that communities are involved in the conception and execution of development plans.

Support
from
Government

91. Central Government technical departments operating in the area of jurisdiction of every Council shall support the development process of the Council through extension services operating at ward and village levels.

Village Development Committee

Establishment
of Village
Development
Committee

92. (1) There shall be established a Village Development Committee for each village or cluster of villages, as the Council shall determine.

(2) Every Council shall, in accordance with such criteria as may be prescribed, determine which cluster of villages may form a Village Development Committee.

Composition
of Village
Development
Committee

93. (1) A Village Development Committee shall consist of -

- (a) a Chairperson selected from among the members of the Council;

- (b) one male and one female representing each kabila in the village, selected by the kabilios;
- (c) one male and one female representing each community-based organisation;
- (d) a representative of youth groups in the village; and
- (e) such other persons as the Village Development Committee shall determine.

(2) The following shall be advisers of a Village Development Committee -

- (a) the Alkalo of the village;
- (b) representatives of Central Government Departments operating at village level; and
- (c) all extension workers working for any organisation involved in development activities in the village.

(3) The Chairperson of the Committee may invite any person to attend and participate in any meeting of the Committee if in his or her opinion the contribution by the person could be useful to the meeting.

(4) Representative members of a Village Development Committee shall hold office for such periods as the groups selecting them shall determine.

94. Every Council shall keep a register of Village Development Committees and may make By-laws for -

- (a) the registration and monitoring of their activities;

(b) the proper management and auditing of the resources; and

(c) for such other matters as it shall deem necessary.

Removal from membership of the Village Development Committee

95. (1) A member of a Village Development Committee may be expelled from the Committee for good reason or just cause, of which the Committee shall be the sole judge, by not less than two thirds of all the members of the Committee.

(2) A member so removed shall be replaced, within a reasonable time, by the group the member represented or the authority by whom the member is appointed.

Dissolution of Village Development Committee

96. (1) A Council may dissolve a Village Development Committee by resolution if, in the opinion of the Council, the Committee is ineffective or not operating in the best interest of the village.

(2) Whenever a Village Development Committee is dissolved, members shall be replaced by the bodies appointing them.

Meetings of the Village Development Committee

97. (1) A Village Development Committee shall meet at such times, places and at such intervals as it may deem expedient for the conduct of its business.

(2) The Chairperson of the Village Development Committee may convene a meeting at any time as he may deem necessary.

(3) The Village Development Committee shall keep minutes of its meetings and appoint any of its members to be Secretary at its meetings.

(4) Subject to such rules of procedure as the Council may prescribe, the Committee shall determine its own procedure.

98. (1) A Village Development Committee shall be responsible for all development planning at village level and shall serve as the local entry point for all development assistance to the village.

(2) Without limiting the generality of the provisions of subsection (1) of this section, the Village Development Committee shall be responsible for-

(a) identifying local development needs in consultation with the community;

(b) prioritising such development needs in consultation with the Committee;

(c) developing appropriate plans for addressing local needs in consultation with the community;

(d) raising, co-ordinating and managing financial resources at village level and shall be held accountable for all the financial and other resources;

(e) mobilising community participation in development activities;

(f) implementing and managing such development plans and projects as the Council may approve for implementation at village level;

(g) supporting and strengthening all development oriented socio-cultural groups within the community; and

(h) carrying out such other functions as may be assigned to it by the Council or the Ward Development Committee.

(3) In the exercise of its functions under this section, a Development Committee may operate bank accounts, appoint a treasurer to manage its resources, and appoint other officers from among its members as it may deem necessary.

Village Sub-Committees

99. (1) A Village Development Committee may establish such Sub-committees as it may deem necessary for the conduct of its business.

(2) A Sub-committee established under subsection (1) consist of such members, and have such functions as the Village Development Committee shall determine.

Ward Development Committees

Establishment of Ward Development Committees

100. There shall be established a Ward Development Committee for each Ward.

101. (1) A Ward Development Committee shall consist of

- (a) the Councillor for the Ward as Chairperson;
- (b) one male and one female representative from each Village Development Committee elected to the Village Development Committee;
- (c) representatives of organisations involved in development activities at ward level; and
- (d) such other persons as the Council shall from time to time determine.

(2) A Ward Development Committee may co-opt any person to participate in any meeting of the Committee.

(3) Village representatives on the Ward Development Committee and any other representative member shall hold office for such period as the village or group they represent shall determine.

102. (1) A member of a Ward Development Committee except an *ex officio* member may be expelled from the Ward Development Committee for good reason or just cause, of which the Ward Development Committee shall be the sole judge.

(2) A member so removed shall be replaced within a reasonable time.

103. (1) A Council may dissolve any Ward Development Committee by resolution approved by at least two thirds of its members if, in the opinion of the Council, the Ward Development Committee is ineffective or not operating in the best interest of the Ward.

(2) Except in the case of the City of Banjul, whenever a Ward Development Committee is dissolved, its members shall be replaced by the Village Development Committees whom they represent until a new Ward Development Committee is constituted.

(3) In the case of the City of Banjul, whenever a Ward Development Committee is dissolved, its members shall be replaced by three prominent members of the Ward selected by the Chairperson subject to the approval of the Secretary of State until a new Ward Development Committee is constituted.

104. (1) Meetings of a Ward Development Committee shall be convened by the Chairperson of the committee at such times and places as the Committee shall deem expedient for the conduct of its business.

(2) Special meetings may be summoned by the Chairperson at the request of any *ex officio* member or at least five members, on a matter of urgency.

(3) A Ward Development Committee shall keep minutes of its meetings and appoint one of its members to serve as Secretary at its meetings.

(4) Subject to such other rules of procedure as the Council may prescribe, the Ward Development Committee shall determine its own procedure.

Other officers of the Ward Development Committee

105. Apart from the Chairperson and Secretary, a Ward Development Committee may elect other officers from among its number, including a Treasurer and Auditor who shall serve for such term and discharge such duties as the Committee determine.

Functions of the Ward Development Committee

106. (1) A Ward Development Committee shall be responsible for co-ordinating and prioritising all development planning at ward level, for preparing ward development plans for approval by the Council and co-ordinating development assistance to the Ward.

(2) Without limiting the generality of the provisions of subsection (1) of this section, the Ward Development Committee shall be responsible for-

- (a) reviewing village plans with a view to identifying shared priorities and concerns;
- (b) identifying and prioritising Ward needs for formulating Ward plans;
- (c) prioritising solutions and alternatives to identified problems;
- (d) serving as entry point for all outside assistance;
- (e) co-ordinating development activities at Ward level.

(f) establishing criteria for prioritisation of development projects by villages;

(g) prioritising development projects between villages;

(h) collaborating with donors in preparing project proposals for the Wards;

(i) mobilising community participation at Ward level;

(j) mobilising human, material and financial resources for Ward projects and shall be held accountable for such material and financial resources;

(k) promoting Ward interests to the Council and the donors; and

(l) such other functions as may be assigned to it by the Council.

107. (1) A Ward Development Committee may establish such Sub-committees as it may deem necessary for the efficient conduct of its business.

(2) A Sub-committee so established shall consist of such members, and shall have such terms of reference and functions as the Ward Development Committee shall determine.

(3) In the exercise of its functions under this section, a Ward Development Committee may operate bank accounts and appoint a Treasurer to manage its resources and such other officers from among its members, or otherwise, as it may deem necessary.

Technical Advisory Committee

Establishment
of Technical
Advisory
Committee
Composition
of Technical
Advisory
Committee

108. There shall be a Technical Advisory Committee for each Local Government Area.

109.(1) A Technical Advisory Committee shall consist of:

- (a) the Divisional Administrator who shall be the Chairperson;
- (b) the Chief Executive of the Council who shall be the Vice Chairperson;
- (c) the regional Heads of Government Departments operating at local government level;
- (d) the Heads of Local Government technical services;
- (e) representatives of Non-governmental Organisations actively involved in development programmes within the Division; and
- (f) such other persons as the Chairperson in consultation with the Vice Chairperson determine.

(2) The Chief Executive of the Council shall appoint one of his or her officers to be the Secretary to the Committee.

(3) In any Local Government Area where no Area Administrator has been appointed, the Chief Executive shall be the Chairperson of the Technical Advisory Committee.

110.(1) The Technical Advisory Committee shall meet at least once every two months at such times and places as it shall deem appropriate for the efficient conduct of its business.

(2) The quorum at every meeting shall be at least half of its members and shall include the Chairperson and in his or her absence the Vice Chairperson.

(3) The Chairperson in his or her absence the Vice Chairperson shall preside at all meetings of the Technical Advisory Committee.

(4) The Chairperson, may at any time and shall, at the request of the Vice Chairperson, summon a special meeting of the Committee.

(5) Decisions of the Committee shall be by majority vote.

(6) Subject to this section, the Committee shall determine its own rules of procedure.

111. A Technical Advisory Committee shall provide technical advice to the Council and to the Ward and Village Development Committees within its Local Government Area with a view to ensuring that local projects conform with national standards, policies and priorities.

112. A Technical Advisory Committee may appoint Sub-committees for any general or special purposes within the scope of its competence as it deems fit.

113.(1) A Technical Advisory Committee may co-opt any person with special knowledge to attend its meetings and participate in its discussions.

(2) A person so co-opted shall have no right to vote on any matter put to the vote of members of the Committee.

Independence
of a local
Service
Commission

119. Subject to the provisions of the Constitution and the Local Government Service Commission shall be independent and shall not be subject to the direction and control of any person or authority.

Security
to be
taken in
relation
to officers

120. (1) A Council shall, in the case of an officer employed by it, whether under this or any other enactment, who by reason of his or her employment is likely to be entrusted with the custody or control of money, take such security, for the faithful exercise of his or her office and for his or her duly accounting for all money or property which may be entrusted to him or her, as the Council may consider sufficient.

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

(3) A Council shall defray the cost of any security taken under this section, and every security shall be produced to the auditor at the audit of the accounts of the Council.

Non -
appointment
of Council
members

121 A person shall, so long as he or she is, and for twelve months after he or she ceases to be, a member of a Council be disqualified from being appointed by that Council to any post or office.

Disclosure
by officers
of interest
in contracts

122 (1) If it comes to the knowledge of an officer employed by a Council under this or under any other enactment, that a contract in which he or she has any pecuniary interest, whether directly or indirectly (not being a contract to which she is a party) has been or is proposed to be, entered into by the Council or any Committee of the Council, he or she shall as soon as practicable give notice in writing to the Council of the fact that he or she has an interest in the contract.

(2) An officer shall be treated as having an indirect pecuniary interest in a contract or proposed contract if he or she would have been so treated had he been a member of a Council.

(3) An officer of a Council shall not, by virtue of his or her office or employment, accept any fee or reward whatsoever, other than his proper remuneration.

(4) A person who contravenes the provisions of subsection (1), (2) or (3) commits an offence and is liable on summary conviction to a fine not exceeding five thousand dalasis or imprisonment for a term not exceeding two years or to both such fine and imprisonment.

(5) This section shall also apply to all members of a committee, established under this Act or any other enactment.

123. (1) There shall be an Area Administrator for each Local Government Area who shall be a senior civil servant appointed by the President.

(2) Except in the case of the City of Banjul and the Kanifing Municipality, the Area Administrator in the Divisions shall be referred to as the Commissioner.

124. (1) The Area Administrator shall -

- (a) represent the President and the Central Government in the Local Government Area;
- (b) co-ordinate the administration of Central Government services in the Area;
- (c) advise the Chairperson on matters of a national nature that may affect the Area or its plans or programmes and particularly the relationship between the Council and the Central Government;

- (d) monitor and inspect the activities of Local Authorities and, where necessary, advise the Chairperson; and
- (e) carry out such other functions as may be assigned by the President or prescribed by the National Assembly.

(2) The Area Administrator or Commissioner shall -

- (a) sensitise the populace on Central Government policies and programmes, and in so doing liaise with the Chairperson;
- (b) draw the attention of the Auditor General to the need for special investigation audits of the Government Area;
- (c) draw the attention of the Ombudsman to a need to investigate any cases of mismanagement, maladministration or abuse of office;
- (d) draw the attention of the responsible Department of State to the divergence from or non-compliance with Central Government policy by any Council within his area of jurisdiction; and
- (e) in consultation with the Chairperson of a Council address the Council, from time to time, on a matter of national importance.

(3) The expenses of the office of the Area Administrator including salaries, allowances and pensions shall be charged to the Consolidated Fund.

125. (1) There shall be such number of Deputy Area Administrators in each Area as the President may deem necessary.

Staff of
the office
of Area
Administrator

(2) The Deputy Area Administrator shall assist the Area Administrator in the carrying out of his or her functions in a specified area of jurisdiction generally, as may be determined by the President.

(3) There shall be such other Central Government officers and staff as the Public Service Commission may, in consultation with the Personnel Management Office, determine.

126. (1) The Council may petition the appointing authority for the removal of an Area Administrator or Deputy Area Administrator.

(2) A petition by a Council under subsection (1) of this section shall be accompanied by a resolution supported by the votes of not less than two-thirds of all the members of the Council, stating the grounds for the petition.

PART VII - FINANCIAL PROVISIONS

127. Subject to this Act or any other enactment, every Council shall have autonomy over its financial matters.

128. (1) The revenue and funds of a Council include all sums of money or funds accruing to a Council.

(2) The revenue and funds of a Council shall be applied to the administration, development and welfare of the inhabitants within its Area of jurisdiction.

(3) The Central Government shall provide twenty-five per cent of the Council's development budget.

129. Every Council shall be answerable and accountable to -

- (a) its electorate for all moneys which accrue to the Council from the electorate; and

(b) the National Assembly for all appropriated to the Council from the Consolidated Revenue Fund, or otherwise.

Finance and Audit law

130. Subject to the provisions of this Act, the financial affairs of a Council shall be regulated in accordance with a Local Government (Finance and Audit) law to be enacted by the National Assembly.

Rates and taxes

131. (1) A Council shall have power to levy rates and such other taxes as the National Assembly shall prescribe, to meet all liabilities whether of a general or special nature.

No. 9 of 1992

(2) Rates shall be levied and collected in accordance with the provisions of the General Rates Act, 1992, and the law relating to under section 130 of this Act.

PART VIII - TRADITIONAL AUTHORITIES

The District Authority

Establishment and composition of District Authority

132. There shall be a District Authority for each District which shall be constituted by the Seyfo of the District as Chairperson and all the Alkalolu within the District.

Appointment of Seyfo

133. (1) The President shall appoint a District Seyfo in consultation with the Secretary of State responsible for Local Government.

(2) The Secretary of State responsible for Local Government may, in consultation with the Divisional Commissioners, make recommendations to the National Assembly for the creation of new Seyfo Districts.

134. (1) A person qualifies for appointment as a Seyfo if he or she -

(a) is a citizen of The Gambia of not less than 30 years of age; and

(b) is resident in the District to which he or she is to be appointed; and

(c) is knowledgeable in the customs, traditions, culture and customary laws of his or her District.

(2) A person shall not qualify to be appointed as a Seyfo if he or she -

(a) is of unsound mind;

(b) has been sentenced to death or convicted of an offence involving fraud, dishonesty or violence or has been convicted of an offence relating to or connected with elections under any enactment in force in The Gambia at the time;

(c) is an undischarged bankrupt.

(3) Notwithstanding paragraph (b) of subsection (2) of this section, a person shall qualify to be appointed as a Seyfo if ten years have elapsed since the end of the sentence or if he or she has been pardoned.

135. A person shall cease to hold office of Seyfo -

(a) on his or her death;

(b) if by writing addressed to the President, he or she resigns his or her office;

(c) if he or she becomes disqualified under the provisions of subsection (2) of section 134; or

(d) if he or she is removed by the President in relation to offences under section 136.

136. A Seyfo may be removed from office by the President on the grounds -

(a) of misconduct or incompetence; or

(b) of inability to perform the functions of his or her office for any cause whether arising from illness of mind or body or otherwise.

137. Subject to the powers and functions vested in the District Authority under section 139, a Seyfo shall -

(a) promote good order and stability in his or her District;

(b) preside over the District Tribunal and hear and determine matters over which they have jurisdiction according to law;

(c) promote the general well being of the District;

(d) safeguard the traditions, customs and culture of the District and promote the well being of the people;

(e) keep a register of every village in the District;

(f) perform such other duties as may be assigned to him or her by the Council or the Commissioner.

138. A Seyfo shall be entitled to such salary and retirement benefits as shall be determined by the Secretary of State.

139. (1) Subject to this Act, a District Authority shall continue to have such powers and discharge and perform such duties and functions as are conferred on it by law.

(2) Without limiting the generality of the provisions of subsection (1) of this section, a District Authority shall be responsible for -

(a) preventing or suppressing of riots or affrays, and the maintenance of the peace, whether by the employment of necessary force, or any other means reasonable and fitting in such circumstances as may arise;

(b) preventing and detecting crime, the arrest and detention of offenders, and all other such duties as are usually performed by a civil police force;

(c) assisting the Council in collecting revenue;

(d) enforcing all statutes and bye-laws, regulations and the lawful policies of a Council within the District;

(e) protecting the environment and taking preventive measures against bush fires;

(f) promoting culture and other social activities; and

(g) performing such other functions as may be assigned to it by the Council.

(3) The Seyfo acting alone may exercise any of the powers of the District Authority to ensure implementation of Government policies and programmes within the District.

Grant of
lease
Cap.57.03

140. Notwithstanding anything contained in the Lands (Provinces) Act, a District Authority shall not grant any lease unless the prior approval of the Council had been obtained, a copy of the lease is deposited with the Council

The Alkalolu

Alkalo

141. There shall be for each village an Alkalo who shall be headperson for the village.

Appointment
of a Alkalo

142. (1) The Secretary of State responsible for Local Government shall appoint an Alkalo in consultation with Divisional Commissioner and District Seyfo.

(2) The Secretary of State shall, in making an appointment under subsection (1), take into account traditional lines of inheritance.

Qualification
and disquali-
fication of
Alkalo

143. (1) A person qualifies for appointment as an Alkalo if he or she -

- (a) is a citizen of The Gambia;
- (b) was born and is resident in the village; and
- (c) is knowledgeable in the customs, traditions, culture and customary laws of the village.

(2) A person shall not be qualified for appointment as an Alkalo if he or she -

- (a) is of unsound mind;
- (b) has been sentenced to death or imprisoned for an offence involving fraud, dishonesty or violence or has been convicted of an offence relating or connected with elections under an enactment in force in The Gambia at the time

- (c) is an undischarged bankrupt.

(3) Notwithstanding paragraph (b) of subsection (2) of this section, a person shall qualify to be appointed Alkalo, if ten years have elapsed since the end of the sentence or if he or she has been pardoned.

144. A person shall cease to hold the office of Alkalo -

- (a) on his or her death;
- (b) if by writing addressed to the Secretary of State he or she resigns his or her office;
- (c) if he or she becomes disqualified under any of the provisions of subsection (2) of section 143; or
- (d) if he or she is removed by the Secretary of State in accordance with section 145.

145. An Alkalo may be removed from office by the Secretary of State on the grounds -

- (a) of misconduct or incompetence; or
- (b) of inability to perform the functions of his or her office for any cause whether arising from infirmity of mind or body or otherwise.

146. (1) Subject to this Act, an Alkalo shall exercise such powers and discharge such duties as are vested on him or her by this Act and any other law.

(2) Without limiting the generality of the subsection (1) of this section, an Alkalo shall -

- (a) promote good order, peace and stability in his or her village;

- (b) promote the general economic development of or her village;
- (c) safeguard the traditions, customs and culture of his or her village and promote the well being of people;
- (d) carry out such functions and powers as may be assigned to it by the Council or District Authority;
- (e) exercise all powers vested in village headpersons by any other law;
- (f) enforce all laws of the National Assembly;
- (g) enforce all regulations and By-laws of the Council;
- (h) promote environmental health and sanitation;
- (i) protect and preserve the environment of his or her village; and
- (j) promote sports, culture and other social activities.

Emoluments
of Alkalo

147. An Alkalo shall be entitled to such benefits as may be prescribed by the Area Administrator, Mayor or Mayoreess in consultation with the Secretary of State.

PART IX - INSPECTION, MONITORING AND CO-ORDINATION OF LOCAL GOVERNMENT AUTHORITIES

Co-ordination
of and
advocacy
for Local
Government
Authorities

148. The co-ordination of, and advocacy for Local Government Authorities as well as policy issues shall be the responsibility of the Department of State for Local Government.

149. The Department of State shall -

- (a) monitor and co-ordinate Central Government initiatives and policies as they apply to Local Governments and ensure harmonisation;
- (b) co-ordinate and advise persons and organisations, in relation to projects involving direct relations with Local Governments; and
- (c) assist in the provision of technical assistance to Local Government Authorities.

150. (1) The inspection of Local Governments by the Department of State and other State organs authorised by law shall -

- (a) promote and foster adherence to the rule of law and principles of natural justice and good governance; and
- (b) foster the elimination of corruption and abuse of office.

(2) Subject to the Constitution and any other law, an authorised person carrying out the inspection shall have powers to-

- (a) enter and inspect the premises or property of any Local Government Authority as may be relevant to the inspection;
- (b) inspect books of accounts, records, stores and any other documents and require any person to produce any documents or item connected with the inspection and where necessary retain any document or item connected with the case being investigated; and

- (c) look into any matter on his or her own initiative on complaint made to him or her by any member of the public, whether or not that person personally suffered any injustice by reason of the matter.

(3) An authorised person carrying out the inspection may attend any meeting of a Council or Committee of a Council.

Secretary of State to give guidance

151. (1) Where on receipt of a report on a Council, the Secretary of State is satisfied that a duty or power of a Council is being performed or exercised in an improper, unlawful or inefficient manner, the Secretary of State may, in respect of that duty or power, cause a meeting of the Council to be called and point out the irregularities found and give the Council any guidance necessary.

(2) Where the Secretary of State considers that the matter is of a grave nature, the Secretary of State may institute a commission of inquiry to look into the matter.

(3) Where the findings of a commission of inquiry under this section disclose that an offence may have been committed, the Secretary of State shall refer the matter to the President for appropriate action.

152. (1) The President may, with the approval of a simple majority of the votes of all the members of the National Assembly, assume the executive powers of any Local Government Area in any of the following circumstances -

- (a) where the Council so requests and it is in the public interest to do so;
- (b) where it has become extremely difficult or impossible for a Council to function.

Taking over Local Government administration by the President

(2) The President may assume the executive powers of a Local Government Area where a state of emergency has been declared in that Area or any part thereof or in The Gambia generally.

(3) The exercise by the President of the power conferred by this section, may be done through such person or officer as the President may appoint and the legislative functions shall be exercised by Statutory Instruments.

(4) Unless approved by the National Assembly for a longer term, the exercise by the President of the power conferred by this section shall be for a period not exceeding ninety days.

(5) On expiry of the term under subsection (4) of this section -

- (a) the President shall hand back the administration of the Area to the incumbent Council; or
- (b) if the National Assembly decides that the prevailing circumstances still make it impossible for the incumbent Council to assume the administration of the Area -
 - (i) the Independent Electoral Commission shall cause elections to be held for a new Council within sixty days where the unexpired term of the Council is longer than twelve months; or
 - (ii) the President shall continue to administer the Area until the next elections are held where the un-expired term of the Council is twelve months or less.

PART X – MISCELLANEOUS

Legal Provisions

Notice of
suit to be
given to
Council

153. (1) No suit shall be commenced against a Council until at least one month after written notice of intention to commence the suit has been served on the Council by the intending plaintiff or his agent.

(2) The notice shall state the cause of action, the names and place of abode of the intending plaintiff and the relief claimed.

(3) An action shall not be entertained unless it is commenced within twelve months next after the act, neglect or default complained of, or in the case of continuing damage or injury within twelve months after the date of cessation.

Mode of
service on
Council

154. (1) The notice referred to in section 153 of this Act and summons, notice or other document required or authorised to be served on a Council shall be served by delivering it or by sending it by registered post addressed to the Chief Executive

(2) Notwithstanding subsection (1) of this section, a court may, with regard to any particular suit or document, order service on the Council to be effected otherwise, and in such case, service shall be effected in accordance with the terms of the order.

Occupier to
provide
specified
particulars

155. For the purpose of enabling any document to be served on the owner of any premises, a Council may by notice in writing require the occupier of the premises to state the name and address of the owner of the premises, and if the occupier refuses or wilfully neglects to do so, or wilfully misstates the name and address of the owner, commits an offence.

156. Subject to this Act, and without prejudice to the generality of any other powers conferred under this Act, a person duly authorised in writing for that purpose by a Council may, at all reasonable times, enter into or on any land, building or premises within its area of jurisdiction for the purpose of carrying out any inspection, inquiry or the execution of works under this Act or of any By-laws made by the Council.

157. Any person authorised by a Council may perform, under the directions and supervision of the Council, such functions under the provisions of this Act and any rules or By-laws made under it as may be assigned to him by the Council and all acts done in the performance of those functions shall be deemed to be done by the Council.

158. Any police officer, Seyfo, Alkalo, Council police officer or Badge Messenger may arrest without warrant any person whom he or she reasonably believes has committed an offence against the provisions of this Act or any order, By-law or regulation made under it.

159. The books and registers of a Council or any extract from them certified by the Chief Executive or an officer authorised in that behalf by the Council shall, in any proceedings for the recovery of any amount alleged to be due to the Council, be *prima facie* evidence of the amount so due.

160. In any prosecution by, or on behalf of, a Council and in any civil cause or matter in which a Council is a party, the Council may be represented by any officer or employee duly authorised in that behalf by the Council.

161. (1) Except as otherwise expressly provided in this Act or any other law, the publication of any Order, Notice or other document required by or under this Act to be published shall be deemed to be duly made -

- (a) if it is published in the *Gazette*;

- (a) refuses or omits, without sufficient cause, to attend at the time and place mentioned in the summons;
- (b) refuses to take an oath or affirmation;
- (c) refuses or omits, without sufficient cause, to produce any documents in his possession or under his control which are mentioned in the summons,

commits an offence.

General
offences

165. Where any matter or thing is by this Act directed or prohibited to be done, or where any authority is given by this Act to any person or body of persons to direct or prohibit a matter or thing to be done, and such act so directed to be done remains undone or such act so prohibited to be done is done then in every such case every person offending against the direction or prohibition commits an offence.

General
penalties

166. A person who commits an offence against the provisions of this Act shall, for every such offence, be liable in conviction to the penalty expressly prescribed by this Act and no penalty is prescribed, to a fine not exceeding five thousand dollars or imprisonment for a term not exceeding two years, both such fine and imprisonment.

Privileges and Immunities

Freedom of
speech and
proceeding
in Council

167. There shall be freedom of speech and debate in every Council and the freedom shall not be impeached or questioned in any court or place outside the Council.

168. (1) Subject to this section, no civil or criminal proceedings shall be instituted against a member of a Council or officer of the Council in any court because of anything said by him or her in the Council or any matter or thing brought by him or her before the Council by petition, motion or otherwise.

(2) Where in the opinion of the Chairperson of the Council a statement made by a member of the Council is *prima facie* defamatory of any person, the Chairperson shall refer the matter for inquiry by a Committee of the Council constituted for that purpose which shall report its findings to the Council not later than fourteen days of the matter being so referred.

(3) Where the Committee reports to the Council that the statement made by the member is defamatory of any person, the member who made the statement shall at the next sitting of the Council, tender an apology at the bar of the Council, the terms of which shall be approved by the Committee and communicated to the person who has been defamed.

(4) Where a member refuses to render an apology in accordance with subsection (3), the Chairperson shall suspend that member for the duration of two consecutive meetings of the Council.

(5) A member of the Council suspended under subsection (4) shall lose all his or her privileges, immunities and allowances in respect of his or her membership of the Council and his or her privileges, immunities and allowances shall be forfeited until he apologises.

169. No member of the Council shall be required to serve on a jury in any court or as a member of any tribunal.

Immunity from
service of
process
and arrest

170. (1) No civil or criminal process issuing from any court place out of a Council shall be served on or executed in relation to any member of the Council or officer of the Council while he or she is on his or her way to attending, or returning from a meeting of the Council.

(2) A certificate of the Chairperson of the Council to the effect that a member was on his or her way to, attending or returning from a meeting of the Council shall be conclusive evidence of that fact.

Immunity from
publication
of proceedings

171. Subject to this Part, no person shall be under a civil or criminal liability in respect of the publication of -

- (a) the text or a summary of a report, paper, minute, note or proceeding of a Council; or
- (b) a contemporaneous report of a meeting of the Council,

unless it is shown that the publication was made with malice or otherwise in want of good faith.

Privileges of
witnesses

172. (1) Every person summoned to attend and give evidence or to produce any paper, book, record or other document in a Council shall be entitled, in respect of his or her evidence, the production of the document, as the case may be, to the same privileges as if he or she were appearing before a court.

(2) No public officer shall be required to produce, before a Council, any document if the Chairperson of the Council certifies that -

- (a) the document belongs to a class of documents which is injurious to public interest to produce;
- (b) the disclosure of the contents of the document will be prejudicial to the security of the State.

(3) Where there is a doubt as to whether the production of any document referred to in subsection (2) of this section is injurious to public interest or prejudicial to the security of the State, the Chairperson of the Council shall refer the matter to the High Court for the determination of whether the production or disclosure of the contents of the document will be injurious to public interest or prejudicial to the security of the State.

(4) An answer by a person to a question put by a Council shall not be admissible in evidence against him or her in any civil or criminal proceedings out of the Council, except proceedings for perjury brought under the criminal law.

173. (1) An act which obstructs or impedes a Council in the performance of its functions or which obstructs or impedes a member or officer of the Council in the discharge of his or her duties or affronts the dignity of the Council or which tends either directly or indirectly to produce such a result shall be contempt of a Council.

(2) Where an act constitutes contempt of a Council is an offence under the criminal law, the exercise by the Council of the power to punish for contempt shall be without prejudice to the institution of proceedings under the criminal law.

Regulations

174. (1) The Secretary of State may make regulations for the better carrying into effect of the provisions of this Act.

(2) The Secretary of State may, with the approval of the President, amend, replace, alter or revoke any of the Schedules to this Act except Schedule 1.

(3) The power of the Secretary of State under subsection (2) of this section shall not be delegated.

(4) The Secretary of State shall, as soon as is practicable, the publication of a statutory instrument made under section, cause the instrument to be laid before the National Assembly.

Repeal, Savings and Transitional

175. (1) The following Acts are hereby repealed

- (a) the Local Government Act;
- (b) the Local Government (City of Banjul) Act;
- (c) the Kanifing Municipal Council Act, 1991, and
- (d) the Provinces Act.

(2) Notwithstanding the repeal of the statutes specified under subsection (1) of this Act, any subsidiary legislation made under those statutes which are required by the Local Government Authorities under this Act for the proper operation and administration of the Councils, shall remain in force until revoked by the relevant Council or the Secretary of State, as the case may be.

176. (1) All property and assets which were vested in the Councils or District Authorities immediately before the coming into force of this Act shall continue to be so vested, subject to all interests, liabilities, charges, obligations and in affecting the property or asset.

(2) Any pending court proceedings, actions, judgments or orders which were enforceable by or against any Area Council or District Authority immediately before the coming into force of this Act, and are connected with the property or assets vested in Local Authorities established under this Act or their powers, functions, shall be continued and enforced against or by, as the case may be, the relevant Local Authority established under this Act.

177. (1) Any person who holds an office of Chairperson of a Council, immediately before the commencement of this Act, shall continue to hold office until new elections are organised under this Act.

(2) An officer or employee of a Council immediately before the commencement of this Act shall be deemed to have been appointed under this Act and shall hold office until he or she vacates the office under this Act.

SCHEDULES

SCHEDULE I

Part I

Sections 3 (1) and 10(1)

Local Government Areas and Councils

A

B

Local Government Areas

Councils

- | | |
|-----------------------------|----------------------------|
| 1. Central River Division) | Kuntaur Area Council |
| | Janjambureh Area Council |
| 2. Lower Division | Mansakonko Area Council |
| 3. North Bank Division | Kerewan Area Council |
| 4. Upper River Division | Basse Area Council |
| 5. Western Division | Brikama Area Council |
| 6. City of Banjul | Banjul City Council |
| 7. Kanifing Municipality | Kanifing Municipal Council |

Section 3 (2)

Geographical Boundaries of Local Government Areas

(To be demarcated by the Independent Electoral Commission.)

Part III

Section 4 (2)

Districts and their Geographical Boundaries

(To be demarcated by the Independent Electoral Commission)

Part IV

Section 5 (3)

Wards and their Geographical Boundaries

(To be demarcated by the Independent Electoral Commission)

SCHEDULE II

Section 49 (3)

FUNCTIONS AND SERVICES OF THE CENTRAL GOVERNMENT AND LOCAL GOVERNMENTS**PART I****CENTRAL GOVERNMENT****Functions and Services for which the Central Government is responsible are -**

1. Arms, ammunition and explosives.
2. Defence, Security, maintenance of law and order.
3. Banks, banking, promissory notes, currency and exchange control.
4. Subject to the Constitution, taxation and policy.
5. Citizenship, immigration, emigration, refugees, deportation, extradition, passport and national identity cards.

6. Copyright, patent and trade marks and all forms of intellectual property,
7. Incorporation and regulation of business organisations.
8. Land, mines, mineral and the environment.
9. National parks, as may be prescribed by the National Assembly.
10. Public holidays.
11. National monuments, antiquities, archives and public records as the National Assembly may determine.
12. Foreign relations and external trade.
13. The regulation of trade and commerce.
14. Making national plans for the provision of services and co-ordinating plans made by Local Governments.
15. National elections.
16. Energy policy.
17. Transport and communication policy.
18. National censuses and statistics.
19. Public Services of The Gambia
20. The judiciary.
21. National Standards.
22. Education policy.

23. Tertiary, including University Education.
24. National Training Institutions.
25. National Surveys and mapping.
26. Industrial policy.
27. Forests and wild life conservation policy.
28. National research policy.
29. Health policy.
30. Referral Hospital Services
31. National facilities
32. Agricultural policy.
33. All Government policies.
34. Any matter incidental to or connected with the above functions and services.

PART II

Sections 48

LOCAL GOVERNMENTS

Functions and Services for which the Local governments responsible include -

1. The control of pests of all sorts, including tsetse flies and mosquitoes, and weeds.
2. The regulation of methods of husbandry.

3. The prohibition, restriction and control of the planting, harvesting and possession of noxious or poisonous plants.
4. The control of stray animals, the provision and management of pounds, the sale and destruction of such animals, and the regulation of payment of compensation for damage done by such animals.
5. The control of the keeping and grazing in, and the movement in and into and out of the Council's area, of livestock of all kinds.
6. The control and regulation of the drying of hides and skins and the sale thereof.
7. The taking of measures for the prevention, control and relief of famine.
8. The control of diseases.
9. The quarantining of persons and livestock of all kinds.
10. The prohibition, restriction and control of the carrying and possession of weapons other than firearms.
11. The prohibition, restriction and control of the drinking, brewing, possession, sale, transport and distribution of native beer and wine, including palm wine.
12. The prohibition, restriction and control of gambling.
13. The registration, and the enforcement of the registration of births, marriages, and deaths.
14. The prohibition, restriction and control of hunting and fishing.

15. The prohibition, restriction, regulation, control or doing of any matter or thing which is required by any customary law to be so prohibited, restricted, regulated, controlled, or done, and is not repugnant to morality or justice.

16. Establish, acquire, erect, maintain, promote, assist or control the participation of the citizens-

- (a) lighting of streets and public places;
- (b) fire brigade services;
- (c) ambulance services;
- (d) cemeteries, crematoria and mortuaries and ancillary services, and provide for the burial of bodies of destitute persons and of unclaimed bodies;
- (e) offices, stores, workshop, depots and other buildings for the purpose of the Council;
- (f) public halls, libraries, art galleries and museums;
- (g) slaughter houses, cold storage facilities and premises for the inspection or processing of milk, meat or hides and skins;
- (h) markets and piers, jetties and landing places;
- (i) botanical and zoological gardens;
- (j) canteens, social centres, clubs and hospitals, including such facilities for employees and staff;
- (k) public lavatories and urinals;
- (l) pounds for stray animals and clinics for the treatment of sick animals;

(m) public weighing machines;

(n) public monuments;

(o) sanitary services for the removal and disposal of night soil rubbish, carcasses of dead animals and all kinds of refuse and effluent;

(p) water supplies outside the jurisdiction of the water utilities provider.

17 Establish, maintain or control public parks, gardens and recreation grounds on any land vested in the Council.

18 Prohibit, restrict, regulate or license-

- (a) the sale or hawking of wares or the erection of stalls on any street, or the use of any part of the street or public place for the purpose of carrying on any trade, business or profession;
- (b) the depositing on any street, public place or unoccupied land any refuse, rubbish derelict vehicles, or any other material or thing whatsoever and to provide for the removal and disposal thereof;
- (c) street decorations and the erection of shelters, temporary buildings, platforms, seats and other structures at any entertainment, procession, exhibition, ceremony or display, whether in a public place or not;
- (d) the placing of banners, wires, ropes or any other impediments over or across any street or public place.
- (e) the collection of money or goods in any public place for any charitable or other purpose;

- (f) the public exhibition or any monstrosity, freak of nature or abnormal person or animal;
 - (g) singing, dancing, the drumming, the playing of musical instruments, the production of music or the making of noise likely to disturb any person, or any performance profit in any public place;
 - (h) the storage or stacking of firewood or other fuel;
 - (i) the washing or drying of clothes other than on private premises;
 - (j) the quarrying of stone, lime, clay, Murray or other material;
 - (k) the keeping of dogs, animals and poultry, and providing the seizure and destruction of ownerless, unlicensed, diseased or dangerous dogs, and the seizure and disposal of stray animals and poultry;
 - (l) lodging houses;
 - (m) the burning of rubbish and grassland;
 - (n) prostitution and brothels;
 - (o) cinemas and video halls.
19. Lay out and adorn any street, square or open space vested in the Council by the erection of statues, fountains or other structures or in any manner.
20. Decorate streets and public buildings, erect shelters, temporary buildings, platforms, seats and other structures on public places.

- Clear, level and maintain public and unoccupied land taken on lease from a land board and to plant, trim, protect and remove, flowers, trees and shrubs in or from any public place.
- Identify streets and other public places by assigning names thereto and to cause those names to be exhibited on posts or pillars or to be painted or otherwise exhibited on any building or other erection fronting.
- Number, or otherwise identify any buildings fronting on any street or other public place, and cause such identification to be exhibited on the buildings or require the owner thereof, at his own expense, to cause such identification to be exhibited on a building.
- Require the owner or occupier of any premises to remove or lower any fence or to remove, lower or trim any tree, hedge, or shrub overhanging any street or interfering with the passage of traffic or pedestrians, or any wires or other works or to require any owner or occupier to perform the removal, lowering or trimming which may be necessary for the maintenance of public safety or amenity or build and maintain the pavement bordering his or her property to the specifications of the Council.
- Require the fencing or enclosing of plots and restrict the use of barbed wire, broken glass or any similar substance on fences and walls.
- Preserve public decency, and to prevent offences against public order in streets and public places, and to prevent damages to or defacement of property of the public or of the Council.
- Prevent and extinguish fires, to remove buildings in order to prevent the spread of any fire and to compensate the owner of any building removed.
- Establish, maintain, hire, support or control bands and orchestras and generally to provide for musical entertainment at public places and functions.

29. Undertake private works and services and to charge and recover costs thereon and contract out public services to the private sector.

30. At the request of the owner of the land situated within its area of jurisdiction construct, in such manner as the Council may think fit, by its servants or by contract, a foot way or pavement along any street contiguous with such land or vehicular crossings and any foot way or pavement and to recover the whole or any part of the cost of such construction including the cost of supervision, plant, machinery and tools from such owner in the manner as it may think fit.

31. Sell all by-products resulting from the carrying on, by or on behalf of the Council of any works or services.

32. Make provision for the return of destitute persons to their homes.

33. Arrange for the insurance of all assets of the Council against financial risks of any kind to which the Council may be subjected.

34. Provide-

- (a) gowns, chains and badges of office for Councillors and officers of the Council;

- (b) badges, medallions or scrolls for presentation to persons who have given meritorious service to the Councils, and floral tributes in memory of Councillors, officers of the Council and persons of note.

35. Regulate, control, manage, administer, promote or license any of the things or services which the Council is required or empowered to do and establish, maintain, carry on, control, manage or administer, and prescribe the forms in connection therewith; and to fix fees or charges to be made in respect thereof.

36. With the consent of a neighbouring Local Government, render advice and or assist to control development and to administer town and country planning schemes in any area within an agreed distance from the boundaries of its jurisdiction.

Provide, control and manage the following services-

- (a) sporting and recreational facilities and programmes of informal education for both adults and young people including the provision and running of community centres;
- (b) the development of social work among adults;
- (c) remedial social welfare programmes aimed at the alleviation of social distress;
- (d) the welfare of children;
- (e) public vehicle parking.

38. Initiate and contract twinning arrangements with International Local Governments or Local Authorities in consultation with the Secretary of State.

39. Any other functions or service incidental to or connected with the above.

40. Any other functions not reserved to the Central Government.

PASSED in the National Assembly this 9th day of April
in the year of Our Lord Two Thousand and One 2001

Ag. Clerk of the National Assembly

THIS PRINTED IMPRESSION has been carefully compared by me with the original which has passed in the National Assembly, and found by me to be a true and correct copy of the said Bill.

Ag. Clerk of the National Assembly