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URBAN COUNCILS AMENDMENT BILL, 2011

MEMORANDUM

This Bill will amend the Urban Councils Act [*Chapter 29:15*] by reducing the powers of central government over municipal and town councils, thereby encouraging democracy at local levels. The Bill will also correct anomalies arising from previous amendments made to the Act.

The extent of the central government's present powers over councils, and the way in which this Bill will reduce those powers, will become clear in the explanations of the individual clauses of the Bill in this memorandum.

Clause 1

This clause sets out the Bill's short title.

Clause 2

This clause will amend section 2 of the Urban Councils Act, which contains definitions of words used throughout the Act. The following are the principal amendments:

- The definitions of "appointed councillor" and "elected councillor" will be repealed because, as a result of clauses 4 and 11 of the Bill, all councillors will be elected and there will be no appointed councillors.
- A definition of "appropriate parliamentary committee" will be inserted because clauses 13 and 31 of the Bill will require the Minister to take action with the approval of the Portfolio Committee on Local Government.
- The current definition of "Commission" (which refers to the Zimbabwe Electoral Commission) will be clarified.
- The definition of "councillor" will be extended to include mayors and deputy mayors (this is the position at present, but the Act is not altogether clear).

Clauses 3 to 9

The effect of these clauses will be as follows:

Once a municipality or town is established, the central government will not be able to alter its name or area or its ward boundaries, or abolish it, without the consent of the council concerned (see the new section 4(2) inserted by clause 3). At present the President and the Minister need merely consult the council. Any changes to ward boundaries, moreover, will require consultation with the Zimbabwe Electoral Commission (see the new section 4A(5) inserted by clause 4).

The present section 4A of the Act allows the Minister to appoint councillors to a municipal or town council. This will be abolished by the repeal of section 4A of the principal Act.

If the Minister wants to establish extended systems of local government under section 5 of the Act, that is, if the Minister wants two or more local authorities to combine their services, he or she will have to get the consent of the local authorities concerned (at present they merely need to be consulted). See clause 5 of the Bill.

The central government's power to declare, alter and abolish local government areas will similarly be subject to consultation and consent. Under section 6 of the Act, as amended by clause 6 of the Bill, the President and the Minister will have to obtain the agreement of a municipal, town or rural district council before establishing a local government area within the council's area, and will have to establish a commission under the new section 4A before establishing a local government area outside an existing council area. If a local board is established for a local government area, the Minister will have to get the board's consent before conferring additional powers on it.

Under sections 7 and 8 of the Urban Councils Act, as amended by clauses 7 and 8 of the Bill, the Minister will have to get the consent of an urban council before giving the council responsibility for administering a local government area, and will similarly have to get the council's consent before divesting the council of the administration of such an area.

Clause 9

This clause will amend section 38 of the Urban Councils Act to insert words, taken from the current section 4A of the Act, to the effect that municipal and town councils will consist wholly of elected councillors, with one councillor elected for each ward.

Clause 10

One of the anomalies in the Urban Councils Act is that although the Act was amended in 2008 to provide for one councillor to be elected for each ward, provisions remain in the Act allowing the Minister to specify that more than one councillor may be elected for each ward. This clause will remove two of those provisions from section 39 of the Act.

Clause 11

Section 80 of the Urban Councils Act allows the Minister to appoint one or more caretakers to exercise the powers of a council if there are no councillors in office or if all the councillors have been suspended from office.

This clause will require the Minister to consult Parliament's portfolio committee on local government before appointing caretakers under the section, will limit the caretakers' term of office to 90 days without possibility of renewal, and will require an election to be held as soon as possible to establish a new council for the municipality or town concerned.

Clause 12

Under section 103 of the Urban Councils Act, the election of a mayor or council chairperson must take place at a council meeting presided over by the district administrator or, in the case of Harare and Bulawayo, the provincial administrator. Furthermore, municipal councils are

permitted by the section to elect someone other than a councillor as mayor (unlike town councils, whose chairperson must be an elected councillor).

This clause will amend section 103 to require meetings for the election of a mayor or chairperson to be presided over by the town clerk or secretary, and to restrict municipal councils to electing a councillor as mayor.

Clause 13

Under section 112 of the Urban Councils Act, councils are not allowed to pay allowances to their councillors unless the Minister has approved them. This clause will remove that restriction but prohibit councils from paying allowances that exceed a maximum limit prescribed in regulations made by the Minister.

Clause 14

Under section 114 of the Urban Councils Act, the Minister has power to suspend a councillor on suspicion that the councillor has been guilty of corruption or dishonesty or negligent loss of money or property belonging to the council. After suspending the councillor, the Minister has 45 days within which to order an investigation into the councillor's conduct, and if after the investigation the Minister is satisfied that the initial suspicion was justified, he or she can dismiss the councillor, who is then disqualified from standing for election as councillor for five years. There is no appeal against the Minister's decision.

The amendments to be made by this clause will retain the Minister's power to suspend councillors, but will require him or her to institute an investigation within five days, not 45 as at present. The investigation, and the Minister's decision on considering the investigator's report, will have to be completed within sixty days at most. If on considering the report the Minister believes the initial suspicion was justified, he or she will have to apply to the High Court for an order dismissing the councillor from office. The decision to dismiss the councillor will be made by the High Court, therefore, and the councillor will have a right of appeal to the Supreme Court.

Clause 15

Under section 138 of the Urban Councils Act, the conditions of service of council employees have to be approved by the Minister of Labour. This clause will repeal the section, leaving conditions of service to be fixed under the Labour Relations Act.

Clause 16

Subsection (2) of the Urban Councils Act allows the Minister to give councils power to do anything which he or she considers necessary or desirable, even if the Act does not allow the council to do it. This is excessively wide, and this clause will repeal subsection (2).

Clause 17

Section 206 of the Urban Councils Act gives the Minister power to order councils to develop residential, commercial and industrial estates and, if the council refuses to do so, to develop those estates on behalf of the council and at the council's expense. This clause will repeal section 206.

Clause 18

This clause will insert a new section into the Urban Councils Act which will set out the principles governing the provision of services by councils. Broadly, councils will have to prioritise services that cater for basic needs (water, electricity and health care, for example) and will have to ensure broad access to the services, while ensuring that the services are provided economically and effectively.

Clause 19

The proviso to section 219(1) states that a council is not allowed to impose charges by resolution within such areas as the Minister may specify in regulations or in a notice to the council. This clause will amend the proviso to remove the Minister's power to exempt parts of a council area from such charges.

Clause 20

This clause will insert a new clause into the Urban Councils Act requiring every council to formulate and implement a policy on tariffs and charges to ensure that the cost of services is apportioned equitably among the residents in the council area.

Clause 21

Under sections 221 and 222 of the Urban Councils Act, councils may engage in income-generating projects and establish co-operatives, but only if the Minister allows them to do so and only if they comply with any conditions imposed by the Minister. This clause will combine the two sections and will allow councils to decide for themselves whether or not they should engage in such projects or establish co-operatives.

Clause 22

Under section 225 of the Urban Councils Act the Minister may order councils to combine in order to provide services jointly. This clause will repeal the section. If councils wish to combine they will be able to do so under section 224 of the Act, but their combination will be voluntary rather than compulsory.

Clauses 23 and 24

In terms of section 228 and 229 of the Urban Councils Act, a council has extensive powers to make by-laws. Any by-laws must, however, be approved by the Minister before being enacted; the Minister therefore has a power of veto over the by-laws.

The effect of these clauses will be to remove the Minister's veto. By-laws will still have to be submitted to the Minister and, if he or she considers them to be unlawful, oppressive, discriminatory, contrary to the principles of good government or generally undesirable, he or she will have the right to return them to the council with a request that they be reconsidered. The council will then be obliged to reconsider them in the light of the Minister's objections but, if the council resolves to go ahead with them, the Minister will have to publish them in the *Gazette* at the council's expense.

Clause 25

Under section 232 of the Urban Councils Act the Minister has power to publish model building by-laws for adoption by councils. Generally councils have a right to decide whether or not to adopt the model by-laws, but under subsections (3) and (9) of the section the Minister has power to compel a council to adopt the by-laws and to suspend the operation of any other by-laws made by the council. This clause will repeal those two subsections.

Clause 26

Section 233 of the Urban Councils Act the Minister can direct a council to make by-laws or to adopt model by-laws on any topic and, if the council does not do so, the Minister can make or adopt the by-laws on behalf of the council. This clause will repeal the section.

Clause 27

Section 234 of the Urban Councils Act gives the Minister a general power to make regulations on any subject which he or she considers should be dealt with in order to carry out the objects and purpose of the Act. The new subsections which this clause will insert in the section will require the Minister to consult councils, or representative associations of councils, before making regulations under the section.

Clause 28

Under section 272 of the Urban Councils Act, councils have a general rating power, that is to say a power to impose rates on property-owners within the council area. Under subsections (7) and (8) of the section, councils may fix lower rates for certain properties, may differentiate between commercial and industrial properties, and may levy minimum rates; but they must have the Minister's approval before doing so. This clause will remove the need to get the Minister's approval.

Clause 29

Section 273 of the Urban Councils Act enables a council to levy a special rate in order to pay for specific works such as road repairs; the special rate is levied only on property-owners who are likely to benefit from the works. Before doing so, the council must advertise its intention to levy the rate and, if any objections are received, the council must get the Minister's approval before levying the rate.

This clause will amend the section to require the council to reconsider the proposed rate if it receives any objection from ratepayers; the Minister will no longer have the right to approve or disapprove it.

Clause 30

Under section 304(1) of the Urban Councils Act, every council must appoint an auditor approved by the Minister; the auditor must be registered as such under the Public Accountants and Auditors Act or else be a person whom the Minister considers competent to conduct audits. Under subsection (4) of the section, the Minister could appoint an employee of the now-defunct Urban Development Corporation to audit a council's accounts.

This clause will remove the requirement that people appointed as auditors must be approved by the Minister; on the other hand, it will require all auditors to be registered under the Public Accountants and Auditors Act. The clause will also remove the reference to the Urban Development Corporation.

Clause 31

Under section 311 of the Urban Councils Act the Minister can appoint investigators to inquire into and report on councils' affairs and other matters relating to local government. On receipt of the investigators' report the Minister can take whatever steps he or she considers necessary to rectify any defects or omissions revealed by the report.

This clause will require the Minister to get the approval of the parliamentary portfolio on local government before appointing investigators under the section, and will also make it clear that any action taken by the Minister on receipt of their report must be in accordance with the Act.

Clause 32

Section 313 of the Urban Councils Act allows the Minister to give policy directives to councils, and obliges councils to comply with any such directives. This clause will repeal the section.

Clause 33

Under section 314 of the Urban Councils Act the Minister has power to direct councils to reverse, suspend or rescind resolutions and other action taken by them. This clause will remove that power. The Minister will, however, be able to direct a council to call a meeting or hold a ballot to ascertain the opinion of residents on any resolution or action the council has taken, and the council will have to comply with the view expressed by the residents on the issue.

Clause 34 and Schedule

This clause, as read with the Schedule to the Bill, will make minor amendments to the Urban Councils Act; some of the amendments up-date provisions of the Act, others are consequential on amendments made by other clauses of the Bill.

Clause 35

This clause contains transitional provisions. Appointed councillors will go out of office on the promulgation of the Bill as an Act. Anyone who was elected as a mayor of a municipal council without having been elected as a councillor will remain in office for the remainder of his or her term.

Schedule

This has been dealt with in conjunction with clause 34.

BILL

To amend the Urban Councils Act [*Chapter 29:15*] and to provide for matters connected therewith or incidental thereto.

ENACTED by the President and the Parliament of Zimbabwe.

1 Short title

This Act may be cited as the Urban Councils Amendment Act, 2011.

2 Amendment of section 2 of Cap. 29:15

Section 2 (“Interpretation”) of the Urban Councils Act [*Chapter 29:15*] (hereinafter called “the principal Act”) is amended—

(a) in subsection (1)—

(i) by the repeal of the definitions of “appointed councillor” and “elected councillor”;

(ii) by the insertion of the following definitions—

““appropriate parliamentary committee” means—

(a) the portfolio committee of Parliament responsible for local government; or

(b) any other parliamentary committee which the House of Assembly, by resolution, may designate to be the appropriate parliamentary committee for the purposes of this Act;

“audit committee” means an audit committee appointed by a council in terms of section 97(1);”;

(iii) by the repeal of the definition of “Commission” and the substitution of—

““Zimbabwe Electoral Commission” means the Zimbabwe Electoral Commission established in terms of section 100J of the Constitution”.

(iv) in the definition of “councillor” by the insertion after “council” of “and includes a person elected as mayor or deputy mayor in terms of section 103”;

(b) in subsection (2) by the repeal of paragraph (c) and the substitution of—

“(c) “total membership of a council” means the number of councillors which in terms of this Act constitutes the council.”.

3 Amendment of section 4 of Cap. 29:15

Section 4 (“Provisions relating to establishment, alteration or abolition of municipalities, towns, councils and council areas”) of the principal Act is amended—

(a) by the repeal of subsections (1) and (2) and the substitution of—

“(1) The President may, by proclamation in the *Gazette*, establish a municipality or town and, if he or she does so, shall—

- (a) establish a council for the municipality or town; and
- (b) fix the area of the municipality or town; and
- (c) assign a name to the municipality or town; and
- (d) divide the council area into any number of wards.

(2) At any time after the establishment of a municipality or town, the President may, by proclamation in the *Gazette* and with the consent of every council and local authority concerned—

- (a) alter the name of the municipality or town;
- (b) re-divide the council area into any number of wards, create one or more additional wards, or alter or abolish one or more wards;
- (c) alter the boundaries of the council area or re-define the council area and determine any question arising therefrom;
- (d) abolish the municipality or town.”;

(b) in subsections (3) and (4) by the insertion after “President” where it occurs for the first time of “, with the consent of every local authority concerned,”.

4 Repeal of section 4A of Cap. 29:15

Section 4A of the Principal Act is hereby repealed

5 Amendment of section 5 of Cap. 29:15

Section 5 (“Extended systems of local government”) of the principal Act is amended in subsections (1) and (2) by the deletion of “after any local authority concerned has been consulted” and the substitution of “with the consent of every local authority concerned”.

6 Amendment of section 6 of Cap. 29:15

Section 6 (“Provisions relating to establishment, alteration or abolition of local government areas and local boards”) of the principal Act is amended—

(a) In subsections (1) and (2) by the deletion of “after any local authority concerned has been consulted” and the substitution of “with the consent of every local authority concerned”;

(d) in subsection (7) by the insertion after “Minister,” of “with the consent of the local board concerned and”.

7 Amendment of section 7 of Cap. 29:15

Section 7 (“Provisions relating to vesting of administration of local government area in council or person”) of the principal Act is amended—

(a) in subsection (1) by the deletion of “after consultation with” and the substitution of “with the consent of”;

(b) in subsection (2) by the deletion of “he may” and the substitution of “he or she may, after consultation with the council concerned”;

(c) in subsection (3) by the deletion of “after consultation with” and the substitution of “with the consent of”.

8 Amendment of section 8 of Cap. 29:15

Section 8 (“Provisions relating to divesting of administration of local government area”) of the principal Act is amended in subsection (1)—

(a) by the deletion of “, after consultation with any council or person concerned,”;

(b) by the insertion of the following proviso—

“Provided that the Minister shall not—

(a) vest the administration, control or management of such an area in a council, or divest a council of the administration, control and management of such an area, except with the consent of the council concerned;

(b) vest the administration, control or management of such an area in a person other than a council, except with the consent of that person;

(c) divest a person, other than a council, of the administration, control or management of such an area except after consultation with that person.”.

9 Amendment of section 38 of Cap. 29:15

Section 38 (“Governance of council areas”) of the principal Act is amended by the insertion after “council” where it occurs for the second time of “consisting of one councillor elected for each ward of the council area”.

10 Amendment of section 39 of Cap. 29:15

Section 39 (“Composition of council and terms of office of councillors”) is amended by the repeal of subsections (1) and (2).

11 Amendment of section 80 of Cap. 29:15

Section 80 of the principal Act is amended—

(a) in subsection (1) by the insertion after “Minister” of “, if authorised to do so by a resolution of the appropriate parliamentary committee,”;

(b) by the repeal of subsection (4) and the substitution of the following subsections—

“(4) After the expiry of the ninety-day period referred to in subsection (3), the Minister shall not re-appoint the caretaker concerned, nor shall the Minister appoint another caretaker in his or her place.

(4a) As soon as practicable after the appointment of a caretaker in terms of subsection (1), the Zimbabwe Electoral Commission shall cause an election to be held on such date as may be fixed in terms of the Electoral Act [*Chapter 2:13*] to fill the vacancies on the council as if they were special vacancies:

Provided that, if the caretaker was appointed within three months before the date of the next general election, the Commission need not cause such an election to be held to fill the vacancies.”.

12 Amendment of section 103 of Cap. 29:15

Section 103 (“Election of mayor, deputy mayor, chairperson and deputy chairperson”) of the principal Act is amended in subsection (1)—

(a) by the deletion of “district administrator or, in the case of the Harare and Bulawayo municipal councils, the provincial administrator within whose province the municipal council lies” and the substitution of “town clerk or, failing him or her, by a person elected by the councillors present to preside at the meeting”;

(b) in paragraph (c) by the deletion of “or other person”.

13 Amendment of section 112 of Cap. 29:15

Section 112 (“Personal allowances for councillors”) of the principal Act is amended—

(a) in subsection (1) by the deletion of “subsection (2), with the written approval of the Minister” and the substitution of “subsections (2) and (3)”;

(b) by the insertion after subsection (2) of the following subsection—

“(3) A personal allowance paid in terms of subsection (1) shall not exceed such amount as may be prescribed.”.

14 Amendment of section 114 of Cap. 29:15

Section 114 (“Suspension and dismissal of councillors”) of the principal Act is amended by the repeal of subsections (3), (4) and (5) and the substitution of the following subsections—

“(3) As soon as is practicable after he or she has suspended a councillor in terms of subsection (1), and in any event within five days, the Minister shall appoint one or more investigators in terms of section 311 to conduct an inquiry under that section to determine whether or not the councillor has been guilty of any act, omission or conduct referred to in subsection (1).

(4) If, following an inquiry, the Minister is satisfied that the grounds of suspicion on the basis of which a councillor was suspended in terms of subsection (1) have been

established as fact, he or she may institute proceedings in the High Court for an order dismissing the councillor and declaring the councillor's seat to be vacant, and the High Court may grant or refuse the order or give such other order, including an order relating to costs, as it considers just.

(5) If, following an inquiry, the Minister is not satisfied as provided in subsection (4), he or she shall immediately, by written notice to the councillor and the council concerned, revoke the councillor's suspension.

(6) The suspension of a councillor under this section shall terminate—

(a) upon the Minister's revoking it at any time by written notice to the councillor and the council concerned; or

(b) where the Minister institutes proceedings in terms of subsection (4) while the councillor remains suspended, upon the grant or refusal of the order sought by the Minister in those proceedings; or

(c) in any other case, sixty days after the councillor was suspended.”.

15 Repeal of section 138 of Cap. 29:15

Section 138 (“Approval of conditions of service of employees of councils”) of the principal Act is repealed.

16 Amendment of section 198 of Cap. 29:15

Section 198 (“General powers”) of the principal Act is amended by the repeal of subsection (2).

17 Repeal of section 206 of Cap. 29:15

Section 206 (“Minister's powers to act on behalf of council regarding estate development”) of the principal Act is repealed.

18 New section inserted in Cap. 29:15

The principal Act is amended by the insertion after section 217 of the following section—

217A General provisions relating to services provided by council

“(1) In providing services in terms of this Act, a council shall—

(a) give priority to the basic needs of residents in the council area; and

(b) promote the development of the council area and its residents; and

(c) ensure that all residents in the council area have access to at least the minimum level of basic services.

(2) Services provided by a council shall—

(a) be equitable and accessible; and

(b) be provided in such a way as leads to—

(i) the prudent, economical and effective use of available resources; and

(ii) the progressive improvement of quality standards;

and

(c) be financially and environmentally sustainable.

(3) A council shall review its services regularly with a view to improving and extending them.”.

19 Amendment of section 219 of Cap. 29:15

Section 219 (“Charges by resolution”) of the principal Act is amended in subsection (1)—

(a) by the deletion of “A council” and the substitution of “Subject to section 219A, a council”;

(b) by the deletion from the proviso of “or in such part of a council area as may be prescribed or as may be notified to the council by the Minister”.

20 New section inserted in Cap. 29:15

The principal Act is amended by the insertion after section 219 of the following section—

219A Tariff policy

“(1) For the purpose of fixing tariffs and charges in terms of section 219, a council shall adopt and implement a tariff policy which complies with the provisions of this Act and any other enactment and reflects the following principles—

(a) users of services provided by the council should be treated equitably in regard to the imposition of tariffs and charges;

(b) the amount individual users pay for services should generally be in proportion to their use of that service;

(c) poor households must have access to at least basic services through—

(i) tariffs that cover only operating and maintenance costs; or

(ii) special tariffs for low levels of use or consumption of services or for basic levels of service; or

(iii) any other direct or indirect method of subsidising tariffs for poor households;

(d) tariffs must reflect the costs reasonably associated with rendering the service, including capital, operating, maintenance, administration and replacement costs and interest charges;

(e) tariffs must be set at levels that facilitate the financial sustainability of the service, taking into account subsidies from sources other than the service concerned;

(f) provision may be made in appropriate circumstances for a surcharge on the tariff for a service;

(g) provision may be made for the promotion of local economic development through special tariffs for categories of commercial and industrial users;

(h) the economical, efficient and effective use of resources, the recycling of waste, and other appropriate environmental objectives must be encouraged;

(i) the extent to which tariffs for poor households and other categories of users are subsidised should be fully disclosed.

(3) A tariff policy referred to in subsection (1) may differentiate between different classes of users, debtors, service providers, services, service standards, geographical areas and other matters, so long as the differentiation does not amount to unfair discrimination.”.

21 New section substituted for sections 221 and 222 of Cap. 29:15

Sections 221 (“Income-generating projects”) and 222 (“Establishment of co-operatives”) are repealed and the following section is substituted—

221 Income-generating projects and establishment of co-operatives

“Subject to this Act and any other enactment, a council may—

(a) engage in any commercial, industrial, agricultural or other activity for the purpose of raising revenue for the council;

(b) establish and foster co-operative societies and co-operative companies to carry on any commercial, industrial, agricultural or other activity;

(c) advance money and give other assistance to a co-operative society or co-operative company established in terms of paragraph (b).”.

22 Repeal of section 225 of Cap. 29:15

Section 225 (“Joint committees by Minister’s authority and joint boards”) of the principal Act is repealed.

23 Amendment of section 228 of Cap. 29:15

Section 228 (“Making of by-laws”) of the principal Act is amended in subsection (7)—

(a) in paragraphs (a) and (b) by the deletion of “for his approval”;

(b) by the repeal of the proviso.

24 New section substituted for section 229 of Cap. 29:15

Section 229 (“Approval of by-laws by the Minister”) of the principal Act is repealed and the following is substituted—

229 Publication of by-laws

“(1) Subject to subsection (2), after any proposed by-laws have been passed by the council they shall be submitted to the Minister, together with a copy of any objections thereto that have been lodged and the comments or recommendations of the council on the objections, and the Minister shall cause them to be published without delay in the *Gazette*.

(2) If the Minister considers that any proposed by-laws submitted to him or her in terms of subsection (1) would, if enacted, be—

(a) unlawful; or

(b) oppressive or unduly discriminatory against any class of persons; or

(c) contrary to the principles of good government; or

(d) undesirable for any other reason;

the Minister may, within twenty-one days after receiving the by-laws, return them to the council, together with a written statement of his or her reasons for doing so, and request the council, in writing, to reconsider the by-laws.

(3) Where the Minister has returned proposed by-laws to a council in terms of subsection (2), the council shall reconsider them and may return them to the Minister, with or without alteration, and thereupon the Minister shall cause them to be published without delay in the *Gazette*.

(4) The Minister may recover from the council concerned the reasonable cost of publishing any by-laws in terms of this section.

(5) By-laws that have been published in the *Gazette* in terms of this section shall have the force of law in the area to which they apply with effect from the date of their publication or any later date specified in the by-laws.”.

25 Amendment of section 232 of Cap. 29:15

Section 232 (“Model building by-laws”) of the principal Act is amended by the repeal of subsections (3) and (9).

26 Repeal of section 233 of Cap. 29:15

Section 233 (“Minister’s power to make or adopt by-laws on behalf of councils”) of the principal Act is repealed.

27 Amendment of section 234 of Cap. 29:15

Section 234 (“Power of the Minister to make general regulations”) of the principal Act is amended by the insertion after subsection (1) of the following subsections—

“(1a) Before making any regulations in terms of subsection (1), the Minister shall consult councils likely to be affected by the regulations and shall pay due regard to any representations the councils may make in regard to them.

(1b) Consultation in terms of subsection (1a) may be effected through any association representing all or the majority of councils likely to be affected by the regulations concerned.”.

28 Amendment of section 272 of Cap. 29:15

Section 272 (“General rate”) of the principal Act is amended—

- (a) in subsection (7) by the deletion of “, with the approval of the Minister,”;
- (b) in subsection (8) by the deletion of “, with the approval of the Minister”.

29 Amendment of section 273 of Cap. 29:15

Section 273 (“Special rate”) of the principal Act is amended in subsection (4) by the repeal of paragraph (b) and the substitution of—

“(b) any objection has been received, the council shall not proceed with the special rate unless, after considering the objection, the council has resolved to levy the rate notwithstanding the objection.”.

30 Amendment of section 304 of Cap. 29:15

Section 304 (“Appointment of auditors”) of the principal Act is amended—

- (a) by the repeal of subsection (1) and the substitution of—

“(1) On or before the commencement of each financial year, a council shall appoint as auditor for that financial year a person or persons who are registered as public auditors in terms of the Public Accountants and Auditors Act [*Chapter 27:12*]:

Provided that no councillor or partner, employer, employee or spouse of a councillor shall be appointed or continue as the councillor’s auditor.”;

(b) by the repeal of subsection (3) and the substitution of—

“(3) If a vacancy occurs in the office of auditor of a council, the council shall appoint some other person or persons who are registered as public auditors in terms of the Public Accountants and Auditors Act [*Chapter 27:12*] to act as auditor of the council for the remainder of the period for which the original appointment was made.”;

(c) by the repeal of subsection (4).

31 Amendment of section 311 of Cap. 29:15

Section 311 (“Inquiries by the Minister and appointment of investigators”) of the principal Act is amended—

(a) in subsection (2) by the deletion of “The Minister may, if he considers it necessary or desirable in the public interest” and the substitution of “If the Minister considers it necessary or desirable in the public interest, he or she may, with the approval of the appropriate parliamentary committee”;

(b) in subsection (15) by the insertion after “such steps” of “in accordance with this Act”.

32 Repeal of section 313 of Cap. 29:15

Section 313 (“Minister may give directions on matters of policy”) of the principal Act is repealed.

33 New section substituted for section 314 of Cap. 29:15

Section 314 (“Minister may reverse, suspend, rescind resolutions, decisions, etc. of council”) of the principal Act is amended and the following is substituted—

314 Minister may require council to reconsider resolutions, decisions, etc.

“Where the Minister is of the view that any resolution, decision, by-law or action of a council is not in the interests of the inhabitants of the council area concerned or is not in the national or public interest, the Minister may request the council to ascertain the views of voters on the resolution, decision, by-law or action, and—

(a) the council shall thereupon without delay hold a ballot or postal ballot or call a meeting in terms of section 318 to ascertain the views of voters on the resolution, decision, by-law or action; and

(b) if in the ballot or postal ballot or at the meeting, as the case may be, the majority of voters express the view that the resolution, decision, by-law or action should be amended, suspended, reversed or rescinded, the council shall without delay take whatever action is needed to give effect to the view expressed by the voters.”.

34 Minor amendments to Cap. 29:15

The provisions of the principal Act specified in the first column of the Schedule are amended to the extent set out opposite thereto in the second column.

35 Transitional provisions

(1) Every person who, immediately before the date of commencement of this Act, held office as an appointed councillor in terms of section 4A of the principal Act shall cease to hold that office on that date.

(2) Any person who, immediately before the date of commencement of this Act, held office as mayor of a municipality but who had not been elected as a councillor shall continue to hold office as mayor for the remainder of his or her term of office as if he or she had been a councillor when he or she was elected mayor.

SCHEDULE (Section 34)

MINOR AMENDMENTS TO CAP. 29:15

<i>Provision</i>	<i>Extent of Amendment</i>
Section 80(1) & (2)	By the deletion of “elected” wherever it occurs.
Section 90	By the deletion of “, other than an executive committee,”
Section 145(1), proviso (iii)	By the deletion of “or executive committee”.
Section 183(1)(a)	By the deletion of “Water Act [Chapter 20:22]” and the substitution of “Water Act [Chapter 20:24]”.
Section 183(3)	By the deletion of “Part IX of the Water Act [Chapter 20:22]” and the substitution of “Part VII of the Water Act [Chapter 20:24]”.