

A Critique of the Urban Councils' Act (Chapter 29:15)

TOPIC	SECTION	PARAPHRASED CONTENT	ANALYSIS/ COMMENTS
Minister wields too much power.	4A (1)(b)	Appointed councilors representing special interests, not exceeding one-quarter of the number of elected councilors, as the Minister may fix in respect of the council by statutory instrument, and who shall hold office during the pleasure of the Minister.	It is not clear which special interests are catered for and the said councilors serve at the minister's pleasure. There is need to state the exact special interests and they should be nominated by the concerned special interest associations or groups e.g. people living with disabilities.
	114	Suspension and dismissal of a Councilor	Who investigates? If it is the Minister, there is need for an independent Committee to thoroughly inquire into a councilor's misconduct prior to dismissal.
Vague Provisions.	38	Every council area shall be governed by a council.	Vague and open to contestation.
Town Clerk too powerful and yet he/she is a council employee.	47(3)	On assumption of duty a councilor shall take and subscribe before the town clerk of the council such oath of loyalty and office as may be prescribed.	Compromises councilors as this creates an impression that an elected councilor is junior to a Town Clerk. It would be better if oath is taken before a Mayor.
As stated above.	48(2)	Assumption of duty by mayor.	Same as above. It would be better if oath is taken before Minister or the President.
Residents participation.	84 and 86	Meetings and special meetings of council	Speaks of the Minister, mayor and the councilors but excludes the rate-payers from participating. Need to include them.
Transparency in council affairs.	87(2)	Private Council Meetings	The section makes contradictory statements. Council meetings said to be open to the public or press in 87(1) but then can be had in private under 87(2). Also the issue of concerned citizens attending as mere observers upon invitation, which appears more like an act of benevolence and yet participation should be a right.
Right of access to council records.	91	Minister has unrestricted access to all council records, minutes and any documents in the possession of any council which relate to the council's meetings, resolutions and affairs.	Unfair on residents who are denied the same opportunity upon request to scrutinize council records in line with citizens' right of access to official documents and information.
Special Committees	100	The committee shall be composed of councillors or councillors and persons who are not councillors and any such member of that special committee shall be entitled to exercise a vote	Who are these people who can be appointed to committees and yet are not councillors?
Furnishing of addresses	110	Councilors to furnish addresses to Chamber Secretary.	For security purposes, it would be better if the Act is clear that councilors have to provide postal rather than physical addresses or have individual mail boxes at the Council offices like what

			MPs have at Parliament building.
Local Government Board	116	The Local Government Board shall consist of seven members appointed by the Minister.	Of the 7 appointed members none represents the interests of residents, which is grossly unfair. Puts in even members of the Public Service Commission.
	116(3)	If councils delays, the Minister may appoint any persons he/she wishes to the local Government Board.	This provision is against international human rights standards.
Terms and conditions of office of a member of the local Government Board.	117	A member shall hold office for such period, not exceeding four years, as the Minister may fix at the time of his appointment; a member shall hold office on such conditions as the Minister may fix at the time of his appointment or otherwise.	The Minister's powers are excessive.
Removal from office.	120	The Minister may remove a member from office on the grounds of (a) inability to discharge the functions of his office, whether arising from infirmity of mind or body or any other cause; or (b) misconduct; or (c) failure to comply with any of the conditions of his office fixed by the Minister	Members of the Local Government Board should be accountable to a Committee or Commission and not an individual, the Minister. In Kenya, a county government shall not be suspended unless an independent commission of inquiry has investigated allegations against the county government, the President is satisfied that the allegations are justified and the Senate has authorized the suspension. In Uganda, The mandate of an elected member of a local government council may be revoked by the electorate. Parliament shall by law prescribe the grounds on which and the manner in which the electorate may revoke the mandate of an elected member of a local government council.
Validity of the Board's acts.	126(a)	No decision or act of the Local Government Board or act done under the authority of the Board shall be invalid solely because (a) a person who was not entitled to do so acted as a member when the decision was taken or the act was done or authorized	Rules of natural justice would require that once a non Local Government Board member makes a decision, it should not be binding but should make invalidates the whole decision invalid.
By-laws	129	The Local Government Board may, with the approval of the Minister, make by-laws providing for matters which in its opinion are necessary or convenient for the better carrying out of or giving effect to its functions in terms of this Act.	Only councilors as elected representatives of the people should be actively involved in the formulation of by-laws.
Appointment of Town clerk and Secretary	132	Appointed by the Local Government Board after recommendation by council.	It is not clear exactly who is council?
Town Clerk's conditions	139	A council may at any time discharge a town clerk.	A contradiction exists since councilors take the oath of loyalty

of service.			before the same Town Clerk they have power to dismiss.
Minister's power to act on behalf of council.	206	If a council fails to comply with any direction given, the Minister may, after notice in writing to the Council (a) take possession of any undeveloped council land, including surveyed land...	This is also excessive power on the part of the Minister which could be abused.
Charges by Resolution	219	A council may, by resolution passed by a majority of the total membership of the council (a) fix tariffs or charges for...water etc.	There is no participation by residents in these meetings and the only role played by residents is by way of objections to the charges which is reactive rather than proactive..
Income Generating Projects.	221	With the written approval of the Minister and subject to such terms and conditions as he may impose, a council may engage in any commercial, industrial, agricultural or other activity for the purpose of raising revenue for the council. (2) The Minister, after consultation with the council concerned, may revoke any approval given in terms of subsection (1) or amend any term or condition of such approval, and, where he has done so, may give the council such directions as he considers necessary in regard to the disposal of any assets or undertakings acquired or used by the council in carrying on the activity concerned. (3) A council shall comply with any directions given by the Minister as above.	Minister once again has excessive powers which stifle development. There should be a third body which counter-checks the Minister's unilateral power to revoke approval given earlier.
Minister's written approval required to establish co-operatives.	222	With the written approval of the Minister and subject to such terms and conditions as he may impose, a council may (a) establish and foster co-operative companies and co-operative societies to carry on any commercial, industrial, agricultural or other activity. A council shall comply with any directions given by the Minister in terms of the above.	Provision inhibits a community's growth and is against provisions which promote democratic governance and equity.
Making of by-laws	228	A council may make by-laws for all or any of the matters referred to in.... and may at any time thereafter amend or repeal any by-laws so made.	There is need to include rate payers from the onset and not simply wait for their objections.
	229	On receipt of any by-laws submitted by council, the Minister may approve the proposed by-laws or withhold his approval thereof as he thinks fit, and if the proposed by-laws are in their nature divisible he may approve part of the proposed by-laws and withhold his approval to any part thereof:	With such laws, a Minister can hold a whole council at ransom. If laws made in the National Assembly are counter-checked by Senate, how can an individual not elected by the people overturn the decision of many councilors elected by the people.
Model By-laws	230- 231	The Minister may publish in a statutory instrument model by-laws providing for any of the purposes for which a	It is not clear as to who exactly drafts model by-laws.

		council may make by-laws and may at any time thereafter, by statutory instrument, withdraw or amend any model by-laws so made.	
Minister's power to make or adopt by-laws on behalf of councils	233	If the council fails to do so the Minister may, (i) make by-laws on behalf of the council in respect of a matter; or (ii) make by-laws adopting the appropriate model by-laws on behalf of the council. Any by-laws made by the Minister in terms of this section shall have effect in all respects as if they had been made by the council concerned.	The approach is undemocratic since the Minister has a final say and imposes his will on a democratically elected council.
Power of the Minister to make general regulations for the conduct of elections etc.	234	The Minister may make regulations providing for (a) the conduct of elections, including the precautions to be taken for the purposes of securing secrecy of voting at elections of mayors, councillors or members of local boards; (b) in respect of a local board, the qualifications of, and the qualifications of voters for candidates for elections, the allowances payable to members and a host of other issues up to (h).	The Minister's powers are excessive.
Valuation and Assessment of Property for Rating.	236 - 259	Deals with the Valuation Roll and Valuation Board.	The Minister is a law unto himself and there is no input from residents.
Valuation Board Decisions.	260- 267	The decisions of the Valuation Board are to be final and no appeal may be made to the Supreme Court except on a point of law. The Valuation Roll may not be challenged or set aside.	These are unfair provisions which deny an aggrieved party the chance to take recourse against an unfair decision through available appeal structures as well as mechanisms.
Payment of rates by installments.	275	A council may accept payment of any rate by installments in such equal or varying amounts as may be determined by the council: Provided that the acceptance of such installments shall not affect the right of the council to charge interest on unpaid rates in terms of section 274 (2).	There is need to add to this section the provision that 'where council also provides water to residents, there should be separate bills one for water and the other for rates' since council officials have disconnected water to residents for non- payment of bills which in most cases are rates put on the same bill as water. Since rates can be paid in installments, council has no right to demand payment in one month for rates but payment may be staggered for up to a year.
Minister to decide on unexpended loan funds.	290(6) (b)	If any loan moneys are not expended in full on the project for which they were borrowed, then the unexpended portion shall be applied to (i) the reduction of the original loan or advance; or (ii) any other purpose for which the council has borrowing power; or (iii) any other purpose approved by the Minister.	Section 290(6) (b) (iii) should be repealed since it can be open to abuse.
Inspection of copy of	308	A council shall ensure that a copy of this Act, together	Since the provision is directory or mandatory in nature, there

Urban Councils Act, regulations and By-laws		with any regulations and by-laws made or deemed to have been made in terms of this Act which are applicable to the council area or any local government area administered and controlled by the council, are available for inspection by any person at the office of the council during office hours.	should be added to the section the provision that it is council duty to inform residents of the availability of the said Act, By-laws and Regulations for inspection at Council offices.
Minister to be furnished with reports etc.	309	The Minister may from time to time require a council to submit to him certified copies of records of its proceedings, statistics and other documents, and such other information as he may consider necessary for the effective discharge of his duties and responsibilities in terms of this Act or for any other purpose, and the council shall comply with any such requirement.	The Section should be amended to allow residents to also have access to such records upon request; to be viewed at the council offices or alternatively to be availed copies at one's own cost albeit nominal.
Minister may give directions on policy matters.	313	The Minister may give a council such directions of a general character as to the policy it is to observe in the exercise of its functions, as appear to the Minister to be requisite in the national interest.	The council's mandate bestowed on it by the electorate is unlawfully usurped by the Minister who determines what policy Council has to follow.
Reversal of Council Resolutions.	314	Where the Minister is of the view that any resolution, decision 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 direct the council to reverse, suspend or rescind such resolution or decision or to reverse or suspend such action.	The Minister's discretionary powers are too wide and there is no other body to counter-check them.
Important Sections which were repealed.	92- 95, 99 and 140(6)	Dealt with the functions of the Executive Committee which ensured participatory governance and acted as a counter-balance to the Minister.	The repealed sections being vital to participatory governance should be re-inserted into the Urban Councils Act.