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The development of effective Non-White local self-government in the Republic of South Africa

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Introduction

1 Mr. President, I should like to commence this paper with a statement, which I believe is both a truism and a challenge, viz:

“The strength of free nations is soundly rooted in well-managed democratic municipal self-government.”

Whatever our individual party political persuasion may be, and whatever policies are followed by the State towards the ultimate political evolution of the Non-White in South Africa, it is clear that the developments which are currently taking place in the sphere of Non-White local self-government rank as one of the most important milestones in the constitutional development of our country.

2 Evidence is aplenty of the awful and tragic consequences of handing over governmental responsibilities and power to persons who have neither the requisite prior training and experience, nor the necessary acquired wisdom to assume these heavy responsibilities. As Dr. C. J. Jooste, then a senior member of the State Department of Planning and now the full-time Director of S.A.B.R.A., put it in his paper entitled “Local Government for Coloureds and Indians,” which was delivered to the Institute of Town Clerks’ Conference in Bloemfontein on 3rd June, 1965:

“Weak local government is a feature of under-developed nations. Conversely a strong and virile system of local government is indispensable to progress and the maintenance of law and order of a mature nation.”

This serves, therefore, to highlight the importance and urgency of the steps which are currently being taken in the Republic of South Africa to introduce Non-Whites to the functions and responsibilities of municipal government in their own areas.

Legislative Background

3 While it certainly is not the purpose of this paper to embark upon a detailed study of the relevant statutes, Provincial Ordinances and associ-

ated regulations, it would be helpful to undertake a brief survey of the legislative background against which these momentous developments are taking place.

4 In furtherance of the State's policy of separate development as the means of promoting harmonious living in our multi-racial society, the Group Areas Act was amended in 1962 with a view to the establishment and progressive development of Non-White local self-government in Non-White areas.

5 Briefly the Statute empowers the Minister of Community Development, after consultation with the Administrator of the Province concerned, to establish for any Non-White group area situated within the area of jurisdiction of a local authority, either a consultative committee or a management committee, to be constituted in accordance with regulation and composed wholly of members of the group for which such group area has been established.

6 The Act goes on to provide that:

(i) the local authority which exercises jurisdiction in an area for which a *consultative committee* has been established, shall take no decision in regard to any matter in respect of which such committee is to be consulted in terms of any regulation or any direction given by an Administrator, unless it has consulted such committee and has given due consideration to any suggestions or comments made by the committee;

(ii) a *management committee* shall, within the area for which it has been established, have such powers, functions and duties of the local authority which has jurisdiction in respect of such area as may be conferred or imposed upon it by or under regulation, and shall exercise its powers, carry out its functions and perform its duties under the supervision and control of the local authority concerned and subject to such conditions as the Administrator of the Province in which the area concerned is situate, may determine.

7 The Act also envisages that the Minister may, at any time, appoint a committee to investigate and report upon the desirability or otherwise of establishing a *fully independent local authority* for any area for which a management committee has previously been established. Should the Minister be satisfied, upon consideration of such Committee's report, and after consultation with the Administrator concerned, that it is desirable that an independent Non-White local authority be established, he may so direct, whereupon the Administrator shall take all necessary steps to cause a local authority of the type specified by the Minister to be established for that area.

8 For those interested in studying the relevant provisions of the Group

Areas Act in more detail, appropriate extracts therefrom have been reproduced in Annexure "A" to this paper.

9 Whilst the Act vests the Minister with wide powers in regard to the establishment of Non-White consultative committees, Non-White management committees and even independent Non-White local authorities, it is a matter for congratulation that the State has chosen wisely to leave the practical implementation of its policy in these matters within the jurisdiction of the individual Provincial Administrations, whose normal function it is to control local authority formation and development. This has been achieved through the medium of complementary Provincial Ordinances promulgated during the years 1962 and 1963, as follows:

<i>Province</i>	<i>Ordinance No.</i>
Transvaal	22/1962
Cape	6/1963
O.F.S.	12/1963
Natal	23/1963 (as amended by 7/1964 and 4/1967).

10 These Ordinances, which follow the same general pattern as the relevant Sections of the parent Statute and differ from one another only in minor detail, are reproduced in Annexures "B" to "E" to this paper, for the benefit of those who may wish to study their provisions more closely at some convenient time.

11 Because of the differences which do exist, however, I hope that I shall be pardoned if some of the statements which follow appear not to accord strictly with the particular detail of some of the Provincial Ordinances concerned, because it is my intention in this paper only to deal broadly with these aspects and to leave it to interested parties who may wish to do so, to fill in for themselves the finer detail by reference to Annexures "B" to "E" mentioned earlier.

The Initial Phase in the Development of Non-White Local Authorities

12 Generally speaking, each of the abovementioned Provincial Ordinances, and the respective regulations promulgated thereunder, contemplates the development of Non-White local self-government in any given group area in three distinct and separate stages, the initial phase consisting of the establishment of a Non-White Consultative Committee, whose function, clearly stated in the promulgated regulations, is to "promote the interests and welfare of inhabitants of its area, and . . . to bring any matter relating to the local government of the area to the notice of the (parent) local authority."

13 Each of the Provinces has promulgated "Standard Regulations", which may be applied, with or without variation (as requisite) to individual Non-White areas. These regulations, of necessity, are somewhat voluminous and differ between Provinces only in minor respects. This

being so, I have taken the liberty of reproducing (as Annexure "F" to this paper) only the set of Standard Regulations applicable to Non-White Local Affairs Committees in the Province of Natal.

14 Necessarily, in order to get things started as it were, provision is made for the first consultative committee for any Non-White area to consist of eligible persons appointed by the Administrator of the Province concerned, certain of whom shall be nominated by the Minister of Community Development and/or the parent local authority, depending upon the Province involved. These committee members remain in office until the first election, from which date the committee consists of a specified number of members nominated by the parent local authority and appointed by the Administrator, together with a specified additional number of representatives elected in terms of the regulations.

15 The consultative committee phase affords the representatives concerned a very necessary and valuable introduction to the following aspects of civic government, as directly affecting the group area concerned:

- (a) the framing of the annual draft estimates, and any supplementary estimates of income and expenditure;
- (b) the fixing or amendment of tariffs;
- (c) the authorisation of capital expenditure;
- (d) the permanent closing or deviation of public streets;
- (e) the making or amendment of by-laws or regulations;
- (f) the planning, layout and establishment of housing schemes and the approval of conditions of sale or lease pertaining thereto;
- (g) the establishment, closure or discontinuation of markets, public libraries, public parks, public playing fields, public swimming baths or bathing areas, cemeteries, fire brigades, health clinics, public buildings, etc.;
- (h) the preparation of any town planning scheme and any amendment thereto;
- (i) the appointment of any officers and employees who are eligible persons, but excluding unskilled, casual and temporary employees;
- (j) the leasing or other alienation of immovable property vesting in the local authority;
- (k) the acquisition of immovable property;
- (l) such other matters as may be prescribed by the Administrator from time to time.

16 The Ordinance in each Province forbids the taking of a final decision by the parent local authority concerning any of the abovementioned matters, insofar as they affect the area of a Consultative Committee, unless such local authority has consulted the Committee and has given due consideration to its suggestions and comments. Should the Committee fail to furnish its comments within a period prescribed by the Administrator, it may be presumed that it has none to offer.

17 Adequate liaison between the parent local authority and the Consultative Committee is secured by the regulations, which provide that the local authority may authorise one of its members to attend meetings of the Committee as its representative, with a right to participate in the proceedings but not to vote. Similarly the local authority may authorise one or more of its officers to attend meetings of the Consultative Committee in an advisory capacity, but with no right to vote.

The Second Phase – Delegation of Plenary Powers to Non-White Committee

18 As the late Mr. W. L. Howes so ably put it, in his paper read to the Institute of Town Clerks' Conference shortly after his untimely death last year:

“We must recognise that it is a natural desire in every man that he should control his own affairs. This is a natural element of human dignity, which we must respect; and the rights which the creation of such committees give to the inhabitants of a Non-White area, to participate as far as is practically possible in the management of their own local affairs, seem to be rights which are in any event necessary for the constitutional evolution of the heterogeneous society of this country.”

19 Whilst there can be no doubt as to the value and importance of the initial, consultative phase in the development of a Non-White Local Affairs Committee (this is the term used in the Natal Ordinance, No. 23/1963, as amended) outlined above, during which the Committee, in effect, serves its “apprenticeship” in the arts and techniques of local government, it is clear that this body becomes the more meaningful in the eyes of the Non-White community itself, as it enters upon the “improvership” stage, with the delegation to it of plenary powers to take final decisions concerning specified matters, albeit still within the limitations of the approved estimates of expenditure of the parent local authority.

20 This clearly then is the phase which presents at once the greatest challenge and the greatest opportunity to the parent local authority to assist and guide the members of the Non-White community in their legitimate aspirations towards responsible self-government at local authority level.

21 The respective Provincial Ordinances and the relevant regulations framed thereunder point to the general direction which should be followed in these matters, but wisely leave it to the parent local authority and to the Administrator concerned to decide the extent of, and the rate at which plenary powers to take final decisions should be conferred upon any given Non-White Committee.

The Final Phase – Independent Non-White Local Authority Status

22 Before any Non-White community can aspire to become a completely

independent local government authority there are four important prerequisites which required to be satisfied:

- (i) The area must be capable of being separated geographically from the parent local authority.
- (ii) It must be large enough and sufficiently developed to qualify for local authority status.
- (iii) It must be financially viable (i.e. strong enough to stand alone without continued financial assistance from the parent local authority), or it must be assured of so becoming within a reasonably short period.
- (iv) There must be a sufficient reservoir of eligible persons with the requisite breadth and depth of knowledge and experience to undertake successfully the often underrated responsibilities of local self-government.

23 The *modus operandi* in these matters is to be found in the respective Provincial Ordinances, which provide that the Administrator may, at any time, appoint a committee to investigate and report upon the desirability or otherwise of establishing a separate (independent) local authority for any area for which a Non-White Management Committee (or local affairs committee in Natal) is already in existence. The committee so appointed shall consist of not more than five members, of whom –

- (i) at least one shall be a person nominated by the Minister of Community Development, or in the case of Natal, by the Administrator;
- (ii) one shall be a person nominated by the local authority . . . having jurisdiction in the area in respect of which the investigation is to be made.

24 The Ordinances in question go on to provide that, after consideration of the report of the investigating committee, the Administrator may, by proclamation and with the approval of the Minister (except in the case of Natal), establish a separate Non-White local authority of the type specified by him for the area concerned. In the case of Natal, the Administrator, in so doing, may also exercise any of the powers conferred upon him by Section 7 of the Local Authorities Reconstitution Ordinance, No. 37/1956 (as amended), to which I propose to make further reference at a later stage.

25 The Natal Ordinance (No. 23/1963, as amended) specifically charges the Administrator, in considering whether an independent Non-White local authority should be established for any area, to have due and proper regard to the economic and convenient operation of existing and likely future municipal services in the area.

26 In addition, and probably more important from the point of view of the ratepayers of the parent local authority, the Ordinance in question goes on to provide:

“No local authority shall be established . . . unless the local authority previously having jurisdiction in the area is relieved of all financial obligations, guarantees or loans outstanding in respect of such area, provided that the existing local authority may agree to the establishment of such new local authority without being so relieved.”

27 In this regard, Section 7 of the Local Authorities Reconstitution Ordinance (Natal), No. 37/1956 (as amended), mentioned earlier, provides, *inter alia*, as follows:

- “7. (1) Upon the exercise by the Administrator of any of the powers vested in him in terms of section 2, he may –
- (a) make any apportionment of property as between the respective local authorities concerned, and give such directions as to any matter or thing which he may deem necessary in order to adjust the assets, rights, obligations and liabilities of the local authorities respectively concerned;
 - (b) determine any question arising out of any severance or combination of the local authority areas concerned or out of the disestablishment and abolition of any local authority and make any order which he deems necessary in order to give effect to any agreement between the local authorities as to the conditions subject to which such severance or combination shall be effected;
 - (c) make such order as he may deem necessary or expedient in respect of any or all of the following matters –
 - (i) subject to such conditions as he may impose, the continued operation within the former local authority area concerned, of all or any of the by-laws or regulations in force therein immediately prior to the combination, severance or disestablishment and abolition thereof, as the case may be, for any specified period or until repealed or amended by the newly-constituted local authority;
 - (ii) the continued operation for such period as he may determine, of the system of rating in operation within the former local authority area or portion of the former local authority area concerned, including any existing valuations of immovable property and any exemptions from the payment of rates;
 - (iii) the rights and privileges of the officers, employees and servants of the local authority or local authorities concerned;
 - (iv) generally any matter or thing which he may in his discretion determine as being necessary or expedient in order to give proper effect to the exercise of any of the powers mentioned in section 2;

- (d) appoint any person or a board consisting of three persons of whom one shall be designated as the chairman of the board, to enquire into and report upon and make recommendations in regard to the advisability or otherwise of the exercise by the Administrator of any of the powers conferred upon him by this Ordinance, and confer upon such person or board the powers, jurisdiction and privileges referred to in the Commission's Ordinance, 1951 (Ordinance No. 6 of 1951), notwithstanding anything contained in section 2 thereof;
- (e) *grant to any local authority concerned such financial assistance as may be agreed upon in consideration of the exercise by the Administrator of any of the powers conferred upon him by this Ordinance.*
- (2) Any order made by the Administrator in terms of sub-section (1), which may be amended from time to time, shall upon its publication in the *Gazette* have the force of law.
- (3) Any question (including any adjustment of assets and liabilities) arising out of the exercise of any of the powers mentioned in section 2 of sub-section (1) of this section, and not provided for in this Ordinance, shall be determined by the Administrator after consultation with the local authority or local authorities concerned, and such determination shall be binding and have the force of law."

Standard of Development of Non-White Areas

28 It is common cause that, in most instances, Non-White areas of South Africa are populated by the poorer communities, which naturally find it difficult to make a sufficient financial contribution towards the cost of development of their own areas. This is particularly so in the case of the heavy capital expenditure which is involved in the provision of essential municipal services, such as a fresh and hygienic water supply, sewerage reticulation, stormwater drainage, electricity supply, etc.

29 Not infrequently, the large capital sums involved in the provision of these basic services have to be spent over a relatively short period of time, as a direct result of the necessity for large-scale resettlement of Non-Whites from other areas, thereby increasing the impact of the concomitant heavy interest and redemption charges, which in normal local authority development would arise at a much slower rate and generally in step with the growth of such local authority's ability to shoulder the extra financial burden involved.

30 It is often a vexed question as to what standard these essential services should be developed in Non-White areas and also as to what level the associated recreational and cultural facilities should be provided by the parent local authority. On the one hand, the latter is faced with the natural desire of the Non-White community to be provided with equivalent ser-

vices and facilities to those which are to be found elsewhere in the parent local authority's area of jurisdiction, while on the other hand, the parent local authority has to be guided not only by its own ability to finance such services to the standard requested, but also by the likely future ability of the Non-White local authority to be able to "pay its own way" and to meet the cost of these services from within its own revenues if and when the Non-White area is ultimately excised by the Administrator to form a separate local authority in its own right.

31 Whilst it is freely acknowledged that local authorities have received, and continue to receive substantial assistance from the Government in the form of housing loans and part-refunds under the Public Health Act, there are many other directions in which local authorities are called upon to incur expenditure in respect of the promotion of Non-White local authority development and for which no financial assistance is at present forthcoming from the State or the Provinces.

32 I refer here to the provision of amenities such as civic buildings, markets, sports arenas, swimming baths and the like, which are normally beyond the resources of the parent local authority, but which constitute most important elements in the building up of that essential community spirit and pride in local administration which is to be found at the heart of any successful and flourishing local authority area.

33 For the scheme of developing Non-White local authorities to be a success, it is a *sine qua non* that the facilities which are normally provided for ratepayers of the parent local authority should also be provided in ample measure in the Non-White area and that such development should take place more quickly than is usually the case elsewhere. In this connection it is relevant to draw attention to the fact that the Department of Bantu Administration and Development, which is engaged in preparing the Bantu people for ultimate self-government within their own local authority areas, is spending considerable amounts of money not only on housing and associated essential (basic) services, but also upon a full range of amenities such as those referred to above, which clearly are beyond the financial resources of the parent local authority to provide on its own.

34 The extent of the financial problem which faces certain local authorities in this regard can be appreciated from a glance at the following figures, which represent a rough estimate of the annual nett loss directly attributable to the Chatsworth Indian Township, which will have to be borne by the Durban City Council unless financial assistance is forthcoming from the Central Government and/or Provincial sources:

Borough Fund	R353,000
Water Fund	R415,000
Electricity Fund	R42,000
	<u>R810,000</u>

35 These figures represent the difference between the estimated annual cost of providing the necessary basic services and minimum desirable civic, cultural and recreational facilities for the Chatsworth Township, after offsetting the estimated income which will be received by way of rates and other Municipal charges, and from the sale of electricity. And when one remembers that the Chatsworth Township, when completed, will only have dealt with approximately 76 per cent of Durban's Indian housing requirements and that a further massive Indian township in the Phoenix/Mt. Edcombe area to the North of the City, is even now on the drawing boards, one starts to come close to an understanding of the magnitude of the problem facing the parent local authority in financing Non-White local authority development of that order.

The Case for Financial Assistance from the State and/or the Provinces

36 The predicament in which local authorities find themselves in endeavouring to do all that which is within their power to implement State policy in regard to the setting up of Non-White local authorities in terms of the Group Areas Act and the associated Provincial Ordinances mentioned earlier, has been the subject of lengthy consideration by the Municipal Associations of the individual Provinces and also by the United Municipal Executive, which at its meeting held on 23rd/24th August, 1966 approved a detailed memorandum on this subject for submission to the State Departments of Planning and Community Development, with a request for full information and a clear directive on the question of the standards to which emergent Non-White local authority areas should be developed. In this regard, the United Municipal Executive took the point that -

“the sooner Local Affairs Committees are established in the areas involved the better, for these Committees must understand and appreciate that eventually they will have to meet all the costs involved in governing the areas and therefore they should have some say in their development since they will be ultimately responsible for taxation in the areas concerned. It will be obvious that if standards which are too high are adopted in the transition or development stage, the financial burden which the new Non-White local authority will have to carry will be greater than it needs to be, and might be too great.”

37 The United Municipal Executive also sought to learn whether the Central Government, or some authority subsidised by the Government if necessary, will assist local authorities financially during the development of Non-White townships and, following the excision of such areas from the parent local authority, will subsidise the new Non-White local authority areas if necessary.

38 It is the unanimous view of local authorities that the problem which they face is not dis-similar to that which confronted the Central Govern-

ment at the time of the passing of the Transkeian Constitution Act, No. 48/1963, since when it has been necessary for the State to vote millions of rands each year to pay for essential services and other facilities which are presently well beyond the financial ability of this territory to meet from its own revenues.

39 A somewhat similar situation also obtains in South-West Africa, where local authorities have received considerable financial assistance from the Government in the form of development capital at extremely low rates of interest, which assistance contributes materially towards the ability of the Non-White local areas concerned to become financially self-sufficient, if not from the very outset then certainly at a much more rapid rate than would otherwise be the case.

40 The necessary statutory powers to deal appropriately with the local counterpart of this situation are to be found in the provisions of the Community Development Act, No. 3/1966. This Statute constituted the Community Development Board with wide functions and complementary powers designed to fulfil the State's policy of setting up, as expeditiously as possible, separate and financially viable Non-White local authorities in appropriate group areas. For ease of reference, so much of the objects and general powers of the Community Development Board (as set out in Section 15 of the Act), as are relevant to the subject under discussion, are quoted hereunder:

- "15. (1) The objects for which the board is established shall be, subject to the directions of the Minister –
- (a) to develop or assist in the development of such areas, not being areas referred to in section 20 (3) (c) of the Group Areas Act, as may from time to time be designated by the Minister, and to promote community development in any such area;
 - (b) to assist in and control the disposal of affected properties; and
 - (c) to assist persons to acquire or hire immovable property in so far as in the opinion of the board may be necessary or expedient for the achievement of the objects mentioned in paragraph (a) or (b).
- (2) For the purpose of achieving its objects the board shall, in addition to any other powers vested in it by this Act, have power –
- (a) with the approval of the Minister and subject to such conditions as he may in consultation with the Minister of Finance determine, to acquire or hire such property as it may consider necessary for the effective performance of its functions;

- (b) with the approval of the Minister given either generally or in a particular case, and subject to such conditions as he may determine –
 - (i) to acquire by purchase, exchange or otherwise any immovable property;
 - (ii) to develop any immovable property belonging to the board and to provide amenities and services on any such property or any portion thereof;
 - (iii) to sell, hypothecate or otherwise dispose of or encumber any immovable property belonging to the board or to exchange it for other immovable property and to let such property to any person or to donate it for any purpose or to deal therewith in any other manner as the board may deem fit;
 - (iv) to sublet to any person any immovable property which the board has hired;
- (c) *with the approval of the Minister given in consultation with the Minister of Finance, and subject to such conditions as the Minister may in consultation with the Minister of Finance determine, to make or grant ex gratia payments, refunds, donations and remissions;*
- (d) with the approval of the Minister given either generally or in any particular case after consultation with the Administrator of the province concerned and with the local authority, if any, for the area concerned, and subject to such conditions as the Minister may determine –
 - (i) to sub-divide, lay out, plan and develop any land belonging to the board or any portion thereof;
 - (ii) to cause surveys, plans, sections, maps, diagrams or drawings to be made in respect thereof;
 - (iii) to construct roads, streets, thoroughfares, bridges, subways, drains, sewers, aqueducts, conduits, water and other mains, power lines and such other works, including buildings, on or over such land, as the board may deem necessary;
 - (iv) to reserve or set aside any portion thereof for streets, open spaces or other public purposes;
 - (v) to construct and maintain on any land, roads, drains, sewers, aqueducts, conduits, water and other mains and power lines to connect with roads, drains, sewers, aqueducts, conduits, water and other mains and power lines constructed or to be constructed under sub-paragraph (iii) of this paragraph, and for such purposes, subject *mutatis mutandis* to the provisions of paragraph (b) (i) of this subsection and of section

38, to acquire any interest in immovable property wherever situated;

(e)

(f) with the approval of the Minister given either generally or in any particular case, and subject to such conditions as he may in consultation with the Minister of Finance determine –

- (i) to build houses or other structures or to demolish, alter or reconstruct any buildings on land belonging to the board and to grant leases over such land, houses or buildings or to dispose of the right of occupation of such houses or buildings;
- (ii) to make available any such land for lease by any person for the purpose of enabling him, subject to the approval of the board and on such conditions as it may deem fit, to provide for his own housing requirements;
- (iii) by agreement with the owner thereof to develop any land not belonging to the board, to build houses or other structures thereon, to demolish, alter or reconstruct any building thereon and to provide amenities and services on such land or any portion thereof;
- (iv) *to grant loans or advance money or make available materials for any purpose which in the opinion of the board will contribute towards the attainment of the objects for which the board is established;*

(g)

(h) with the approval of the Minister to make payments in respect of any goodwill value which may be attached to any profession or business which is likely to be lost as a result of the person carrying on that profession or business having to cease carrying on that profession or business in consequence of any proclamation under the Group Areas Act, or any steps taken under that Act: Provided that such payment shall not exceed an amount equal to the nett profit derived from such profession or business by the person carrying on that profession or business during the period of twelve months immediately preceding the date on which such person was obliged to cease carrying on such profession or business, or during the period of twelve months immediately preceding the date of the relevant proclamation, whichever is the greater; and

(i) generally to perform all such acts as in the opinion of the

board are necessary for or incidental to the attainment of the objects for which the board is established.

(3) to (7)”

41 In Section 23 (3) (a) quoted hereunder, the Act goes on to indicate the extent of the assistance and facilities which are afforded to the Community Development Board by the parent local authority:

“23. (3) (a) Whenever the Minister of Planning has certified that any group area is intended for occupation or ownership by members of the group concerned who are resident within the area of jurisdiction of any local authority, *the board may*, whether or not that group area or any portion thereof is within such area of jurisdiction, *direct that local authority to perform in that group area at the expense of the board any or all of the functions which the board is in terms of section 15 (2) (d) empowered to perform in that area*, and such local authority shall be obliged to comply with any such direction and shall for that purpose have the same powers as the board has in connection with the performance of such functions, as also any powers which such local authority has in connection with the performance by it of its own accord of such functions within its area of jurisdiction, and the provisions of any law applicable in connection with the performance by that local authority of such functions of its own accord within its area of jurisdiction shall also apply with reference to the performance of such functions in pursuance of a direction by the board.”

42 The Community Development Act, No. 3/1966 clearly envisages that it shall be the function of the Community Development Board to decide the nature and extent of the services and amenities to be provided in any group area and also the speed at which such development should take place. Section 15 (2) (c) of the Act also contemplates that the necessity may well arise for the Community Development Board, subject to Ministerial approval “to make or grant *ex gratia* payments, refunds, donations and remissions” to assist local authorities in giving effect to the Board’s requirements in the development of any local community.

43 Local authorities in the Republic hold the view that the very problems (and the associated financial difficulties) with which they are now beset, were clearly foreseen by Parliament when the Community Development Act was passed. They accordingly feel that the machinery of the Community Development Board should be used in greater measure to guide local authorities as to the nature, extent and rate of the development which should take place in individual Non-White areas, and that use should also be made of the powers of the Board to finance from State funds all such development costs which are in excess of those which would

have been incurred in the normal way by the local authorities concerned in the development of the areas under their jurisdiction.

44 It is a matter for regret to have to record that, thus far, the representations submitted by the United Municipal Executive to the Minister for Community Development have not been very successful. It seems that the Minister's present view is that it is the duty of the parent local authority to undertake, at its own cost, all necessary development and to provide whatever amenities and other facilities are appropriate, until the stage is reached when the newly established Non-White local authority is permitted to take over and manage such responsibilities on its own.

45 This, of course, is a situation the financial implications of which can and will vary considerably from one local authority to another, and which will be materially affected by the nature and extent of town and regional planning proposals for a given area. These proposals will naturally have a profound influence upon the ultimate composition and character of individual Non-White local authority areas and will dictate, in turn, the ultimate measure of financial viability which such Non-White local authority may hope to achieve.

46 Many of the newer and larger Non-White future local authority areas consist primarily of dormitory residential townships, associated with the "core" parent local authority, in which the majority of the Non-White residents concerned earn their living. It is true that provision is made, wherever practical, in the planning of such Non-White areas for trading sites to be established in each of the Neighbourhood Units involved, but these are generally strictly limited in number and provide only a few job opportunities for residents in that area. Furthermore, because of the relatively low overall standard of housing development found in such Non-White areas, the Rate Fund income which one may expect therefrom is correspondingly low and, without supplementation from some external source, will not usually be capable of sustaining the cost of anything but the most rudimentary standard of services and other amenities.

47 Needless to say, for so long as the Non-White area in question remains an integral part of the parent local authority's area of jurisdiction any excess expenditure occasioned by the provision of services and amenities in the Non-White area to the standard and in such measure as are considered appropriate in all the circumstances, has to be borne by the parent local authority in just the same way as the ratepayers as a whole would bear the shortfall in respect of any other predominately residential area within the borough, which was not financially self-supporting.

48 Whilst this obligation and responsibility is understood and accepted by parent local authorities generally, it unfortunately leaves unresolved the nub of the question, which is "How will the Non-White local authority

area balance its books if and when such area is ultimately granted autonomy?" It also leaves unresolved what is probably an even more important issue, viz., that for so long as the Non-White Local Affairs Committee members have to rely upon the largesse of the parent local authority to achieve the standard of development which they consider appropriate for their own area, for just so long will these Non-White City Councillors of the future be taking major decisions on matters affecting their areas for which they are not being required to assume full responsibility for raising, from among their own people, the necessary finances to meet the costs of the provision of such services and amenities. The sooner the emergent Non-White local government members (and Non-White officials for that matter) are brought to realise that the granting of each request received from their community for extra or improved facilities carries with it an automatic obligation and responsibility to face the same community with the stark reality of having to raise the necessary additional funds to finance such requirements, the sooner will true and responsible local self-government be achieved in these areas.

49 This realisation that hand in hand with the granting to representatives of the Non-White community the right to "call the tune" with regard to the standard and rate of development of facilities in their own local government areas, goes the synonymous responsibility to "pay the piper", makes it vitally urgent, in my view, for a clear-cut financial blue-print to be evolved at the earliest possible date, which will make plain the part which the State and the Provinces will play, either directly or through appropriate agencies, in the evolution of these Non-White local authority areas.

50 I am aware that in the course of an interview recently with the Minister of Community Development, representatives of the United Municipal Executive were advised once again that it is the responsibility of each local authority involved to take its own decisions on the standards to be applied in the development of Non-White areas, in the same way as it would consider requests received from its other ratepayers, and that when the time comes for the act of partition to take place there will be negotiations between the State, the Province and the parent local authority to determine how to finance any resultant shortfall in the Non-White local authority's budget which may then be revealed.

51 Whilst it is encouraging to local authorities to note this implied assurance from the Minister that, if and when financial assistance to independent Non-White local authorities proves to be necessary in practice, such help will be forthcoming via State agencies, it is vital in my humble view, that a clearer picture be formulated at a much earlier stage, of the nature and extent of such likely assistance, because of the considerable effect which such knowledge would, and should have on the decisions to be taken in the interim not only by the parent local authority but by the representatives of the Non-White community as well.

52 In drawing attention once again to the considerable difficulties at present confronting local authorities in their endeavours to implement the State's policy in regard to the development of Non-White local authority areas, I make the plea and express the hope that the representations submitted by the United Municipal Executive will be further considered by the Minister of Community Development at an early date, and in this regard feel that it would not be inappropriate to quote again from the sage words penned by the late Mr. W. L. Howes, who, in commenting upon the developments taking place in Non-White local government, stated –

“I believe, too that it is urgent; for in this, as in most things, it is probably later than we think; and I believe that it is very necessary that we should succeed in what we are trying to do.

I am able to say these things without any restraint, because they have nothing to do with party politics. I believe that, whatever the future holds for this country, and whatever policies are adopted for the inevitable political evolution of the Non-White groups – whether the present policy of separate development is continued, or whether it is modified in any way, or whether it is replaced by some other policy – the steps which are now being taken will be a necessary foundation and an essential pre-requisite for success.”

Some of the Human Problems involved

53 To recapitulate briefly, it will be recalled that the development of a given Non-White local authority will normally take place in three distinct stages, namely:

- (a) A preliminary stage during which the Non-White Consultative Committee (or Local Affairs Committee, as it is known in Natal) operates largely as an advisory body to the parent local authority.
- (b) The second stage, during which the group area concerned still remains under the jurisdiction of the parent local authority, but during which the Non-White Management Committee (or the equivalent Local Affairs Committee under the Natal Ordinance) is progressively granted authority to take plenary decisions regarding specified matters concerning such group area, but subject to the overall limitation of the financial provision contained in the parent local authority's approved estimates of expenditure.
- (c) The final stage, which can only be reached in those group areas which are able to satisfy the following criteria:
 - (i) The area is capable geographically of being separated from the parent local authority and is large enough and sufficiently developed to qualify for local authority development.
 - (ii) It has reached the stage of being financially viable and has at its disposal a sufficient number of suitable persons with

the requisite knowledge and experience to undertake successfully the independent administration of the area.

54 It is vital to the success of the whole scheme that the appointment of eligible persons to Non-White committees in group areas should be seen to result in the practical attainment by the Non-White Committees concerned of the facilities and services sought by that community. It is important that realisation of the community's wishes and the betterment and growth of the Non-White area should be clearly visible for all to see, and should, wherever practicable, proceed at a more rapid rate than equivalent development elsewhere in the parent local authority's area of jurisdiction.

55 In this regard, however, the representatives appointed initially by the Administrator, and subsequently the representatives elected by the Non-White community itself, will find themselves in a most difficult position. On the one hand, they will be under constant pressure from the community at large to obtain for it the best that they can in the way of services and facilities without much regard for the question of who is to bear the cost thereof, while on the other hand, as responsible and prudent men, they will need always to be guided in their deliberations by the undeniable fact that true autonomy in local governing stems from economic strength and independence. Hence they will require to weigh all proposals and requests against the background of the Non-White community's likely ability to be able to finance such requirements from within its own resources, if and when the group area in question is ultimately excised from the jurisdiction of the parent local authority and created as a separate local authority in its own right.

56 Quite apart, therefore, from such limitations which financial considerations may place upon the rate of progress at which any given Non-White area may evolve towards independent local authority status, it will be apparent that the availability from within such group of an adequate supply of leaders, possessed of experience and the right personal qualities, will always be a major factor in determining the rate of progress which is made in practice.

57 Some communities, particularly those which have been settled in the group areas concerned for some years and have developed extensive commercial and other interests, are particularly fortunate in the number and quality of leaders available to serve them. This is impressively so in the case of a number of large Indian communities, where education, business training and the extensive development of religious, cultural and welfare organisations has served to produce men of a calibre capable of assuming the responsibilities of leadership at a high level.

58 That this is so, is underlined by the speed with which several Indian areas in Natal have progressed to the stage of electing their own representatives to their respective Local Affairs Committees, and also by the fact

that on 1st September, 1967 the Township of Verulam had the honour of becoming the first fully independent Indian Borough in the Republic, complete with its own Indian Town Clerk.

59 Unfortunately, such advanced and well-developed qualities of leadership are not generally to be found, at present, in all Non-White communities, and this consequently places an additional responsibility upon the parent local authority to assist in guiding and moulding the Non-White representatives in their duties and responsibilities as appointed, and (later) elected leaders of their communities.

60 Naturally, in such circumstances the rate of progress towards independent local authority status, if this is ever to be attained in certain instances, will be slow and beset with many problems, but patience and understanding on both sides will in the end be rewarded.

61 Whilst there is no disputing the importance of well-informed, responsible and dynamic leadership in fashioning and in maintaining a satisfied and well-run community, it is almost trite to say that the standard of administration in any local authority area depends in no small measure upon the calibre, training and experience of the permanent, salaried local government officers employed in that area.

62 It is also true that, apart from the financial problems mentioned earlier and the practical difficulties of assisting individual members of the various Non-White local affairs committees to acquire knowledge and gain practical experience in local government in the relatively short time available to them for this purpose, probably the most vital and difficult problem affecting parent local authorities is that of recruiting and training a sufficient number of Non-White personnel of suitable calibre to undertake efficiently and economically the day-to-day administration and operation of the host of municipal services which most of us take so very much for granted. In this context the Universities and the Commercial and Technical Colleges clearly have a very important part to play.

63 If I might be pardoned, I should like to refer briefly once again to the Chatsworth Indian Township area which comprises some 4,600 acres, and which, when completed, will provide some 22,000 units of accommodation for an ultimate population of approximately 150,000 persons. At an early stage in the building of this Township the Durban City Council took a decision to establish a Branch Office of the City Treasurer's Department in the Chatsworth area, to be staffed exclusively by personnel recruited from the Indian community and supervised, for the time being only, by an experienced European Senior Accountant. Starting in a small way, the staff of this Branch Office has already grown to some 34 persons comprising the following, the latest addition being a qualified Indian Accountant who commenced duty early in 1967:

<i>Designation</i>	<i>Salary Grade (per annum)</i>	<i>No. of Occupied Positions</i>
Accountant	R1680/2928	1
Principal Clerk	R1512/1656	1
Senior Clerk (Grade I)	R1320/1464	1
„ (Grade II)	R1176/1248	1
„ (Grade III)	R1056/1128	2
Clerk (Grade I)	R936/1008	7
Caretaker	R816/888	5
Senior Meter Reader	R816/888	1
Meter Reader	R696/768	5
Office Assistant	R576/648	1
Labourer	R478	9
		34

64 Whilst the procedure was followed of obtaining as the first Indian Accountant at the Chatsworth Branch Office a suitably qualified person from outside the municipal service, it is the Durban City Council's intention, as far as may be practicable in future, to endeavour to train its Indian Accountants from amongst suitable members of the Indian clerical staff, in much the same way as European Municipal Accountants are trained in most of the larger cities of the Republic. Experience has shown that the practice of recruiting suitable young clerical personnel and assisting them financially to achieve appropriate accounting qualifications (on an extra-mural basis) while they are also being trained in the practical functions and duties of a Treasury Department, is the most satisfactory method of ensuring an adequate reservoir of trained and experienced municipal officers from which future senior executive and administrative officers may be drawn.

65 The Treasury Branch Office staff mentioned above not only deals with the reading of electricity meters (water is not metered at this stage) and the collection of housing rentals, electricity charges and the like, but is also concerned with the day-to-day administration of the Township as such, under the overall guidance (at this stage) of senior officers of the City Treasurer's Department.

66 The accounting system is fully mechanised on a cyclical basis, the preparation of the accounts being integrated with those for the rest of the electricity consumers in the City of Durban's area of electricity supply. This feature serves to underline, I feel, the importance of bearing in mind, when considering the staffing needs of the Non-White local authority, the extent to which the parent local authority (or any other neighbouring authority for that matter) can supply the Non-White local authority conveniently and more economically with the necessary service on a regional basis.

67 Naturally, the question of recruiting and training Non-White municipal staff is not limited to the Treasury personnel and, subject always to the reservation already made regarding the desirability of bearing in mind the mutual advantage which can so often be achieved by planning for the provision of certain services on a regional basis, rather than purely on an individual local authority basis, it will be necessary for the parent local authority to take active and practical steps towards the appointment and training of the necessary staff to handle the full range of local authority requirements.

Non-White Municipal Franchise

68 Reference has already been made to the fact that, during its initial terms of office, the membership of any given Non-White Local Affairs Committee consists of eligible persons appointed by the Administrator of the Province concerned and that provision also exists in the relevant Ordinances and the regulations framed thereunder for succeeding Committees to be composed partly of eligible persons appointed by the Administrator and partly by eligible persons elected in the normal way. The franchise is extended to eligible persons who are 21 years of age or more and who comply with certain qualifications, which themselves vary slightly as between the various Provinces.

69 When the Non-White area in question reaches its final stage of development, viz., the attainment of fully independent local authority status, all members of the Town Board are then normally elected by the registered voters of the area, although provision exists in the Local Government Ordinances of the various Provinces for all or some of the persons comprising the initial Town Board to be nominated by the Minister, or by the Administrator, as the case may be.

70 In considering the speed with which it is possible for Non-White areas in South Africa to evolve to full local authority status, having its own Council composed entirely of elected representatives, it is perhaps of interest to compare the experience of Non-White towns and cities elsewhere.

71 In a book containing a series of articles written by eminent persons, edited by W. A. Robson (Professor of Public Administration at the London School of Economics and Political Science), and published under the title "Great Cities of the World - Their Government, Politics and Planning", mention is made, *inter alia*, of the fact that the Corporation of the City of Bombay with its then (1949) population of over 2,500,000 souls, only became a fully elected body in 1938.

72 The article in question goes on to record that the original Bombay Corporation, which was established over 70 years earlier, in 1865, was composed only of justices of the peace, all nominated by the provincial government. This position apparently prevailed until 1872, when an

elected or democratic element took its place on the Council, side by side with the nominated members.

73 Another interesting feature which emerges in this article, is that in the beginning, the franchise in Indian Cities of Bombay and Calcutta was restricted to a very small proportion of ratepayers – the writer mentions, for example, that only 5,044 out of the then population of some 612,000 had a vote in the City of Calcutta in 1878, and that it was only in 1947 that elections on the basis of adult suffrage were held for the first time in the City of Bombay. At the time of publication of the article (1957) there was still no provision for adult suffrage in the City of Calcutta although an Investigating Commission had recommended this in the strongest terms.

74 I do not intend, Mr. President, to attempt to analyse the reasons for the slow progress made towards the democratisation of these two famous Indian Cities, nor to make any comments thereon, other than to say that in the Republic of South Africa the relevant legislation and regulations mentioned earlier in my paper make it possible, in appropriate Non-White areas, for the democratic process of elections by means of adult franchise to be introduced with a minimum of delay.

The Guiding Hand

75 Mr. President, I am painfully conscious of the fact that what I have said this morning has dealt most inadequately with but a few of the many and varied facets of the subject of this paper, the problems of which are at once both fascinating and almost overwhelming in their complexity. I appreciate also that I have tended to labour somewhat the financial implications of Non-White local authority development, but I make no apology for having done so, because I firmly believe that adequate financial assistance from State/Provincial sources, coupled with realistic and farsighted regional planning, is a *sine qua non* to the successful and speedy evolution of Non-White areas as virile, proud and autonomous local authorities.

76 However, whilst this be so, the note on which I should like to end this paper is that, in all our planning and pre-occupation with things material and financial, we should strive not to lose sight of the fact that we are dealing with the rights and aspirations of human beings and with the development of communities, each of which has its own local characteristics or personality.

77 In his book on "Slums and Community Development", Marshall B. Clinard records that a United Nations report on 'community development' emphasizes its two main components, viz., community self-help and outside technical assistance. The author goes on to state that:

"The term 'community development' has come into international usage to connote the processes by which the efforts of the people

themselves are united with those of governmental authorities to improve the economic, social, and cultural conditions of countries, to integrate these communities into the life of the nation, and to enable them to contribute fully to national progress. This complex of processes is then made up of two essential elements: the participation by the people themselves in efforts to improve their level of living with as much reliance as possible on their own initiative and the provisions of technical and other service in ways which encourage initiative, self-help and mutual help and make these more effective."

78 Whilst being in no way trained to enter the (for me) uncharted fields of sociology, I find myself immediately at one with the above-mentioned author in his belief that whatever assistance and help is provided by outside agencies (and for the purpose of this comment I include the State, the Provinces and also the parent local authority in this category) should be made available in such a form and in such a manner as to stimulate and encourage to the full *the development from within the Non-White community itself* of that sense of civic pride and self-help which is the necessary spur to successful and peaceful local authority growth, and which can contribute so materially to the overall stability and well-being of our country as a whole.

79 And how shall this best be achieved? As I have already stated, regrettably I am not one who has been trained in the sphere of sociology. I thus find myself torn between Edmund Burke's admonition "You can never plan the future by the past" and Patrick Henry's "I have but one lamp by which my feet are guided, and that is the lamp of experience. I know of no way of judging the future but by the past."

80 No doubt there is wisdom in both of these statements, but I prefer to believe that in seeking the solution to the problems which confront us, we should ever be mindful of the words of One who says:

"Truly, I say to you, as you did it to one of the least of these my brethren, you did it to me."

(Matthew 25.40)

81 Provided what we seek to do is guided by this teaching, we may rest assured of the successful and satisfactory outcome of our endeavours, although I also believe that we must accept the possibility (or even the probability) that the end result may well prove to be substantially different from that originally conceived by us.

Extracts from the Group Areas Act (No. 36/1966)

- I (1) In this Act, unless the context otherwise indicates –
- (i) "Administrator" means Administrator in Executive Committee;
 - (ii) to (x)
 - (xi) "group" means either the white group or the coloured group or the Bantu group referred to in section 12, and includes, to the extent required to give effect to any relevant proclamation issued or deemed to have been issued under sub-section (2) of the said section, any group of persons who have been declared or are deemed to have been declared to be a group under the said section;
 - (xii) "group area" means any area proclaimed or deemed to have been proclaimed under section 23;
 - (xiii) to (xvi)
 - (xvii) "Minister" means –
 - (a) for the purposes of the application of section 5, 6, 8, 9 (5), 18, 21, 22, 23, 27 (3), 28, 30, 32, 33, 41, 44, 45 (4) or 48 in relation to –
 - (i) the definition of a group under section 12 (2) consisting of members of the Bantu group; or
 - (ii) any group area for the Bantu group or for any group defined under section 12 (2) consisting of members of the Bantu group; or
 - (iii) any area referred to in section 24 (1) which is declared to be an area for future occupation or future ownership by members of the Bantu group or of any group defined under section 12 (2) consisting of members of the Bantu group; or
 - (iv) any area which is a released area in terms of the Bantu Trust and Land Act, 1936 (Act No. 18 of 1936); or
 - (v) any area referred to in section 8 (1) of the Bantu (Urban Areas) Consolidation Act, 1945 (Act No. 25 of 1945); or
 - (vi) any immovable property, land or premises in any such area; or
 - (vii) the acquisition outside any such area of any immovable property, or the occupation of any land or premises by a member of the Bantu group or of a group defined under section 12 (2) consisting of members of the Bantu group; or
 - (viii) any determination under section 18 in favour of a member of the Bantu group or of a group defined under section 12 (2) consisting of members of the Bantu group,
 the Minister of Bantu Administration and Development;
 - (b) subject to the provisions of paragraph (a), for the purpose of the application of section 6, 8, 18, 21, 22, 23 (2) or (3), 27 (3), 32 (2) or (3), 33, 44, 45 (4) or 48, in relation to any area, immovable property, building, land or premises which is the subject of a proclamation issued or deemed to have been issued under section 19, 23, 24 or 25, and for the purpose of the application of sections 28, 29, 30, 36, 37, 38 and 41, the Minister of Community Development; and
 - (c) for the purpose of the application of any other provision of this Act, the Minister of Planning.
 - (xviii) to (xxiv)
 - (xxv) "regulation" means a regulation made or deemed to have been made under this Act;
- (2) to (4)

2 to 11

- 12 (1) For the purposes of this Act there shall be the following groups, namely:
- (a) a white group, in which shall be included any person who in appearance obviously is or who is generally accepted as a white person, other than a person who, although in appearance obviously a white person, is generally accepted as a coloured person, or who is in terms of sub-paragraph (ii) or (iii) of paragraph (b) or (c) or of either of the said sub-paragraphs read with paragraph (d) of this sub-section and sub-section (2) (a), a member of any other group;
 - (b) a Bantu group, in which shall be included –
 - (i) any person who in fact is or who is generally accepted as a member of an aboriginal race or tribe of Africa, other than a person who in terms of paragraph (c) (ii) is a member of the coloured group; and
 - (ii) any woman to whichever race, tribe or class she may belong, between whom and a person who in terms of sub-paragraph (i) is a member of the Bantu group, there exists a marriage, or who cohabits with such a person; and
 - (iii) any white man between whom and a woman who in terms of sub-paragraph (i) is a member of the Bantu group, there exists a marriage, or who cohabits with such a woman;
 - (c) a coloured group, in which shall be included –
 - (i) any person who is not a member of the white group or of the Bantu group; and
 - (ii) any woman, to whichever race, tribe or class she may belong, between whom and a person who in terms of sub-paragraph (i) is a member of the coloured group, there exists a marriage, or who cohabits with such a person; and
 - (iii) any white man between whom and a woman who in terms of sub-paragraph (i) is a member of the coloured group, there exists a marriage, or who cohabits with such a woman; and
 - (d) any group of persons which is under sub-section (2) declared to be a group.
- (2) The State President may, by proclamation in the *Gazette* –
- (a) define any ethnic, linguistic, cultural or other group of persons who are members either of the Bantu group or of the coloured group; and
 - (b) declare the group so defined to be a group for the purposes of this Act or of such provisions thereof as may be specified in the proclamation, and either generally or in respect of one or more group areas, or in respect of the controlled area or any portion thereof so specified, or both in respect of one or more group areas and in respect of the controlled area or any such portion thereof.
- (3) A proclamation under sub-section (2) (a) may provide that only persons who have on application been registered in accordance with the regulations, or who have been registered under any other law, as members of the group referred to in the proclamation, shall be members thereof.
- (4) A member of the Bantu group or of the coloured group who is or becomes a member of any group defined under paragraph (a) of sub-section (2) shall, to the extent required to give effect to any proclamation under paragraph (b) of the said sub-section, be deemed not to be a member of the Bantu group or of the coloured group, as the case may be.

13 to 27

- 28 (1) The Minister may after consultation with the Administrator of the province concerned, by notice in the *Gazette* establish for any group area (other than a group area for the white group) or any portion of such group area, which is situated within the area of jurisdiction of a local authority or for any two or more such group areas or portions of group areas (whether contiguous

- or not), either a consultative committee or a management committee, to be constituted in accordance with regulation, and may at any time, in like manner, disestablish any consultative committee or management committee so established.
- (2) Any such consultative committee or management committee shall consist wholly of members of the group for which such group area or group areas have been established.
 - (3) (a) No local authority which exercises jurisdiction in an area for which a consultative committee has been established, shall take any decision in regard to any matter in respect of which such committee is to be consulted in terms of any regulation or any direction given by an Administrator in terms of any regulation unless it has consulted such committee and has given due consideration to any suggestions or comments which such committee may wish to make.
 - (b) If any such committee fails to furnish its suggestions or comments within seven days after it has been requested to do so, or within such further period as the local authority concerned may in its discretion allow, the committee shall be deemed to have no suggestions or comments to make.
 - (4) A management committee shall within the area for which it has been established have such powers, functions and duties of the local authority which has jurisdiction in respect of such area as may be conferred or imposed upon it by or under regulation, and shall exercise its powers, carry out its functions and perform its duties under the supervision and control of that local authority and subject to such conditions as the Administrator of the province in which the area concerned is situate may determine.
- 29 (1) The Minister may at any time appoint a committee to investigate and report upon the desirability or otherwise of establishing a local authority for any area comprising an area for which a management committee has been established in terms of section 28 or comprising any two or more areas (whether contiguous or not) for which management committees consisting of persons of the same group have been so established.
- (2) (a) A committee appointed in terms of sub-section (1) shall consist of not more than five members of whom –
 - (i) at least one shall be a person nominated by the Administrator of the province concerned; and
 - (ii) one shall be a person nominated by the local authority or jointly by the local authorities having jurisdiction in the area or any portion of the area in respect of which the investigation is to be made: Provided that if the local authority or local authorities, as the case may be, fail to nominate a person within ten days after being requested to do so, the Minister may appoint such person as he may deem fit.
 - (b) The Minister shall designate one of the members of such committee to be the chairman thereof.
 - (3) If after consultation with the Administrator concerned and consideration of the report of the committee appointed in terms of sub-section (1) the Minister is of the opinion that it is desirable that a local authority be established for the area in respect of which the investigation was made or for any area within it, he may in writing direct that a local authority of a type specified by him be established for such area within such period as he may determine, and the Administrator concerned shall thereupon, notwithstanding anything to the contrary in any law contained, take or cause to be taken all steps which are necessary for the proper establishment for that area, in terms of the laws in force in his province, of a local authority of the type so specified as if all such conditions precedent to the establishment of such a local authority as the Minister, after consultation with the Administrator concerned, may determine, had been duly complied with.

- (4) Any local authority established in terms of sub-section (3) shall, notwithstanding the fact that the area for which it is established may comprise two or more areas which are not contiguous, for all purposes be deemed to be a local authority properly established in terms of the laws in force in the province concerned.
- (5) (a) Notwithstanding anything to the contrary in this section or in any other law contained, the State President may, by proclamation in the *Gazette*, at any time repeal, alter, amend or modify any law relating to or in connection with the requirements to be complied with in order to become a member of any local authority (including the council of a municipality in the Province of the Cape of Good Hope) in so far as it applies in respect of a local authority established in terms of sub-section (3).
- (b) The Minister shall cause a copy of every proclamation issued under paragraph (a) to be laid upon the Tables of both Houses of Parliament within fourteen days after publication thereof if Parliament is then in ordinary session or if Parliament is not then in ordinary session within fourteen days after the commencement of its next ensuing ordinary session.
- (c) Every such proclamation shall cease to have the force of law ninety days after it has been laid upon the Tables of both Houses of Parliament unless before that date it has been approved by resolution of the Senate and of the House of Assembly.
- (6) Different provisions may be made in terms of sub-section (5) in respect of different areas.

30 to 47

48 (1) The Minister may make regulations –

- (a) as to the manner in which any consultative committee or management committee referred to in section 28 is to be constituted, including the election of all or some of its members;
- (b) as to the tenure of office of members of any such committee, the filling of casual vacancies on any such committee, the holding of meetings of any such committee and the procedure thereat (including the quorum);
- (c) prescribing the qualifications required for voting for or becoming members of any such committee;
- (d) providing that persons who, in terms of regulations made under paragraph (c) are qualified as voters for any management committee and who on the date on which they become or became so qualified are or were not already registered as voters for the election of members of a local authority, shall not, while they remain so qualified, be registered as voters for the election of members of a local authority;
- (e) prescribing the matters in respect of which a consultative committee is, in terms of section 28 (3), to be consulted;
- (f) authorising the Administrator of a province after consultation with the local authority concerned, to direct that any consultative committee established for an area situate in his province be consulted in terms of section 28 (3) in respect of such other matters, in addition to those prescribed under paragraph (e), as he may, in his discretion, determine;
- (g) prescribing the powers, functions and duties contemplated by section 28 (4) of any management committee;
- (h) authorising the Administrator of a province after consultation with the local authority concerned, to confer or impose upon any management committee established in his province such powers, functions and duties of the local authority which has jurisdiction in the area for which such committee has been established as he may, in his discretion, determine;
- (i) in consultation with the Administrator of the province concerned, as to the powers, functions and duties of any local authority in any portion

of its area of jurisdiction in respect of which a management committee has in terms of section 28 (1) been established, in connection with any matter in respect of which powers, functions or duties have been conferred or imposed upon the management committee by or under regulation; and

(j) as to any matter relating to or arising from the disestablishment of any consultative committee or management committee.

(2) Different regulations may be made in respect of different areas.

49 to 50

**Transvaal Local Government (Extension of Powers) Ordinance
No. 22 of 1962**

An Ordinance

To provide for the establishment of a Consultative Committee, Management Committee or a Local Authority for a Group Area or portion thereof and to provide for matters incidental thereto.

BE IT ENACTED by the Provincial Council of Transvaal as follows:

Definitions

- 1 In this Ordinance, unless the context otherwise indicates –
- (i) "Administrator" means the officer appointed under section sixty-six of the Republic of South Africa Constitution Act, 1961 (Act No. 32 of 1961), acting on the advice and with the consent of the Executive Committee of the Province;
 - (ii) "group" means a group as defined in section one of the Group Areas Act, 1957 (Act No. 77 of 1957);
 - (iii) "group area" means a group area as defined in section one of the Group Areas Act, 1957;
 - (iv) "local authority" means a town council, village council or health committee established in terms of the Local Government Ordinance, 1939, and includes the Peri-Urban Areas Health Board established in terms of the Peri-Urban Areas Health Board Ordinance, 1943;
 - (v) "Minister" means the Minister of Community Development;
 - (vi) "regulation" means a regulation made under this Ordinance.

Establishment of Consultative or Management Committee for a Group Area or Portion thereof

- 2 (1) The Administrator may, with the approval of the Minister, by notice in the Provincial Gazette establish for any group area (other than a group area for the white group) or any portion of such group area, which is situated within the area of jurisdiction of a local authority, or for any two or more such group areas or portions of group areas for the same group (whether contiguous or not) either a consultative committee or a management committee, and may at any time, in like manner, disestablish any consultative committee or management committee so established.
- (2) Any such consultative committee or management committee shall consist wholly of members of the group for whom such group area or group areas were constituted.
- (3) (a) No local authority which exercises jurisdiction in an area for which a consultative committee has been established, shall take any decision in regard to any matter in respect of which such committee is to be consulted in terms of any regulation, unless it has consulted such committee and has given due consideration to any suggestions or comments which such committee has made.
- (b) If any such committee fails to furnish its suggestions or comments within fourteen days after it was requested to do so, or within such further period as the local authority concerned may in its discretion allow, it shall be deemed that the committee has no suggestions or comments to make.
- (4) A management committee shall within the area for which it has been established have such powers, functions and duties of the local authority which has jurisdiction in respect of such area as may be conferred or imposed upon it by or under regulation, and shall exercise its powers, carry out its functions and perform its duties under the supervision and control of that local authority and subject to such conditions as the Administrator may determine.

Establishment of Local Authority for Area for which Management Committee has been established

- 3 (1) The Administrator may at any time appoint a committee to investigate and report upon the desirability or otherwise of establishing a local authority for any area comprising an area for which a management committee has been established in terms of section two or comprising any two or more areas for which management committees, consisting of persons of the same group, have been so established.
- (2) (a) A committee appointed in terms of sub-section (1) shall consist of not more than five members of whom –
- (i) at least one shall be a person nominated by the Minister; and
 - (ii) one shall be a person nominated by the local authority or jointly by the local authorities having jurisdiction in the area or any portion of the area in respect of which the investigation is to be made: Provided that if the local authority or local authorities, as the case may be, fail to nominate a person within ten days after being requested to do so, the Administrator may appoint such person as he may deem fit.
- (b) The Administrator shall designate one of the members of such committee to be the chairman thereof.
- (3) After consideration of the report of the committee appointed in terms of sub-section (1), the Administrator may, with the approval of the Minister and notwithstanding any other law to the contrary, establish a local authority of a certain type for the area in respect of which the investigation was made or for any area therein in terms of the Local Government Ordinance, 1939, and any other Ordinance as if all the prerequisites for such establishment have been complied with.

Regulations

- 4 (1) The Administrator may, with the approval of the Minister, make regulations –
- (a) as to the manner in which any consultative committee or management committee referred to in section two shall be constituted, including the election of all or some of its members;
 - (b) as to the tenure of office of members of any such committee, the filling of casual vacancies on any such committee, the holding of meetings of any such committee and the procedure thereat (including the quorum);
 - (c) prescribing the qualifications required for voting for or becoming members of any such committees;
 - (d) prescribing the matters in respect of which a consultative committee shall be consulted in terms of sub-section (3) of section two;
 - (e) prescribing the powers, functions and duties of a management committee contemplated in sub-section (4) of section two;
 - (f) as to the powers, functions and duties of a local authority in any portion of its area of jurisdiction in respect of which a management committee has been established in terms of sub-section (1) of section two, in connection with any matter in respect of which powers, functions or duties have been conferred or imposed upon the management committee by or under regulation;
 - (g) as to any matter relating to or arising from the disestablishment of any consultative committee or management committee;
 - (h) for the proper and effective conduct of elections of members of a local authority established in terms of this Ordinance, the qualifications of voters and the requirements to be complied with in order to become a member; and
 - (i) in connection with any other matter which he deems expedient for achieving the objects and purposes of this Ordinance, including the incurring of expenditure.

- (2) Any regulation made under this section may provide for penalties in respect of any contravention thereof or failure to comply therewith.
- (3) Different regulations may be made in respect of different areas.
- (4) The regulations referred to in sub-section (1), shall be published in the Provincial Gazette and shall be laid upon the Table of the Provincial Council within seven days of publication if the Provincial Council is then sitting or, if the Provincial Council is not then sitting, within seven days after the commencement of its next ensuing sitting.
- (5) During the sitting in which any regulation has been laid on the Table of the Provincial Council, the Provincial Council may by resolution disapprove of such regulation.
- (6) On the passing of such resolution, such regulation shall cease to be of force and effect but nothing in this paragraph contained shall affect the validity of anything previously done under such regulation or the power to make a new regulation.

Short Title

- 5 This Ordinance shall be called the Local Government (Extension of Powers) Ordinance, 1962.

**Cape Local Authorities (Development according to Community)
Ordinance, No. 6 of 1963**

Ordinance to provide for the establishment of Consultative Committees, Management Committees or Local Authorities for certain Group Areas or portions thereof, and to provide for matters incidental thereto.

Definitions

- 1 In this Ordinance, unless the context otherwise indicates –
“group” means any group as defined in section one of the Group Areas Act, 1957 (Act No. 77 of 1957);
“group area” means any area as defined in section one of the Group Areas Act, 1957;
“local authority” means a municipality, a divisional council, a village management board or a local board;
“Minister” means the Minister of Community Development; and
“regulation” means any regulation made under this Ordinance.

Establishment of Consultative or Management Committee for a Group Area or portion thereof

- 2 (1) The Administrator may, with the approval of the Minister, by notice in the Provincial Gazette establish for any group area (other than a group area for the white group) or any portion of such group area, which is situated within the area of jurisdiction of a local authority, or for any two or more such group areas or portions of group areas for the same group (whether contiguous or not), either a consultative committee or a management committee, and may at any time, in like manner, disestablish any consultative committee or management committee so established.
- (2) Any such consultative committee or management committee shall consist wholly of members of the group for which such group area or group areas have been established.
- (3) (a) No local authority which exercises jurisdiction in an area for which a consultative committee has been established shall take any decision in regard to any matter in respect of which such committee is to be consulted in terms of any regulation, unless it has consulted such committee and has given due consideration to any suggestions or comments which such committee has made.
- (b) If the suggestions or comments of such committee do not reach the office of the local authority within thirty days after the date of the letter in which the request therefor was made, or within such further period as the local authority concerned may in its discretion allow, it shall be deemed that the committee has no suggestions or comments to make.
- (4) A management committee shall within the area for which it has been established have such powers, functions and duties of the local authority which has jurisdiction in respect of such area as may be conferred or imposed upon it by or under regulation, and shall exercise its powers, carry out its functions and perform its duties on behalf of and under the supervision and control of that local authority and subject to such conditions as the Administrator may determine.

Establishment of Local Authority for Area for which Management Committee has been established

- 3 (1) The Administrator may at any time appoint a committee to investigate and report, upon the desirability or otherwise of establishing a local authority for any area comprising an area for which a management committee has

been established in terms of section two or comprising any two or more areas for which management committees consisting of persons of the same group have been so established.

- (2) (a) A committee appointed in terms of sub-section (1) shall consist of not more than five members, of whom –
 - (i) at least one shall be a person nominated by the Minister; and
 - (ii) one shall be a person nominated by the local authority or jointly by the local authorities having jurisdiction in the area or any portion of the area in respect of which the investigation is to be made: Provided that if the local authority or local authorities, as the case may be, fail to nominate a person within such period as the Administrator may determine, the Administrator may appoint such person as he may deem fit.
 - (b) The Administrator shall designate one of the members of such committee to be the chairman thereof.
- (3) After consideration of the report of the committee appointed in terms of sub-section (1) the Administrator may, notwithstanding anything to the contrary in any other ordinance contained, with the approval of the Minister establish a local authority for the area concerned or any portion thereof as if all the conditions precedent to such establishment as may be prescribed by any other ordinance had been complied with.

Regulations

- 4 (1) The Administrator may, with the approval of the Minister, make regulations –
 - (a) relating to the manner in which any consultative committee or management committee referred to in section two shall be constituted, including the election or appointment of all its members or the election of some members and the appointment of other members;
 - (b) relating to the tenure of office of members of any such committee, the filling of casual vacancies on any such committee, the holding of meetings of any such committee and the procedure thereof (including the quorum);
 - (c) prescribing the qualifications required for voting for or becoming members of any such committee;
 - (d) providing that persons who in terms of regulations made under paragraph (c) are qualified as voters for any management committee and who on the date on which they become or became so qualified are or were not already registered as voters for the election of members of a local authority, shall not, while they remain so qualified, be registered as voters for the election of members of a local authority (except a local authority established under the provisions of sub-section (3) of section three);
 - (e) prescribing the matters in respect of which a consultative committee shall in terms of sub-section (3) of section two be consulted;
 - (f) prescribing the powers, functions and duties of any management committee contemplated by sub-section (4) of section two;
 - (g) relating to the powers, functions and duties of any local authority in any portion of its area of jurisdiction in respect of which a management committee has been established in terms of sub-section (1) of section two, in connection with any matter in respect of which powers, functions or duties have been conferred or imposed upon the management committee by or under regulation;
 - (h) regarding any matter relating to or arising from the disestablishment of any consultative committee or management committee;
 - (i) for the proper and effective conduct of elections of members of a local authority established in terms of this Ordinance, the qualifications of voters and the requirements to be complied with in order to become a member; and

- (j) in connection with any other matter which he deems expedient for achieving the objects and purposes of this Ordinance, including the incurring of expenditure.
- (2) Any regulations made under this section may provide for a penalty for any contravention thereof, of a fine not exceeding five hundred rand or imprisonment for a period not exceeding two years, or both such fine and such imprisonment.
- (3) Different regulations may be made in respect of different areas.

Short Title

- 5 This Ordinance shall be called the Local Authorities (Development according to Community) Ordinance, 1963.

Orange Free State Local Government Ordinance (Coloureds)**No. 12 of 1963****Ordinance**

To provide for the establishment of Consultative Committees, Management Committees and Local Authorities for Coloureds, and for matters incidental thereto. BE IT ORDAINED by the Provincial Council of the Orange Free State, as follows:

Definitions

- 1 In this Ordinance, unless the context otherwise indicates –
- “Administrator” means the Administrator acting on the advice and with the consent of the Executive Committee;
 - “coloured group” means coloured group as defined in section ten of the Group Areas Act, 1957 (Act No. 77 of 1957);
 - “group area” means a group area as defined in section one of the Group Areas Act, 1957;
 - “local authority” means a municipal council or a village management board referred to in the Local Government Ordinance, 1962;
 - “Minister” means the Minister for Community Development;
 - “regulation” means a regulation in force under this Ordinance.

Establishment of Consultative or Management Committee

- 2 (1) The Administrator may, with the approval of the Minister, by notice in the *Gazette* –
- (a) establish either a consultative committee or management committee for any group area or group areas for the coloured group, or for any portion or portions of such area or areas (irrespective of whether such areas or portions are contiguous or not) which are situated within the area of jurisdiction of a local authority;
 - (b) abolish a consultative committee or a management committee.
- (2) A consultative committee or management committee shall consist of members of the coloured group only.
- (3) (a) A local authority which exercises jurisdiction in an area for which a consultative committee has been established, shall not take a decision in regard to a matter in respect of which such committee is to be consulted in terms of a regulation or a direction of the Administrator in terms of a regulation unless it has consulted such committee and has given due consideration to the suggestions or comments of such committee.
- (b) If any such committee fails to furnish its suggestions or comments within seven days after it was requested to do so, or within such further period as the local authority concerned may in its discretion allow it shall be deemed that the committee has no suggestions or comments to make.
- (4) A management committee shall within the area for which it has been established have such powers, functions and duties of the local authority which has jurisdiction in respect of such area as may have been conferred or imposed upon it by or under regulation, and shall exercise such powers, carry out such functions and perform such duties under the supervision and control of the local authority for the area for which it was established, and subject to such conditions as the Administrator may determine.

Establishment of Local Authorities for Coloureds

- 3 (1) The Administrator may appoint a committee to investigate and report upon the desirability or otherwise of establishing a local authority for any area or areas for which a management committee or committees have been established in terms of section two.
- (2) (a) A committee appointed in terms of sub-section (1) shall consist of not more than five members of whom –
- (i) at least one shall be a person nominated by the Minister; and
 - (ii) one shall be a person nominated by the local authority or jointly

by the local authorities for the area or areas in respect of which the investigation is to be made: Provided that if the local authority or local authorities, as the case may be, fail to nominate a person within ten days after being requested to do so, the Administrator may appoint such person as he may deem fit.

- (b) The Administrator shall designate one of the members of such committee to be the chairman thereof.
- (3) After consideration of the report of the committee appointed in terms of sub-section (1), the Administrator may, with the approval of the Minister, take or cause to be taken the necessary steps to establish, in accordance with the provisions of the Local Government Ordinance, 1962, a local authority for the area or areas to which the report relates, as if the conditions precedent to such establishment, prescribed by or in terms of law, had been complied with.
- (4) The provisions of the Local Government Ordinance, 1962, shall, subject to any amendment or alteration which the Administrator may for the purpose of local government of the coloured group and with the approval of the Minister effect thereto by regulation, apply to local authorities established in terms of sub-section (3).

Regulations

- 4 (1) The Administrator may, with the approval of the Minister, make regulations –
 - (a) as to the manner in which any consultative committee or management committee referred to in section two shall be constituted, including the election of all or some of its members;
 - (b) as to the tenure of office of members of any such committee, the filling of casual vacancies on any such committee, the holding of meetings of any such committee and the procedure thereat (including the quorum);
 - (c) prescribing the qualifications required for voting for or becoming members of any such committees;
 - (d) prescribing the matters in respect of which a consultative committee shall be consulted in terms of sub-section (3) of section two;
 - (e) prescribing the powers, functions and duties of a management committee contemplated in sub-section (4) of section two;
 - (f) as to the powers, functions and duties of a local authority in any portion of its area of jurisdiction in respect of which a management committee has been established in terms of sub-section (1) of section two, in connection with any matter in respect of which powers, functions or duties have been conferred or imposed upon the management committee by or under regulation;
 - (g) as to any matter relating to or arising from the disestablishment of any consultative committee or management committee;
 - (h) for the proper and effective conduct of elections of members of a local authority established in terms of this Ordinance, the qualifications of voters and the requirements to be complied with in order to become a member; and
 - (i) in connection with any other matter which he deems expedient for achieving the objects and purposes of this Ordinance, including the incurring of expenditure.
- (2) A regulation in terms of this section may prescribe a penalty for a contravention thereof or a failure to comply therewith.
- (3) Different regulations may in terms of this section be made in respect of different areas.

Short Title

- 5 This Ordinance shall be called the Local Government Ordinance (Coloureds), 1963.

Natal Local Government Extension Ordinance, No. 23/1963

(As amended by Ordinance No. 7/1964 and No. 4/1967)

To provide for the establishment of Local Affairs Committees or Local Authorities for certain Group Areas or portions thereof, and to provide for matters incidental thereto.

BE IT ENACTED by the Provincial Council of the Province of Natal, as follows:

Definitions

- 1 In this Ordinance, unless the context otherwise indicates –
- “Administrator” means the Administrator of the Province of Natal, acting on the advice and with the consent of the Executive Committee of the said Province;
- “group” means any group as defined in section 1 of the Group Areas Act, 1957 (Act No. 77 of 1957);
- “group area” means any area as defined in section 1 of the Group Areas Act, 1957 (Act No. 77 of 1957);
- “a local authority” means a town council, a town board, a health committee, or the Local Health Commission in relation to any public health area within the meaning of the Local Health Commission (Public Health Areas Control) Ordinance, 1941 (Ordinance No. 20 of 1941);
- “local affairs committee” means a committee established in terms of section 2;
- “Minister” means the Minister of Community Development, or the Minister exercising the powers conferred upon the Minister of Community Development by the Group Areas Act, 1957 (Act No. 77 of 1957); and
- “regulation” means any regulation made under this Ordinance.

Establishment of Local Affairs Committee for a Group Area or Areas or portion or portions thereof

- 2 (1) (a) Unless the Minister has in terms of section 25 of the Group Areas Act, 1957 (Act No. 77 of 1957), established either a consultative committee or a management committee for any group area or any portion of such group area, which is situated within the area of jurisdiction of a local authority or for two or more such group areas or portions of such group areas (whether contiguous or not), the Administrator may, after consultation with the local authority within whose area of jurisdiction such group area or portion thereof is, or such group areas or portions thereof are situated, by notice in the *Gazette* establish for such group area or portion or such group areas or portions a local affairs committee, and may at any time, in like manner, disestablish any local affairs committee so established.
- (b) If, at any time after the establishment of a local affairs committee, either a consultative committee or a management committee for the same group area or portion thereof or group areas or portions thereof is established by the Minister, such local affairs committee shall be automatically disestablished.
- (2) (a) Any such local affairs committee shall consist of members of the group for which such group area or group areas have been established.
- (b) Subject to the provisions of any regulations made under paragraph (c) of sub-section (1) of section 4, the chairman and the vice-chairman of any local affairs committee shall be elected by such committee from amongst its members or otherwise, provided that a chairman or vice-chairman who is not a member of the committee shall not be entitled to vote.
- (c) Any such local affairs committee shall, under the name of the local affairs committee for the area for which it is constituted be a body cor-

- porate with perpetual succession, and shall by such name be capable of suing and being sued and, subject to the provisions of this Ordinance and of any other law, of doing and performing such acts and things as bodies corporate may by law do and perform.
- (3) (a) No local authority which exercises jurisdiction in an area for which a local affairs committee has been established shall take any final decision in regard to any matter in respect of which such committee is to be consulted in terms of any regulation, unless it has consulted such committee and has given due consideration to any suggestions or comments which such committee has made.
- (b) If any local affairs committee fails to furnish its suggestions or comments within ten days after it has been requested in writing to do so or within such further period as the local authority concerned may in its discretion allow, it shall be deemed that the committee has no suggestions or comments to make.
- (4) (a) A local authority within whose area of jurisdiction a local affairs committee has been established in terms of section 2 may delegate, and if after consultation with such local authority the Administrator so directs, shall delegate to such committee such of the powers and functions of the local authority as may be prescribed by regulation, subject to such conditions as the local authority or the Administrator, as the case may be, may so prescribe, provided that any power to incur expenditure so delegated shall be limited to and shall not extend beyond the estimates of expenditure of the local authority. The powers and functions so delegated shall be exercised by such local affairs committee within the area for which it has been established.
- (b) A local authority may at any time, subject to the prior written approval of the Administrator regarding any matter delegated by his direction, vary or withdraw the delegation of any power or function from the local affairs committee.

*Establishment of Local Authority for Area for which
Local Affairs Committee has been established*

- 3 (1) The Administrator may at any time appoint a committee to investigate and report upon the desirability or otherwise of establishing a local authority for any area comprising an area for which a local affairs committee has been established or comprising any two or more areas for which local affairs committees consisting of persons of the same group have been established.
- (2) (a) A committee appointed in terms of sub-section (1) shall consist of not more than five members, of whom –
- (i) at least one shall be a person nominated by the Administrator; and
- (ii) one shall be a person nominated by the local authority or jointly by the local authorities having jurisdiction in the area or any portion of the area in respect of which the investigation is to be made: Provided that if the local authority or local authorities, as the case may be, fail to nominate a person within such period as the Administrator may determine, the Administrator may appoint such person as he may deem fit.
- (b) The Administrator shall designate one of the members of such committee to be the chairman thereof.
- (3) (a) After consideration of the report of a committee appointed in terms of sub-section (1), the Administrator may, notwithstanding anything to the contrary in any other Ordinance contained, by proclamation in the *Gazette*, establish a separate local authority of a type specified by him for the area concerned and, after consultation with the existing local authority, may exercise any of the powers conferred upon him by section 7 of the Local Authorities Reconstitution Ordinance, 1956

(Ordinance No. 37 of 1956), and upon the establishment of such separate local authority, the provisions of section 9 of the said Ordinance shall apply.

- (b) In considering whether a local authority should be established for the area of any local affairs committee, the committee and the Administrator shall have regard to the economic and convenient operation of existing and likely future municipal services in the area.
 - (c) No local authority shall be established in terms of paragraph (a) unless the local authority previously having jurisdiction in the area is relieved of all financial obligations, guarantees or loans outstanding in respect of such area, provided that the existing local authority may agree to the establishment of such new local authority without being so relieved.
- (4) Upon the establishment of any local authority in terms of sub-section (3), any local affairs committee or committees for the area or areas for which such local authority is established shall automatically be disestablished: Provided that if a local authority is established for portion of the area of a local affairs committee, such committee shall, subject to any regulations made under paragraph (h) of sub-section (1) of section 4, continue to function in respect of the remainder of such area, unless it is disestablished in terms of paragraph (a) of sub-section (1) of section 2.

Regulations

- 4 (1) The Administrator may, after consultation with the local authority concerned, make regulations not inconsistent with this Ordinance in respect of any or all of the following matters –
- (a) the manner in which any local affairs committee shall be constituted, including the election or appointment of all its members or the election of some members and the appointment of other members;
 - (b) the tenure of office of members of any local affairs committee, the filling of casual vacancies on any such committee, the holding of meetings of any such committee and the procedure thereof, including the quorum;
 - (c) the qualifications required for voting for or becoming members of any local affairs committee;
 - (d) the matters in respect of which a local affairs committee shall in terms of sub-section (3) of section 2 be consulted;
 - (e) the powers and functions of a local authority which may be delegated to a local affairs committee in terms of sub-section (4) of section 2, and the duties of any such local affairs committee including the attendance at meetings of members and officers of the local authority and their rights at such meetings, as well as the method of audit of the books and accounts of such committee and the disallowance and surcharge of any payment or exemption made by such committee without due authority according to law, and the pecuniary responsibility in respect of such surcharge;
 - (f) the powers, functions and duties of any local authority in any portion of its area of jurisdiction in respect of which a local affairs committee has been established, in connection with any matter in respect of which powers, functions or duties have been conferred or imposed upon the local affairs committee by or under regulation;
 - (g) the holding of joint meetings of two or more local authorities established pursuant to this Ordinance and of committees thereof, and the effect of decisions taken thereat and matters incidental to the holding of such joint meetings;
 - (h) any matter relating to or arising from the disestablishment of any local affairs committee, including in particular the determination and settlement of the financial affairs and the disposal of the assets and settlement of the liabilities of such local affairs committee;
 - (i) the proper and effective conduct of elections of members of a local authority established in terms of this Ordinance, the qualifications of

- voters and the requirements to be complied with in order to become a member of a local authority; and
- (j) any other matter which he deems expedient for achieving the objects and purposes of this Ordinance, including the incurring of expenditure.
- (2) Different regulations may be made in respect of different areas, and the Administrator may frame regulations to be known as "Standard Regulations" for any purpose for which he may make regulations in terms of this section, and he may at any time rescind or amend any standard regulations so framed. The Administrator may, after consultation with the local authority concerned as in sub-section (1) provided, by notice in the *Gazette* apply any standard regulations so made with or without variation or modification to any local affairs committee or local authority established in terms of this Ordinance, provided that -
- (a) where such standard regulations are so applied without variation or modification, it shall not be necessary for the Administrator to cause the full text thereof to be republished in the *Gazette*, it being sufficient merely to refer to the date of their publication and to specify by number or otherwise the standard regulations so applied, and
- (b) where such standard regulations are so applied with variations or modifications, it shall likewise not be necessary for the Administrator to cause the full text thereof to be re-published in the *Gazette*, it being sufficient when notifying in the *Gazette* the application of such amendment, to refer to the number and date of publication of the standard regulation so amended, and to set forth the amendment so applied.
- (3) Any regulations made under the provisions of paragraph (i) of sub-section (1) shall prevail in the event of a conflict between such regulations and the provisions of the law in terms of which the local authority concerned is established.
- (4) Failure to comply with the provisions of this Ordinance or of any regulations made thereunder shall be an offence and any regulations made under this section may provide for a fine or other penalty in respect of any contravention of the provisions of this Ordinance or such regulations.

Short title

- 5 This Ordinance shall be called the Local Government Extension Ordinance, 1963.

Extract from the Official Gazette of the Province of Natal, dated 22nd June, 1967

Provincial Notice No. 322, 1967

The Administrator, acting on the advice and with the consent of the Executive Committee of the Province of Natal, has been pleased, in terms of section 4 of the Local Government Extension Ordinance, 1963 (Ordinance No. 23 of 1963), to rescind the Standard Regulations, relating to local affairs committees established by the Administrator in terms of the said Ordinance, published under Provincial Notice No. 555 of 1964, as amended by Provincial Notices Nos. 183 of 1965, 98 of 1966, 228 of 1966, 401 of 1966 and 512 of 1966, and to make in substitution thereof the subjoined Standard Regulations relating to local affairs committees established by the Administrator in terms of the said Ordinance: Provided that such of the aforesaid Standard Regulations published under Provincial Notice No. 555 of 1964, as amended, as have been applied to any local affairs committee, shall continue so to apply until the subjoined Standard Regulations have been applied by the Administrator to such local affairs committee in terms of Section 4 (2) of the aforesaid Ordinance:

Standard Regulations relating to Local Affairs Committees

Chapter I

Definitions

In these Regulations, unless the context otherwise indicates –

“area” means the area for which a committee has been established in terms of section 2 of the Ordinance;

“committee” means a local affairs committee established in terms of section 2 of the Ordinance;

“eligible person” means a person who is legally entitled to acquire or take occupation of immovable property in the area, otherwise than by permit;

“local authority” means the local authority having jurisdiction within the area;

“member” means a member of a local affairs committee appointed or elected in terms of these Regulations;

“Minister” means the Minister of Community Development, or the Minister exercising the powers conferred upon the Minister of Community Development;

“the Ordinance” means the Local Government Extension Ordinance, 1963 (Ordinance No. 23 of 1963);

and any other word used, which also appears in the Ordinance, shall have the meaning assigned thereto in the Ordinance.

Chapter II

Constitution of the Committee and Appointment of Members

Name

1 The name of each committee shall be assigned to it in the notice establishing such committee.

General Purpose of the Committee

2 The committee shall, within the terms of the Ordinance and these Regulations, promote the interests and welfare of the inhabitants of its area, and shall be entitled to bring any matter relating to the local government of the area to the notice of the local authority.

Constitution of the Committee and Terms of Office

3 (1) *The first Committee*

(a) The first committee shall consist of five eligible persons appointed by the Administrator, provided that two of the persons so appointed shall be nominated by the local authority.

- (b) If the local authority fails or refuses to nominate members in terms of paragraph (a) within forty days after being requested to do so by or on behalf of the Administrator, the Administrator may nominate such members on behalf of the local authority.
 - (c) The members of the first committee appointed in terms of paragraph (a) shall hold office until the day of the election of the second committee.
 - (d) The Administrator, in consultation with the local authority, shall by notification in writing to the local authority determine the date of the first election.
- (2) *Succeeding Committees*
- (a) Subject to Regulation 60, succeeding committees shall consist of –
 - (i) two eligible persons who shall be nominated by the local authority and appointed by the Administrator; and
 - (ii) three eligible persons elected in terms of Chapter IV of these Regulations.
 - (b) (i) The members of the second committee shall assume office on the day immediately succeeding the date of the first election.
 - (ii) The members appointed in terms of paragraph (a) (i) shall be appointed in sufficient time for them to assume duty.
 - (iii) The three members elected in terms of paragraph (a) (ii) shall be so elected at an election to be held during the month of October in terms of these Regulations, except in the case of the first election.
 - (c) The members so appointed or elected shall hold office until the election to be held in the second year after their appointment or election, as the case may be: Provided that any person whose term of office so expires shall be eligible for re-appointment or re-election.
- (3) (a) In each second year after the year of the first election, the Administrator shall appoint such number of persons and such number of persons shall be elected in terms of Chapter IV, as may be required to replace the members retiring by reason of the expiry of their terms of office.
- (b) The persons elected in terms of paragraph (a) shall be so elected at an election to be held biennially in October.
 - (c) The persons appointed or elected in terms of paragraph (a) shall hold office until the day of the election in October of the second succeeding year, and they shall be eligible for re-appointment or re-election.
- (4) Whenever, in terms of these Regulations, an election has to be held during October, the Town Clerk or the Secretary of the local authority, as the case may be, shall determine the day of such election.

Temporary Members

- 4 The mayor or chairman of the local authority may appoint any eligible person to be a temporary member of the committee during the absence of any member in circumstances not creating a casual vacancy referred to in Regulation 5, provided his name appears on a panel of alternate members approved by the Administrator.

Casual Vacancies

- 5 (1) Whenever the office of a member of a committee becomes vacant through any cause other than that of the expiration of his term of office, the vacancy shall be deemed to be a casual vacancy.
- (2) Whenever a casual vacancy occurs, immediate steps shall be taken –
- (a) by the Administrator to appoint a new member under the provisions of Regulation 3 (1) (a) or Regulation 3 (2) (a) (i), as the case may be, if the casual vacancy occurs in the office of a member appointed in terms of either of such provisions, and
 - (b) by the Returning Officer for the election (on a day to be determined by the Town Clerk or the Secretary of the local authority, as the case may be) of a member to fill a casual vacancy which occurs in the office of a member elected in terms of Regulation 3 (2) (a) (ii);
- provided that no such appointments or elections shall take place between the

first day of July and the thirty-first day of October in any year in which a biennial election is to be held, unless there are three or more vacancies.

- (3) A member appointed or elected to fill a casual vacancy shall hold office for the unexpired term of office of his predecessor, and the member so appointed or elected to fill a casual vacancy shall be eligible for appointment or election for a further term.

Disqualification of Members

- 6 (1) Any member of the committee who receives any salary or exacts, takes or accepts any fee or reward whatsoever for or on account of anything done in his capacity as a member of the committee, shall be guilty of an offence and liable on conviction to a fine not exceeding fifty rand (R50) or, in default of payment, imprisonment for a period not exceeding three months: Provided, however, that he shall be allowed to receive such payment as may be due to him under the provisions of Regulation 66.
- (2) (a) Whenever a member of the committee or his spouse or his partner or employer or the partner or employer of his spouse, has directly or indirectly any pecuniary interest in any matter before any meeting of the committee or any sub-committee thereof, he shall, if he is present, disclose to the meeting the fact that he has such pecuniary interest, and, if there is any discussion upon such matter or if a division is called for thereon without discussion, he shall not participate in any such discussion or vote in any such division, but shall forthwith recuse himself and leave the meeting until such matter has been disposed of by the meeting; provided that nothing hereinbefore contained shall apply -
- (i) when such member is interested only in common with others as a ratepayer or voter or member of the public; or
 - (ii) to any financial interest which a member may have in any insurance contracted for or effected in his interests by the committee or the local authority; or
 - (iii) to any financial interests which a member may have in any allowance, fee or other remuneration lawfully paid or to be paid to him as a member of the committee or as the chairman or vice-chairman thereof or as a member of any deputation from such committee, or tribunal or the like connected therewith.
- (b) A member shall not by himself or his partner or employee, act as counsel or attorney for, or as the agent or representative of, any other person (except his spouse or minor child) or of any firm of which he is not a member or of any company of which he is not a director -
- (i) in any claim or proceedings against the committee or local authority or against any officer of the committee or the local authority in his official capacity; or
 - (ii) in connection with the voters' list; or
 - (iii) in connection with any application for a municipal licence or permit or a certificate of approval or authority for a licence within the area, or any appeal in relation thereto; or
 - (iv) in connection with any application within the area in terms of the Town Planning Ordinance, 1949 (Ordinance No. 27 of 1949), or any appeal in relation thereto.
- (c) Whenever the secretary of the committee or any other person believes that a member has contravened any provisions of this Regulation he shall report the circumstances to the Town Clerk or Secretary of the local authority, as the case may be, who upon receipt of such report shall act in the manner provided by section 77*bis* of the Local Government Ordinance, 1942 (Ordinance No. 21 of 1942), and the provisions of the said section 77*bis* shall apply, *mutatis mutandis*, to and in respect of any contravention of this Regulation.
- (3) A member shall cease to be a member and shall forthwith vacate office

- and not be eligible for re-election until the next ensuing election if –
- (a) he incurs any disability mentioned in Regulation 42; or
 - (b) he fails to attend three consecutive ordinary meetings of the committee without first having obtained leave from the committee; or
 - (c) he or his spouse is or becomes pecuniarily interested in any contract with the committee, save any such contract as is mentioned in the exceptions to section 21 (1) (d) of the Local Government Ordinance, 1942 (Ordinance No. 21 of 1942); provided that for the amount of two thousand rand mentioned in sub-paragraphs (vii) and (viii) of the said paragraph (d) there shall be substituted the amount of one thousand rand; or
 - (d) he is convicted of an offence under Regulation 6 (1).
- (4) Whenever a chairman or vice-chairman is elected who is not a member of the committee, then the provisions of sub-regulations (1), (2) and (3), save in so far as sub-regulation (3) (a) refers to a disability mentioned in Regulation 42 (a) and (b) shall apply, *mutatis mutandis*, to such chairman or vice-chairman and to his subsequent election whether to the office of chairman or vice-chairman or to his subsequent election or appointment as a member of the committee in terms of these Regulations.

Removal of Member from Office

7 Notwithstanding anything in these Regulations contained:

- (a) After such enquiry as he may deem necessary, the Administrator may remove from office any member appointed or elected to any committee if in the opinion of the Administrator it is not in the public interest that such member should continue in office.
- (b) If any member is so removed from office, the Administrator may declare that he shall not be eligible for appointment or re-appointment, or election or re-election to the committee for such period (not being more than three years) as the Administrator may fix.
- (c) Upon delivery of written notice of the Administrator's decision, any member so removed shall cease to be a member and shall not be eligible for appointment or re-appointment, or election or re-election to the committee during any period so fixed.

Office Bearers of the Committee

- 8 (1) The chairman and vice-chairman of each committee shall be elected annually by such committee at its first meeting or whenever it may otherwise become necessary to do so from amongst its own members or otherwise; provided that a chairman or vice-chairman who is not a member of the committee shall not be entitled to vote.
- (2) A chairman or vice-chairman shall hold office until the election of his successor or his re-election as hereinbefore provided or until he resigns or becomes disqualified in terms of Regulation 6.
 - (3) The vice-chairman shall act as chairman of the committee in the absence of the chairman and in the absence of both the chairman and the vice-chairman from any meeting, the members present shall elect a chairman from amongst themselves to preside at such meeting.
- 9 The local authority shall designate and appoint an officer as secretary of the committee, as well as such other persons as may be necessary to carry out the work of the committee and shall also when necessary designate an officer as acting secretary of the committee.
- 10 (1) Whenever the committee is required to do any act or to decide any question, and the number of members disqualified in terms of Regulation 6 or for any other reason from taking part in any proceedings of the committee reduces to less than three the number of members available for the doing of such act

or the deciding of such question, the secretary shall report that fact to the Town Clerk or the Secretary of the local authority, as the case may be, who shall report such fact to the Administrator, who may thereupon, for the purpose of such act or question to be done or decided, appoint such number of persons as he may deem expedient to be members of the committee in the place of the members so disqualified, whereupon the persons so appointed, together with the remaining number of members (if any) shall, for the purpose of the doing of the act or the deciding of the question as aforesaid, be deemed to be the committee.

- (2) In the exercise of his powers in terms of sub-regulation (1) the Administrator may direct –
 - (a) who the chairman and what the quorum of the committee shall be; and
 - (b) what remuneration and allowances shall be paid by the committee to the persons appointed as aforesaid in respect of the services rendered by them.

Quorum and Majority required for a Decision of the Committee

- 11 Subject to the provisions of Regulation 10, all acts, matters or things authorised or required to be done or decided by the committee as such, and all questions that may come before it, shall be done or decided by the majority of the members present at any meeting; provided that the number present is not less than three.

Meetings of the Committee

- 12 (1) The first meeting of each committee shall be held not later than one month from the commencement of the committee's term of office, and ordinary committee meetings shall be held not less than once in every month thereafter. Such meetings shall be held at such place and at such times and days as the committee may from time to time determine in consultation with the Town Clerk or Secretary of the local authority, as the case may be.
- (2) The chairman of the committee may at any time, and shall at the written request of the Town Clerk or Secretary of the local authority, as the case may be, convene a special meeting of the committee.
- 13 Any meeting of the committee may from time to time be adjourned to a specified day, time and place, and if at any meeting a sufficient number of members do not present themselves, the member or members present shall so adjourn the meeting and if there be no members present the secretary shall so adjourn the meeting.
- 14 If the committee shall fail to hold a meeting during any month, the secretary shall forthwith notify the Town Clerk or Secretary of the local authority, as the case may be, thereof in writing stating the reasons for such failure.
- 15 Subject to Regulation 17 all meetings of the committee shall be open to the public and the Press.
- 16 (1) The local authority may authorise one of its members or an alternative member to attend meetings of the committee as its representative, and every person so authorised shall have the right to take part in the proceedings, but he shall not have a vote.
- (2) The local authority may authorise one or more of its officers to attend meetings of the committee in a consultative capacity, and any person so authorised may take part in the proceedings, but shall not have a vote.
- 17 The committee may, if it considers that any matter may be more conveniently and advantageously dealt with in private, and it shall, at the request of any person referred to in Regulation 16 (1) and (2), resolve to sit in private at any meeting, and during the proceedings in private all persons, other than the Secretary and members of the committee and the persons referred to in Regulation 16, shall be excluded. Any resolutions adopted in private shall be reported to the committee sitting in public and shall thereupon have full force and effect as resolutions of the committee.

Notice of Meetings

- 18 (1) The secretary of the committee shall give written notice of the place and of the

appointed day and time for the holding of ordinary meetings to every member of the committee who shall thereafter, unless such place, day or time is altered and notice thereof has been given, be required to attend such meetings without further notice.

- (2) The secretary of the committee shall give written notice to every member of the committee and the persons mentioned in Regulation 16 of the place, day and time of every special meeting not less than forty-eight hours before such meeting.
- (3) Any such notice shall be handed to the member personally or, after it has been properly addressed, shall be sent or posted to his usual place of residence or business.
- (4) Inadvertent failure to furnish any member of the committee with a notice as contemplated in this Regulation shall not affect the validity of any meeting.

Agenda and Order of Procedure of Business

19 The secretary of the committee shall be responsible for drawing up the agenda for any meeting of the committee.

Conduct of Committee Meetings

- 20 The proceedings of the committee shall be conducted in one or other or both of the official languages.
- 21 Subject to Regulation 22, the committee shall be bound by the rules of order of the local authority, unless with the approval of the local authority it makes its own rules of order.
- 22 In case of equality of votes, the chairman of the meeting, if he be a member of the committee, shall have a casting vote as well as a deliberative vote.

Minutes of Meetings of the Committee

- 23 (1) Minutes of the proceedings of every meeting of the committee shall be regularly entered in a book to be kept by the secretary for that purpose, and such minutes shall be confirmed at the next meeting and signed by the chairman or by the member of the committee acting as chairman at such meeting. Minutes shall be confirmed at the next meeting and signed by the chairman or by the member of the committee acting as chairman at such meeting. It shall be the duty of the secretary to bring to the notice of the chairman all matters which may have been reserved for consideration from a previous meeting.
- (2) The minutes of proceedings of the committee, except when sitting in private, shall at all reasonable times be open to the inspection of any inhabitants of the area for which the committee is appointed.
- 24 Certified copies of all minutes of proceedings of all meetings of the committee including meetings held in private and other relative documents shall as soon as possible after a meeting be furnished by the secretary to the local authority, and to the Administrator if so required by him, and also to the Minister, if so required by him. The number of copies of the minutes and other documents to be furnished to the local authority shall be decided by such local authority.

Local Authority to be Informed of Resolutions

25 Notwithstanding the provisions of Regulation 24, any resolution of the committee in connection with any matter delegated to it by regulation shall be conveyed to the local authority in writing by the secretary of the committee, under the hand of the secretary, written within seven days after the conclusion of the meeting at which such matter was dealt with by the committee.

Chapter III

Functions of the Committee

Matters upon which the Committee shall be consulted

- 26 The local authority for any area shall consult the local affairs committee established for such area, subject to section 2 (3) of the Ordinance, regarding so much of the following matters as relate directly to such area:
- (a) The annual draft estimates in respect of the borough fund account or in respect of any trading undertaking, excluding income and expenditure relating to services of a regional character unless the local authority otherwise decides.
 - (b) Any estimates supplementary to those mentioned in paragraph (a) and directly relating to the area, except such supplementary estimates as do not exceed an amount fixed by the local authority with the approval of the Administrator.
 - (c) The fixing or amendment of tariffs applicable within the area.
 - (d) The authorisation by the local authority of capital expenditure directly relating to the area.
 - (e) The permanent closing and deviation of public streets within the area.
 - (f) The making or amendment of by-laws or regulations, as the case may be, except such as do not apply to the area.
 - (g) The planning, layout and establishment of housing schemes within the area by the local authority and the approval of conditions of sale or lease pertaining thereto.
 - (h) The establishment, closure or discontinuation within the area by the local authority of markets, public libraries, public parks, public playing fields, public swimming baths or public bathing areas, cemeteries, fire brigades, public health clinics, public buildings, the provision by the local authority of refreshment rooms, pavilions, change-rooms and other accommodation or facilities for the users thereof.
 - (i) The preparation of any town planning scheme and any amendment thereto applicable within the area.
 - (j) The appointment of any officers and employees who are eligible persons and who will be employed mainly or exclusively within the area; but excluding unskilled, casual and temporary employees.
 - (k) The leasing or other alienation of immovable property vesting in the local authority and situated within the area.
 - (l) The acquisition of immovable property within the area by the local authority.
 - (m) Such other matters as the Administrator may in his discretion and after consultation with the local authority from time to time prescribe by regulation.

Powers of the Committee

- 27 The committee shall have the following powers, duties and functions:
- (a) The right at any reasonable time to inspect the local authority's buildings, capital works and services in the area, and to report thereon and make recommendations in connection therewith to the local authority.
 - (b)
 - (i) The right to report to the local authority on the work and functions of the employees of the local authority, who are eligible persons and who have been or are appointed from time to time to be employed mainly or exclusively within its area, and to make any recommendation to the local authority in connection therewith as may be considered necessary to ensure effective administration.
 - (ii) The committee shall not have authority to discuss or report upon matters directly concerning employees of the local authority who are not eligible persons, save as may be expressly provided by regulation.
 - (c) The right to carry out inspections and to gather information in connection with the enforcement, amendment or repeal of the by-laws or regulations of the local authority in so far as these are applicable in the area, and to make any recommendation in connection therewith.

- (d) The right to obtain information from the local authority and to make recommendations to the local authority, in connection with –
 - (i) the collection of revenue within the area; and
 - (ii) the spending of funds made available through the estimates for use in the area.
- (e) Such other powers, duties and functions within the area as the Administrator may in his discretion and after consultation with the local authority from time to time prescribe by regulation.

Powers which may be delegated to the Committee

- 28 (1) The local authority may delegate, and if after consultation with the local authority the Administrator so directs, the local authority shall delegate to the committee any of its powers and functions regarding any of the following matters, subject to such conditions as the local authority or the Administrator, as the case may be, may determine:
- (a) The naming of roads and streets within the area.
 - (b) The approval of advertisement signs and hoardings within the area, in accordance with by-laws or regulations, as the case may be, of the local authority.
 - (c) The letting of shops, stalls and tables at any municipal market within the area, at rentals and upon conditions fixed by the local authority.
 - (d) The allocation of street collections within the area, in accordance with the by-laws or regulations, as the case may be, of the local authority.
 - (e) Civic hospitality, civic presentations and civic courtesies including civic receptions and commemorations and celebrations of a civic or national character within the area up to but not exceeding a total expenditure authorised for each financial year by the local authority.
 - (f) Making grants in terms of section 85 of the Local Government Ordinance, 1942 (Ordinance No. 21 of 1942), subject to the approval of the Administrator where necessary, up to but not exceeding a total expenditure authorised for each financial year by the local authority, the word "borough" in the said section 85 being construed for this purpose as "the area".
 - (g) Such other matters as the Administrator after consultation with the local authority may prescribe by regulation.
- (2) The local authority may, at any time, but subject to the approval of the Administrator regarding any matter delegated by his direction, by written notice to the secretary, vary or withdraw the delegation of any power or function to the committee under sub-regulation (1).

Commission of Enquiry

- 29 The provisions of section 251 of the Local Government Ordinance, 1942 (Ordinance No. 21 of 1942), shall apply to the committee and its members as if the committee were a local authority.

Chapter IV

Voters, Voters' Lists and Elections

Qualification of Voters

- 30 (1) Every eligible person who is twenty-one years old or more shall be entitled to be enrolled as a voter for the election of members if he possesses one or more of the following qualifications:
- (a) that he is the owner of rateable property within the area; or
 - (b) that he is the hire-purchaser of rateable property within the area of the value of R500 or more under a written agreement with the owner; or
 - (c) that he is the tenant of rateable property within the area of the value of R500 or more.

- (2) For the purposes of this Regulation –
- (a) “tenant” shall mean a lessee under a written agreement with the owner of the property and shall exclude any sub-tenant;
 - (b) any reference to the owner of rateable property shall include any joint owner;
 - (c) any reference to the owner, hire-purchaser or tenant of rateable property shall include such person’s spouse, if such spouse ordinarily resides on such property; and
 - (d) any reference to a hire-purchaser or tenant of rateable property shall include any joint hire-purchaser or joint tenant of such property if the value of such property divided by the number of joint hire-purchasers or joint tenants thereof is R500 or more.
- (3) Notwithstanding anything contained in the Regulations, no person shall be entitled to be enrolled as a voter or to vote at an election if he is a person referred to in section 14 (1) of the Local Government Ordinance, 1942 (Ordinance No. 21 of 1942).
- 31 No person shall be entitled to vote at an election unless his name appears on the voters’ list for the area in operation at the date of such election.

Wards and Polling Stations

- 32 The local authority may sub-divide any area into wards and provide polling stations in respect of each ward. Voters shall be permitted to vote only in their particular wards, and at the relevant polling stations.

Voters’ Lists

- 33 Forthwith after the Administrator has determined the date of the first election in terms of Regulation 3 (1) (d), and thereafter before the 30th day of June in every second year after the first election, or whenever otherwise deemed by the Administrator to be necessary, the committee shall cause the names of all persons entitled to be enrolled as voters to be placed upon a list to be known as the voters’ list, showing in alphabetical order the full name, address and qualification of every voter qualified to vote in respect of rateable property within the area: Provided that if the area has been subdivided into wards, the aforesaid information relating to each ward shall be shown separately in respect of each of such wards.
- 34 For the purpose of revising and amending the voters’ list as hereinafter provided, the committee shall elect a sub-committee consisting of three of its members, one of whom shall be nominated as the chairman of such sub-committee.
- 35 (1) Any person whose name has been omitted from the voters’ list and who claims the right to be enrolled, or any person objecting to the enrolment of any other person on the voters’ list, shall lodge his claim or objection, as the case may be, in writing with the secretary of the committee not later than seven days before the date fixed for the hearing of claims and objections in terms of Regulation 37, or such later date before the voters’ list is certified as the sub-committee elected in terms of Regulation 34 may in its discretion allow.
- (2) Any person objecting to the enrolment of any other person on the voters’ list shall also give notice in writing of such objection to the person concerned at least seven days before the date fixed for the hearing of claims and objections, provided that such sub-committee may in its discretion allow a shorter period of notice.
- 36 Any person claiming the right to be enrolled as a voter shall be required to sign a declaration in a form as set out in the First Schedule to these Regulations, and shall produce such proof of his qualifications for enrolment as the secretary of the committee or the sub-committee may require.

- 37 The secretary shall keep the voters' list at the committee's office for inspection by the public during office hours, and shall publish in accordance with section 110 of the Republic of South Africa Constitution Act, 1961 (Act No. 32 of 1961), in a newspaper or newspapers circulating in the area a notice that the voters' list is lying for inspection and that all claims to be enrolled and objections will be considered and determined at a time and place therein stated, being not less than fourteen days after the date of the first publication of the notice. A copy of such notice shall also be exhibited on the notice board at the committee's office.
- 38 The sub-committee shall commence to hear and determine all claims and objections at the time and place aforesaid and may enrol the names of any voters omitted from the voters' list and strike out the names of all persons not entitled to be enrolled thereon.
- 39 All claims and objections shall be heard and determined not later than the 15th day of September, and on or before that date the chairman of the sub-committee shall certify and sign the list as revised and amended as aforesaid. Such list shall thereupon come into operation on the first day of October and shall remain in operation for one year next ensuing and shall be deemed to be conclusive and the only proof of the right of any person to vote at an election of members.
- 40 The voters' list so certified as aforesaid shall be deposited at the committee's office and every voter on application to the secretary shall be allowed during office hours to copy the list or make extracts therefrom free of charge.
- 41 Any person who wilfully makes any claim to be enrolled as a voter which is false in any material particular shall be guilty of an offence and liable on conviction to a fine not exceeding fifty rand (R50) or, in default of payment, to imprisonment for any period not exceeding three months.

Qualifications of Members

- 42 No person shall be qualified for nomination, election or appointment as a member of the second or a succeeding committee, or for holding office as such, who -
- (a) is not enrolled as a voter on the voters' list in operation at the date of the election or appointment; or
 - (b) ceases to be qualified as a voter; or
 - (c) is the spouse of a member; or
 - (d) holds an office of profit under the local authority or is the spouse of a person holding any such office; or
 - (e) is an unrehabilitated insolvent.

Validity of Proceedings

- 43 No act or proceeding of a committee shall be questioned on account of any vacancy in its body, or of any want of qualification, or invalidity of election, of any member; provided that the requisite quorum has been maintained.

Election of Members

- 44 The Secretary of the committee, appointed by the local authority in terms of Regulation 9, shall be the Returning Officer. The fees to be paid to the Returning Officer and his assistants shall be determined by the local authority and be paid out of the borough fund.
- 45 After the first election, an election shall take place biennially, save if otherwise deemed necessary by the Administrator, during the month of October for the purpose of electing members to replace an equal number of members retiring from office by reason of the expiration of their terms of office and of filling such casual vacancies as may then require to be filled.
- 46 Where an election to fill one or more casual vacancies is combined with another

election, the member elected by the largest number of votes shall be deemed to be elected to replace the member whose office expires at the date of such annual election, and the other elected member shall be deemed to fill the casual vacancies according to the number of votes cast for them.

- 47 The Returning Officer shall, prior to any election publish in accordance with section 110 of the Republic of South Africa Constitution Act, 1961 (Act No. 32 of 1961), a notice of such election in a newspaper or newspapers circulating in the area, and in such notice shall specify a day not less than ten days from the date of publication of such notice as the day on or before which all candidates shall be nominated, and a copy of such notice shall be exhibited on the notice board at the committee's office.
- 48 (1) No person shall be a candidate at any election or be qualified to be elected as a member unless he shall have received a requisition signed by at least two enrolled voters and shall have transmitted such requisition, with his acceptance thereof, to the Returning Officer by or before noon on the day appointed for receiving the same.
- (2) A requisition of a candidate shall not be valid if the candidate is in the employment of a Department of the Government or the Natal Provincial Administration and it is a condition of his employment that he may not accept office as a member without the consent of his employer, unless such requisition is accompanied by the written consent of such employer to the acceptance of office by such candidate. Any person who transmits to the Returning Officer a requisition in respect of any candidate whose acceptance of office is dependent upon the consent of his employer, without the consent of such employer, shall be guilty of an offence and liable on conviction to a fine not exceeding fifty rand (R50), or, in default of payment, to imprisonment for a term not exceeding three months.
- 49 If the number of candidates who are validly nominated does not exceed the number of members to be elected, such candidate or candidates shall be deemed to have been duly elected. If any doubt shall arise as to the respective terms of office of any of the members so elected, the order of their retirement shall be determined by the Returning Officer by lot in their presence, if upon notice given to them by the Returning Officer they elect to be present.
- 50 (1) If the number of nominations exceeds the number of members to be elected, the Returning Officer shall publish a notice in a newspaper circulating in the area stating the names of the candidates nominated, the number of vacancies to be filled, and the day, time (being not less than two or more than twelve hours between the hours of 8 a.m. and 8 p.m. on the day of the election) and place for the taking of a poll for the election of such number of members as require to be elected.
- (2) Such notice shall be published not less than seven days and not more than twenty-one days before the date of the election and a copy thereof shall be posted on the notice board at the committee's office.
- 51 The Returning Officer may appoint such responsible persons as he may require to assist him for the purpose of taking the poll and he and his assistants shall be responsible for keeping order at the election.
- 52 Any reference in the following Regulations to the Returning Officer shall be deemed to be a reference also to his assistants lawfully acting on his behalf.
- 53 The Returning Officer shall also cause to be posted up in conspicuous characters in the room in which the poll is to be taken and at every desk or table at which voters may record their votes, a statement of the number of vacancies to be filled

and a further statement that no voter may vote for more candidates than the number of vacancies to be filled.

- 54 (1) (a) The voters shall in turn appear before the Returning Officer or one of his assistants, who may upon ascertaining the name of the voter require him to produce his identity card issued to him under the Population Registration Act, 1950 (Act No. 30 of 1950) and may put to him the following questions if he thinks it necessary, but no others, namely:
- (i) are you the person whose name appears as A.B. on the voters' list?
 - (ii) have you already voted at this election?
- (b) If upon examination of his identity card, the Returning Officer or his assistant is not satisfied as to any person's identity, or if any person refused to answer any such question or if any person does not answer the first of such questions in the affirmative and the second of such questions in the negative, such person shall not be permitted to vote.
- (2) Any person who wilfully produces to the Returning Officer or any of his assistants an identity card which is not his own, or who wilfully makes a false answer to either question, shall be guilty of an offence and liable on conviction to a fine not exceeding fifty rand (R50), or in default of payment, to imprisonment for a term not exceeding three months.
- 55 The voting at all elections shall be by ballot which shall be conducted in substance and as nearly as is material as follows:
- (a) The Returning Officer shall ascertain that the person claiming to vote is a voter enrolled upon the voters' list and having ascertained that such person is so enrolled and his number on such list, shall enter such number upon the counterfoil in the ballot paper book, and shall then tear out the ballot paper corresponding to such counterfoil, and having stamped such ballot paper on the back with a stamp provided for that purpose, shall hand it to the voter, and shall then draw a line through the number and name of the voter on the voters' list as evidence that the voter has received a ballot paper. Every ballot paper shall be in the form set forth in the Second Schedule to these Regulations.
 - (b) When the voter has received the ballot paper from the Returning Officer, he shall take it to a desk or table provided for that purpose and signify for whom he desires to vote by secretly placing a cross opposite the name of every candidate whom he desires elected, not exceeding the number to be elected, and nothing more. The voter shall then fold the paper with the Returning Officer's stamp visible, but in such a way that the cross or crosses made by him are not visible, and having held up the ballot paper so that the Returning Officer is able to recognise his (the Returning Officer's) stamp, shall drop his ballot paper in the ballot box provided for the purpose.
- 56 The provisions of Section 43 of the Local Government Ordinance, 1942 (Ordinance No. 21 of 1942), shall apply, *mutatis mutandis*, in respect of elections held under this chapter of these regulations.
- 57 As soon as possible after the time appointed for the closing of the poll, the Returning Officer shall in the presence of each candidate or his representative appointed by him in writing proceed to count the votes recorded. The Returning Officer shall reject any ballot paper which –
- (a) does not bear his stamp; or
 - (b) gives votes to more persons than the number to be elected; or
 - (c) bears the voter's signature or initials; or
 - (d) is unmarked or void for uncertainty.
- 58 When the result of the poll has been ascertained the Returning Officer shall forthwith declare the candidate or candidates who are elected, according to the vacancies to be filled, and on the day following the election he shall transmit

to the Town Clerk or Secretary of the local authority, as the case may be, the names of the members elected at that election, together with a statement of the respective terms for which they hold office.

- 59 Immediately after the declaration of the poll the Returning Officer shall enclose in separate packets the counted and rejected ballot papers. Such packets, together with a certificate stating the names of the members declared to be elected, shall be enclosed together in a sealed packet to be taken into custody of the secretary, who shall safely keep the same for a period of six months, after the expiration of which period such sealed packet, with the seals still intact, unless otherwise directed by an order of a competent court, shall be delivered to the Town Clerk or the Secretary of the local authority, as the case may be, for destruction.
- 60 Notwithstanding anything hereinbefore contained, if from any cause there shall not be nominated or elected the requisite number of members at any election, the Returning Officer shall so inform the Town Clerk or the Secretary of the local authority, as the case may be, and the Administrator may appoint as members such number of eligible persons possessing the necessary qualifications for election as may be required to fill the vacancies and if necessary determine their respective terms of office.
- 61 The Town Clerk or the Secretary of the local authority, as the case may be, shall, as soon as possible after the election of members of the committee, transmit to the Administrator a statement showing the full names and addresses of the members elected, and the Administrator shall thereupon cause to be published in the *Gazette* the names of the persons elected, together with the names of the persons (if any) appointed by him under Regulation 60.
- 62 The provisions of Part 3 of Chapter V of the Local Government Ordinance, 1942 (No. 21 of 1942), shall apply *mutatis mutandis* in respect of elections held under this chapter of these regulations.

Chapter V

Accounting and Financial Matters

- 63 (1) The local authority shall have authority to make any payments in respect of expenditure authorised by the committee in terms of or under authority of these Regulations.
- (2) In the authorisation of any expenditure the committee shall act subject to the laws and regulations governing the local authority and subject to such directions as may be issued by the local authority from time to time.
- 64 The local authority shall keep separate books of account relating to the area, excluding direct consumer services of a regional character, unless the local authority otherwise decides.

Financial Responsibility and Surcharge

- 65 (1) The auditor may disallow every payment or exemption which has been made without due authority according to law and if the disallowance raised by the auditor is not adjusted or recovered by him he may surcharge the same upon every person making or authorising such payment or exemption. He shall also surcharge against every person liable therefor the amount of every deficiency or loss incurred by the negligence or misconduct of any such person or of any sum which ought to have been brought into account by any such person, and he shall certify in every case where he has raised a surcharge, the amount due from such person.

- (2) Pecuniary responsibility for a surcharge shall rest –
- (a) with the treasurer of the local authority, or officer acting as such, if the disallowance arises from a clerical or arithmetical error in any account, book, draft or other documents prepared by him or passing through his hands (provided in the latter case that the error was one which he was in a position to detect), or from the payment of any claim which has already been paid, or from any payment or exemption which is contrary to law, except where any such payment or exemption was made upon explicit, written instructions as recorded in the minutes of the committee, given after the irregularity had been pointed out to it;
 - (b) with the members of the committee or members of a sub-committee thereof, when any payment or exemption was made upon their instruction given as aforesaid.
- (3) (a) If any person so surcharged shall fail to adjust or recover such surcharge within such time as may be allowed for its adjustment or recovery, the auditor shall forthwith report the surcharge and all necessary particulars to the committee and to the Administrator.
- (b) The committee shall as soon as possible forward to the Administrator a recommendation thereon, and the Administrator, after due enquiry, may relieve the person in default of such surcharge or may sue or direct the committee to sue the person in default in any court of competent jurisdiction for the recovery of any amount which, in his opinion, has been properly surcharged, and the committee, if so directed, shall use such person according to law.
- (c) Any such suit may be brought on behalf of the Administrator by the Provincial Secretary, and he shall be paid by the committee his reasonable costs and expenses incurred in such proceedings.
- (4) If any member of the committee liable to a surcharge ceases to be a member, he shall be discharged from such liability and surcharge unless the surcharge is made before the expiry of one year from the date on which he ceased to be a member.
- (5) Any sum so recovered shall be paid to the secretary, and be brought by him to the proper account.
- (6) For the purposes of this Regulation the persons making or authorising an illegal payment shall include all members of the committee or the members of any sub-committee thereof who were present at the time when the resolution authorising such payment was carried and who did not cast their votes against that resolution and cause such votes to be recorded in the minutes, but shall not include the committee or a sub-committee thereof in its corporate capacity.

Allowances to Members

- 66 (1) The local authority may, subject to the approval of the Administrator, authorise payment out of its borough fund to members of any committee of such allowances as it may determine –
- (a) to reimburse such members the necessary expenses incurred by them in respect of travelling and subsistence while travelling outside the area of the local authority with the approval of such local authority; and
 - (b) to compensate such members for the time which they ordinarily spend in the performance of their duties as members.

First Schedule

Declaration for Enrolment as a Voter for the Local Affairs Committee

Instructions

- 1 References to the owner of property mean the registered owner.
- 2 Joint owners of property are regarded as owners for the purposes of this declaration.

- 3 The spouse of the owner of property is regarded as a joint owner if such spouse resides on the property.
- 4 References to hire-purchasers and tenants include joint hire-purchasers and joint tenants if the value of the property divided by the number of joint purchasers or tenants is R500 or more.
- 5 Sub-tenants are not tenants.
- 6 In paragraph (d) only the sub-paragraph applicable should be completed, and all inapplicable sub-paragraphs should be deleted.

I, (full names)
of (residential address)

hereby apply to be enrolled as a voter for the
Local Affairs Committee, and declare that -

- (a) my identity number under the Population Registration Act, 1950, is.....
- (b) I am an eligible person in terms of Chapter I of the Regulations in that I am legally entitled to acquire or take occupation of property within the area of the Local Affairs Committee otherwise than by permit;
- (c) I am 21 years old or more;
- (d) I am the owner of rateable property described as.....

..... (title description) and situate at.....
..... (postal address) within the
area of the Local Affairs Committee;

OR

I am the spouse of..... the owner
of rateable property described as.....
..... (title description) and situate at.....
..... (postal address) within the area of
the Local Affairs Committee, and I reside on such property.

OR

I am the sole hire-purchaser of rateable property described as.....
..... (title description) and situate at
..... (postal address)
within the area of the Local Affairs Committee, under a written hire-purchase
agreement between myself and.....
the owner of such property, which is of R500 or more in value;

OR

I am the sole tenant of rateable property situate at.....
..... (postal address), within the area of the
Local Affairs Committee, under written agreement with.....
....., the owner of such property, which
is of R500 or more in value;

OR

I am a joint hire-purchaser or joint tenant of the property situate at.....
..... (postal address) within
the area of the Local Affairs Committee under a written agreement with
....., the owner. The
value of such property divided by the number of joint purchasers or joint
tenants is R500 or more.

Signed at on this
day of 19

.....
Signature

.....
Witness

.....
Address

Second Schedule

Regulation 55

Form of Front of Ballot Paper

Counterfoil No.....	1 NAIDOO (Salemon Muthusamy Naidoo, of St., *, Merchant)	
Election for the Local Affairs Committee of Ward No..... (if any)	2 PADAYACHEE (Narayansamy Chinniah Pada- yachee, of St., *, Teacher)	
on October, 19..... Registered No. of Voter	3 MOODLEY (Ramasamy Moodley, of St., *, Doctor)	
	4 KHAN (Ahmed Hoosen Khan, of St., *, Garage Proprietor)	

Form of Back of Ballot Paper

No..... Returning Officer's Stamp

Election for the Local Affairs Committee of.....

Ward No. (if any) on October, 19.....

* Insert here the name of the Borough Township, Suburb or Local Affairs Committee Area.

Directions as to Printing of Ballot Paper

- 1 The counterfoil is to have a number to correspond with that on the back of the ballot paper.
- 2 Nothing is to be printed on the back of ballot paper additional to such matters as are provided for in the form above.
- 3 The surname of each candidate, and if there are two or more candidates of the same surname, also the other names of such candidates, shall be printed in large characters, as shown in the form, and the names, addresses, and descriptions, and the number on the back of the ballot paper, shall be printed in small characters.

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