



**National Human
Rights Commission**



**A PRIMER ON THE LOCAL
GOVERNMENT ACT 2002 –
As Amended**

QUESTIONS AND ANSWERS

A Reader-friendly Version

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National Secretariat,

P.O. Box 2858,
Kotu (opp. DSTV)
The Gambia

Tel: (220) 3353110/ 5200263/ 3353107/ 3353106

Email: es@gm-nhrc.org

Web: www.gm-nhrc.org

Twitter: @NHRCGambia

Facebook: @NHRCGambia

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Disclaimer

This Primer is an attempt to make the Local Government Act 2002 as amended reader friendly. It is not in any way a legal interpretation of these provisions and must not be seen or read in that light.

For more information about the actual provisions, readers are requested to refer to or consult the Local Government Act 2002 as amended.

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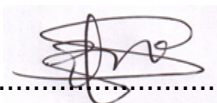
Foreword

The importance of the decentralisation of power to Local Governments is now recognised globally as a hallmark of good governance to ensure the proper administration of the affairs of a country. This is because decentralisation ensures that decisions, powers and resources at the regional level are exercised by or made closer to the people and communities they impact. Therefore, the Local Government Act 2002 as amended is a landmark legislation that all institutions concerned with the promotion of good governance should widely disseminate for the understanding of Local Government Officials and the public.

Recognising the value of this key legislation, the National Human Rights Commission, with support from the U.S. Embassy in Banjul, has developed this Primer on the LGA 2002 as amended to enhance its engagement with Local Government Officials to ensure these officials understand and appreciate this key piece of legislation governing their work thereby enhancing the promotion and protection of human rights at the local level. In this regard, the NHRC has attempted to condense the LGA Act 2002 as amended as the numerous amendments of this key legislation mean there is a risk stakeholders when consulting the LGA Act may not be referring to the accurate provision on administration and management of Local Government.

With this work, the NHRC urges stakeholders especially Local Government Officials to make good use of this primer to enhance their understanding of the LGA while cautioning that this primer should merely be used as a guide with the LGA 2002 and its amendments remaining the paramount reference material when citing provisions of the law.

For its support in the development of this primer, the NHRC extends its sincere appreciation to the U.S. Embassy in Banjul. Appreciation also goes to the Commissioners and staff of the Commission for their tireless efforts to ensure that this primer appropriately reflects the legislation it is based on.



.....
Mr. Emmanuel Daniel Joof
Chairperson. National Human Rights Commission

Part I: Preliminary

What is the purpose of the Act?

It is an Act which establishes and regulates the decentralised local government system of The Gambia and makes provision for the functions, powers and duties of local authorities and matters relating to local authorities.

When did this Act come into force?

This Act was passed by the National Assembly on 9th April 2002, assented to by the President on 17th April 2002 and gazetted on 23rd April 2002.

INTERPRETATION OF TERMS

WORDS	MEANING
"Alkalo" and "Alkalolu"	A village head person and village head persons, respectively
"Area"	A Local Government Area
"By-law"	Laws made by a Council under the Local Government Act
"Chairperson"	A Chairperson of a Council and, except in the context of section 13 (2), (3), (4) and (5) of the Local Government Act, includes a Mayor and a Mayoress as the case may be.
"Chief Executive Officer"	The Chief Executive Officer of a Council.
"Council"	A City, Municipal or Area Council established under section 10 of this Act.
"Councillor"	A member of a Council
"Deputy Chairperson"	Includes a Deputy Mayor or Mayoress
"District"	An area demarcated under section 4 of this Act
"District Authority"	The District Authority established under section 132 of this Act
"Governor"	The person appointed as Governor for the Local Government Area under section 123
"Local Authority"	Includes a Council and District Authority

"Local Area"	Government	A Region, City, or Municipality as demarcated under Part I of Schedule I to this Act
"Local Authority"	Government	A Council established under this Act
"Local Service"	Government	Service in any civil capacity in a Local Government Authority
"Local Service Commission"	Government	The Service Commission established under section 118 for a Local Government Authority
"Misconduct"		Conduct which brings or is likely to bring the office which a person holds into contempt or disrepute or any dishonest act or omission affecting money or public property of which a person has charge;
¹ Minister		The Minister responsible for Local Government
"Provinces"		The Western, Lower River, Central River, North Bank, Upper River Regions and such other Regions as may be established
"Public officer"		A person who holds any office in Government or Local Government Service
"Seyfo"		A District Seyfo

Part II: Local Government Elections and Term of Local Government Councils (Sections 1-23 Were Amended in 2002)

When should a Local Government election be held? (S.9)

A Local Government election must be held every four years.

It should be noted that the requirement that 'there must be at least twelve months between any local government election and the National Assembly election;' has been declared unconstitutional or null and void by the Supreme Court in its judgement in the *Talib Ahmed Bensouda & 54 Others v the Attorney General* (SCCS No. 001/2022.)

¹. Secretary of State amended to Minister by the Constitution (Amendment) Act 2009.

When should a Local Government Council be dissolved before an election? What should the President do after the dissolution of a Council/Municipality? S.9A) Inserted in 2007 amendment)

This provision has been declared unconstitutional or null and void by the by the Supreme Court in its judgement in the *Talib Ahmed Bensouda & 54 Others v the Attorney General (SCCS No. 001/2022)*. No Local Government Council can be the dissolved ninety days before a Local Government election. The President also has no power to appoint an Interim Management Team for any Council.

Part III: The Local Government Councils

The Councils

What are the Local Government Areas and Councils in The Gambia? S.10(1)

	Local Government Areas	Councils
1.	Central River Region North	Kuntaur Area Council
2.	Central River Region South	Janjanbureh Area Council
3.	North Bank Region	Kerewan Area Council
4.	Lower River Region	Mansakonko Area Council
5.	Upper River Region	Basse Area Council
6.	City of Banjul	Banjul City Council
7.	Kanifing Municipality	Kanifing Municipal Council
8.	Western Region	Brikama Area Council

By what name will a Council be known? S. 10(2)

Each Council would be known, as appropriate, an 'Area Council', 'Municipal Council' or 'City Council'. This name will come after the name of the Local Authority Area for which the Council is established.

Can a Council sue and be sued (be taken to Court)? S.10(3)

Yes, a Council, whether it is an Area Council, Municipal Council or City Council, can sue and be sued in its name.

Can the Minister of Local Government create a new Council? S.10 (4)

The Minister of Local Government can, by Order published in the *Gazette*, establish such additional Councils as he or she may deem necessary for the administration of the Local Government Area.

Does a Council have the power to make laws? To whom is a Council answerable to? S.10(5) (amendment inserted in 2006)

Each Council is vested with the legislative power of the Local Government Area. The Council is answerable to the Governor.

How should a Council exercise its law-making power? Who should sign these laws? S.10 (6) (amendment inserted in 2006)

The legislative power of a Council should be exercised through the making or passing of laws known as 'By-laws' in accordance with the Local Government Act. These By-laws should be signed by the Governor of the Local Government.

What should be the composition of a Council? S.11

Every Council should comprise the following:

- A Chairperson who is elected all the people eligible to vote in their Area.
- A councillor elected from each of the Wards;
- A Seyfo representative member selected by all the District Seyfolu (this does not apply to the City of Banjul)
- An Alkalo representative selected by all the Alkalolu in the Municipality (applicable only to a Municipality);
- A youth nominated to represent the youth in the Area;
- A woman nominated to represent women's groups in the Area whenever more than two-thirds of the elected Councillors are male; and
- Nominated members, consisting of not more than one-fifth of the elected members of a Council, representing local, commercial and social interest groups.

How are nominated members selected to the Council? Who should propose their names? S.11(2)

Nominated members are proposed by civil organisations or interest groups they represent. They are appointed by the Chairperson with the approval of the Minister of Local Government.

What should the Chairperson of a City or Municipal Council be known as? S.12.

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

How is a Chairperson or Mayor/Mayoress, elected and how long do they serve in office? S.13 (1), (2)

- A Chairperson or Mayor/Mayoress should be elected by all the adults in a Local Government Area who are eligible to vote (universal adult suffrage) – (2018 amendment).
- A Chairperson or Mayor/Mayoress is elected to serve in office for four (4) years. However, he or she can be re-elected for 2 more terms. This means that the Chairperson or Mayor/Mayoress can serve for 12 years provided that he or she is re-elected.

What are the qualifications for a person to be elected a Chairperson or Mayor/Mayoress? S.14 and S.17(1)

A person qualifies to be elected as Chairperson if he or she:

- is at least a secondary school graduate;
- is not less than thirty years old.
- is a registered voter;
- is ordinarily resident in the Local Government Area in which he or she seeks election;
- can speak the English language with a degree of proficiency sufficient to enable him or her to take part in the proceedings of the Council;
- has made a declaration of his or her assets as required by section 4(7) of the Elections Decree. 1996 as amended; and'

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

What are the functions of a Chairperson or Mayor/Mayoress? S.15 (1)

A Chairperson or Mayor/Mayoress:

- presides over Council meetings;
- is the head of the Council and supervises the general administration of the Area, including dealing with its rules, regulations and taxes; *(2006 amendment)*
- performs such other functions as may be imposed on him or her by this Act or any other legislation that may be necessary for the efficient conduct of the business of a Council.

Who is the Chairperson or Mayor/Mayoress answerable to? S.15(2)

The Chairperson or Mayor/Mayoress is answerable to the Council in the performance of his or her functions. He or she is also expected to uphold the Constitution, other laws of The Gambia and the By-laws of the Council.

What Report is the Chairperson or Mayor/Mayoress expected to submit before the Council? S.15 (3)

The Chairperson is expected to submit to the Council an annual report on the state of affairs of his or her Local Government Area.

Who elects a Deputy Chairperson or Mayor/Mayoress and from amongst whom? What is the term of the post holder? S.16(1)

A Deputy Chairperson or Mayor/Mayoress should be elected by a Council from amongst the elected Councillors. He or she should serve for the term of the Council unless removed from office.

A Deputy Chairperson or Mayor/Mayoress is eligible for re-election for one further term of office only.

What should be the first business of a Council at its first meeting? S.16(2)

The election of a Deputy Chairperson should be the first business of a Council at its first meeting that is held after a Local Government Election.

How can a Deputy Chairperson or Mayor/Mayoress be removed from office? S.16(3)

A Deputy Chairperson can be removed from office by a resolution supported by a simple majority of the members of the Council.

What functions should be performed by the Deputy Chairperson? S.16(4)

- (a) Such functions as are conferred on him or her by this Act or are assigned to him or her by the Chairperson; and
- (b) Functions of the Chairperson in the absence of the Chairperson,

What are the qualifications to be elected or nominated as a member of the council? S.17(1))

A person qualifies to be elected or nominated as a member of the Council if he or she -

- a) is a citizen of The Gambia and is not less than 21 years of age;
- b) is a registered voter;
- c) is ordinarily resident in the Local Government Area in which he or she seeks election;
- d) can speak the English language with a degree of proficiency sufficient to enable him or her to take part in the proceedings of the Council;
- e) has made a declaration of his or her assets as required by section 4(7) of the Elections Decree. 1996 as amended; and'
- f) has paid all his or her taxes and rates or made arrangements satisfactory to the appropriate authority for the payment of his or her taxes and rates and has been issued with a certificate to that

effect by the Commissioner of Income Tax or the appropriate rating authority as required by section 42(7) of the Elections Decree, 1996, as amended.

What does it mean to be 'ordinarily resident' in a Local Government Area? S.17 (2)

A person is deemed to be ordinarily resident in a Local Government Area if, within the four years prior to the holding of elections or his or her nomination to the Council, he or she has lived in the area for an aggregate period of not less than twelve months.

This means that a person has to live in an LGA for twelve months or more in total within 4 years prior to the election or his or her nomination to the Council.

On what grounds is a person not qualified to be elected or nominated as a member of the Council? S.17 (3))

A person will not be qualified to be elected or nominated as a member of a Council if he or she -

- (a) Is of unsound mind;
- (b) Has been sentenced to death or imprisonment for an offence involving fraud, dishonesty or violence or has been convicted of an offence relating to or connected with elections under any enactment in force in The Gambia at the time;
- (c) Being a professional person, he or she is disqualified from practising his or her profession on grounds of malpractice, fraud or dishonesty by the competent professional body;
- (d) Is exempted from payment of rates under any enactment;
- (e) Is a member of a disciplined force;
- (f) Is a Member of the National Assembly;
- (g) Is a District Seyfo or an Alkalo, except a District Seyfo or an Alkalo representative selected by all the District Seyfolu (Chiefs) or all the Alkalolu in the Municipality respectively;
- (h) Is an undischarged bankrupt;
- (i) Is a person holding judicial office; or
- (j) Is a member of the Independent Electoral Commission.

Which qualification does not apply to a person who wants to become a Chairperson or Mayor/Mayoress? S.17(4)

A person who wants to be elected as a Chairperson or Mayor/Mayoress does not have to be ordinarily resident in the Local Government Area he or she is seeking election in.

Can discrimination be a ground for disqualification? S.17 (5)

No person can be disqualified from being elected or nominated to a Council by reason only of his or her status, position, profession, religion, creed, ethnic origin, race, occupation, traditional standing, gender or physical disability.

When can a person who has been sentenced to death, convicted for fraud, violence, election malpractices or professional misconduct be qualified to be elected or nominated to a Council? S.17 (6)

A person will be qualified to be elected or nominated to a Council after ten years (post-release) of serving the sentence or of the disqualification or if he or she has been pardoned.

On what other grounds can a person be ineligible for election or nomination to a Council? S.17 (7)

- a) A person cannot be eligible for election to a Council for more than three terms of office;
- b) A person cannot be eligible for nomination to a Council for more than two consecutive terms of office;
- c) A person cannot be a member of more than one Council at the same time.

What is the term for a Councillor? S.17(8)

A Councillor holds office for a term of four years and is eligible for re-election.

On what grounds can a person cease or stop to be a member of the Council? S.19.

A person will cease to be a member of a Council if he or she -

- (a) dies;
- (b) has his or her original mandate revoked. In this instance, he or she will also be disqualified from standing as a candidate for the two terms immediately following the revocation;
- (c) resigns as a member through a letter addressed to the Chairperson of the Council;
- (d) becomes disqualified under any of the circumstances specified in subsection (3) of section 17 of this Act (grounds for disqualification):
- (e) is removed from office under section 20 (removal for abuse of office, corruption, misconduct or physical or mental incapacity) or 22 of this Act (revocation of mandate by an elected councillor or Chairperson by the electorate);
- (f) absents himself or herself from more than three consecutive ordinary meetings of the Council without the written permission of the Chairperson of the Council.

Can an elected member be removed from the Council if he or she ceases to be a member of the political party to which he was elected?

No. An elected member will remain a member of the Council if he or she leaves the political party on whose ticket he was elected to the Council and joins another political party.

What happens if a person complains to the Council that one of its members is disqualified on a ground indicated in S. 17(3) (grounds for disqualification as a member of the Council) or has not attended more than three consecutive ordinary meetings of the Council without the permission of the Chairperson? S.19 (2) (4) (5)

When a Council receives such a complaint, it should appoint an ad-hoc committee to investigate the complaint and submit a report on its findings to the Council within the period specified on its appointment.

If the Council, after studying the report, is satisfied that a member is indeed disqualified under the grounds complained about, it shall decide through a resolution that the member shall cease to be a member of the Council.

The aggrieved member who is affected by this resolution of the Council can, however, take the matter to the High Court for redress.

How can a Chairperson, Deputy Chairperson or other members of a Council be removed from Office and on what grounds may he or she be removed? S. 20 (1)

A Chairperson, Deputy Chairperson or Councillor can be removed from office by a Council by a resolution supported by two-thirds of all the members of the Council on any of the following grounds:

- abuse of office;
- corruption;
- misconduct; or
- physical or mental incapacity that would render him or her incapable of discharging the duties of the office.

How should the Chairperson, Deputy Chairperson or other members of the Council be removed from Office? S.20(2) – (subsections (2), (3), (4) and (5) were inserted in 2004 amendments)

For the removal of the Chairperson, a written notice that is signed by not less than two-thirds of all members of the Council should be submitted to the Deputy Chairperson.

For the removal of the Deputy Chairperson or any other member of the Council, the written and signed resolution by not less than two-thirds of all the members of the Council should be submitted to the Chairperson.

What should be stated or indicated in the resolution for the removal of the Chairperson, Deputy Chairperson or other member of the Council? S.20(2) (a) (b)

In the notice, the Council members should state that they intend to pass a resolution to remove the Chairperson, Deputy Chairperson or other

member of the Council on any of the grounds mentioned above as well as set out or mention the particulars or reasons of the charge (namely abuse of office, corruption or misconduct) with all the supporting documents on which it claims that the conduct of the Chairperson, Deputy Chairperson or other member of the Council be investigated for the purpose of removal.

What should the Chairperson or Deputy Chairperson do, as the case maybe, after receiving this notice? S.20 (3)

Within twenty-four hours after receipt of such notice, the Chairperson or Deputy Chairperson, as the case may be, should send or transmit a copy of the notice to the Minister of Local Government.

What should the Minister of Local Government do after receiving this notice from the Chairperson or Deputy Chairperson as the case may be? S.20 (4)

When the Minister of Local Government receives the notice under subsection (3) or after any finding of irregularity by a commission of enquiry instituted under section 151 of this Act that concerns any action by the Chairperson, Deputy Chairperson or other member of the Council, he or she should:

- (a) Suspend the Chairperson, Deputy Chairperson or other member of the Council concerned, in which case-
 - i. the Deputy Chairperson shall act as Chairperson, and
 - ii. a councillor, appointed by the members of the Council from among the elected Councillors, shall act as Deputy Chairperson;
- (b) Investigate the allegations contained in the notice; and
- (c) Report its finding to the President, stating whether or not there is a case for the removal of the Chairperson, Deputy Chairperson, or other member of the Council concerned.

What can the affected Councillor do before his or her removal or during the suspension and within what timeframe? S. 20(5)

The Chairperson, Deputy Chairperson, or other member of the Council who is to be removed from office can, within thirty days of his or her suspension from office under subsection (4), make representation to the President.

What happens if the President thinks there is a case for the removal of the Chairperson, Deputy Chairperson or member of the Council? S.20(6)

If the President determines that there is sufficient case for the removal of the Chairperson, Deputy Chairperson or other member of the Council under subsection (1) (for abuse of office, corruption or misconduct), then the person concerned will cease to hold office.

How can the Chairperson, Deputy Chairperson or member of the Council be removed from Office on the grounds of physical or mental incapacity? S.20(7)

To remove the Chairperson, Deputy Chairperson or other member of the Council on the grounds of physical or mental incapacity that can render him or her from fully discharging the duties of their office, the resolution submitted to the Chairperson or Deputy Chairperson should:

- (a) state that it is intended to remove the Chairperson, Deputy Chairperson or other member of the Council on grounds of physical or mental incapacity; and
- (b) Give particulars of the alleged incapacity.

What should the Minister of Local Government do after receiving the notice for the removal of the Chairperson, Deputy Chairperson or other member of the Council on the grounds of physical or mental incapacity? S.20 (8)

Within seven (7) days upon receipt of the notice from the Chairperson or Deputy Chairperson, the Minister of Local Government should, in consultation with the Director of Medical Services, constitute a Medical Board comprising three (3) qualified medical specialists to:

- (a) Examine the Chairperson, Deputy Chairperson or other member of the Council in respect of the alleged incapacity; and
- (b) Report its findings to the Council.

When should the Medical Board examine the Chairperson, Deputy Chairperson or other member of the Council? What should the affected Chairperson, Deputy Chairperson or other member of the Council do? S. 20 (9), (10)

The Medical Board should examine the Chairperson, Deputy Chairperson or other member of the Council within fourteen (14) days after it is constituted.

The affected Chairperson, Deputy Chairperson or other member of the Council should submit himself or herself to the Medical Board for examination on a day and time determined by the Board.

What happens after the Medical Board completes its examination of the concerned Chairperson, Deputy Chairperson or member of the Council? S. 20 (11)

The concerned Chairperson, Deputy Chairperson or other member of the Council will cease to hold office if the Medical Board -

- (a) Determines that the Chairperson, Deputy Chairperson or other member of the Council is unable to perform the functions of his or her office because of physical or mental incapacity; or
- (b) Reports that the Chairperson, Deputy Chairperson or other member of the Council has failed or refused to submit himself or herself to the Medical Board for examination.

What can happen if the Chairperson or Deputy Chairperson fails to convene a meeting of the Council or the Council fails to move a resolution for the removal of the Chairperson within 14 days after receiving the report of the Medical Board? S.20 (12)

If the Chairperson or Deputy Chairperson fails to convene a meeting of the Council within fourteen days after receiving the report of the Medical

Board, or the Council fails to move the resolution for the removal of the Chairperson within fourteen days after the receipt of such report, the resolution will expire and therefore the Chairperson will not be removed. However, if the Deputy Chairperson fails to convene a meeting of the Council, two-thirds majority of the members of the Council can convene the meeting.

Who bears the expenses of the Medical Board? S.20(13)

The expenses of the Medical Board should be met by the Council concerned.

Subsection (14) was deleted by the 2018 amendment.

Can the Chairperson, Deputy Chairperson or a member of the Council appeal against their removal on the grounds of abuse of office, corruption or misconduct? To whom can they appeal to? S.21 (1), (2) – (amendment done in 2004)

A Chairperson, Deputy Chairperson or other member of the Council who is removed from office on the grounds of abuse of office, corruption or misconduct can appeal to the *High Court* within fourteen days of the decision of the President removing him or her.

The *High Court* should deliver its decision on an appeal by the Chairperson, Deputy Chairperson or other member of the Council within thirty days after it was filed, and the decision of the Court is final.

Can the electorate revoke the mandate of a Chairperson, Deputy Chairperson or a member of a Council? What are the procedures? S.22.(1) (2)

Yes. The mandate of a Chairperson, Deputy Chairperson or a member of a Council may be revoked by the electorate.

However, to revoke the mandate of the Chairperson, Deputy Chairperson or an elected member of a Council, at least fifty *per cent* of the registered voters in the electoral area will have to petition the Independent Electoral Commission for the revocation.

What should the Independent Electoral Commission do after receiving the petition for the revocation of the mandate of a Chairperson, Deputy Chairperson or an elected Councillor? And how would the issue be decided? S. 22 (3), (4)

When the Independent Electoral Commission receives the petition for the revocation of the mandate of a Chairperson, Deputy Chairperson or an elected member, it should organise a referendum to decide whether or not such Chairperson, Deputy Chairperson or elected member should be recalled.

The issue at the referendum will be decided if at least -

- (a) fifty *per cent* of the registered voters in the electoral area vote on the issue; and
- (b) sixty *per cent* of the votes cast are in favour of the recall of the Chairperson, Deputy Chairperson or elected member.

Who can revoke the nomination of a nominated member of the Council and how? S.22 (5)

- (a) The nomination of a Nominated Member of a Council may be revoked by the Minister of Local Government in consultation with the Chairperson. Although the Minister has the discretion to revoke such a nomination, he or she still has to state the grounds for the revocation.
- (b) The Minister of Local Government, in consultation with the Chairperson, can also revoke the nomination of a nominated member on the recommendation of three-quarters of the members of the Council. The grounds could be that the member has -
 - Systematically neglected his or her duties, or
 - Committed acts incompatible with his or her office as a member of the Council for which sufficient evidence is available; or
- (c) A nominated member can also be removed if there is a complaint of wrong doing or improper conduct made against him or her and which is established to be true after investigation by an ad-hoc committee of the Council.

What happens after the nomination of a nominated member is revoked? S. 22(6), (7)

Where the appointment of a Nominated Member of a Council is revoked, another person representing the same interest can be nominated in his or her place. The replacement will serve the remainder of the term of the member whose nomination was revoked and may be re-nominated.

BY-ELECTIONS

What happens when an elected member ceases to hold office or be in the Council? S.23.

Where an elected member of a Council ceases to hold office (due to abuse of office, corruption, misconduct, physical or mental incapacity, or revocation of mandate), a by-election will be held within two months to elect another person to replace him or her. However, no by-election will be held if he or she ceases to hold office within six months before the end of his or her tenure of office.

Who should determine the allowances and other benefits of a Council? S.27

It is the Minister of Local Government who should determine, by regulations, the allowances and other benefits that should be paid by a Council to its Deputy Chairperson and other elected or nominated members.

Can a Chairperson or Mayor/Mayoress, Deputy Chairperson or other members of a Council travel outside the Gambia without the approval of the Minister of Local Government? (inserted in the 2004 amendment)

This provision has been declared unconstitutional or null and void by the Supreme Court in its judgement in *Talib Ahmed Bensouda & 54 Others v the Attorney General (SCCS No. 001/2022)*. It means that a Chairperson, Mayor/Mayoress, Deputy Chairperson/Mayor or a member of a Council does not require the approval of the Minister of Local Government to travel outside the country.

MEETINGS AND PROCEEDINGS

Who should convene the first meeting of a Council after a Local Government election? What about after that first meeting? S.28 (1) – amended in 2007

The date for the first Council meeting after the Local Government election should be fixed by the Governor for the Area Councils and by the Chief Executive Officer Officers in the case of Banjul City and Kanifing Municipality. All other consequent meetings of the Council should be convened by the Chairperson at least once a month.

What does this Section say about the proceedings of Meetings of the Council? S.28 (2), (3), (4), (5)

- a) Decisions of a Council are made by a simple majority of the elected members present and voting at such meetings.
- b) When there is a tie or equality of votes, the Chairperson or Mayor/Mayoress has a casting vote.
- c) Nominated and selected members of the Council do not have the right to vote at Council meetings
- d) The quorum for a meeting is two-thirds of the members.
- e) Proceedings of a Council will remain valid or legal even if there is a vacancy in the Council or a defect/error in the election, nomination or qualification of a member.

Can nominated and selected members vote in a Council meeting? S.28(3)

No. Nominated and selected members of the Council do not have the right to vote in Council meetings.

Can a Council summon a public officer in its Local Government Area to attend its meeting? S.28 (6)

Yes. A Council can, at any time, summon a public officer in its Local Government Area to attend any of its meetings to provide information or assistance that the Council may require.

Can or should a member of a Council take part in the discussion of any matter or issue before the Council in which he or she has a financial or monetary interest or benefit? (declaration of 'conflict of interest')? S.29 (1)

It is illegal or wrong for a member of a Council to take part in the discussion of any matter before a Council or a Committee of a Council in which he or she may have a direct or indirect financial benefit or interest.

Should a member of a Council receive, force or accept a fee, money, gift or reward of any kind for his or her work or official responsibilities as a Councillor and what is the penalty for doing so? S.29 (2) (3)

No. A member of a Council should not receive, expect or accept any fee, money, gift or reward of any kind for any official work or responsibility he or she has done under the Local Government Act or as a Councillor. It is an offence to violate this provision and any person who does so, if found guilty by the Court, can be sentenced to six months imprisonment or less or be fined D5000 or less. He or she can also be removed as a member of a Council.

Should a meeting of the Council be open to the public? S.30.

Except for a committee meeting, every meeting of a Council should be open to the public. This means that members of the public have the right to attend a Council meeting.

In which language can a Council conduct its meetings or business? S.31.

A Council may conduct its meetings or business in English and in any Gambian language that is spoken within its Local Government Area.

In what language should Minutes of a Council meeting be kept? Can the public access such minutes? S.32(1) (2)

Minutes of all meetings of a Council should be recorded and kept in the English language. Copies of all Council meeting minutes should be accessible to or be open for inspection by members of the public.

COMMITTEES OF A COUNCIL

What Committees should a Council establish or set up? What should be their composition and term in office? S.34 (1), (2), (3)

Every Council should establish the following Committees (referred to in Part IV and this Section)

	Committees mentioned in Part IV of the Act
1.	Local Education Committee
2.	Local Agricultural Committee
3.	Local Natural Resources Committee
4.	Public Health Committee
5.	Local Road Authority
	Committees established under S.34(1)
6.	Finance Committee
7.	Establishment and Appointment Committee
8.	Development Committee
9.	Any other Committee that the Council may establish

It is left to a Council to determine the number of members of each Committee which, however, should not be more than one-third of the total members of a Council and such other persons as it shall determine. It is left to the Council to determine the term of a Committee.

Can a Committee co-opt an expert or subject matter specialist? Will such a co-opted person have the right to vote in its meetings? S. 34 (4)

A Committee can co-opt any person whose contribution is deemed essential to its work. However, such a person will not have a right to vote.

Can a Committee establish Ad hoc-committees? S.34 (5)

Yes. A Committee can establish such Ad hoc committees as it thinks necessary for the efficient conduct of its business. The Committee can also delegate any or some of its functions to such Ad hoc committees as it may deem expedient.

Who is obliged to attend meetings of the Committees and Ad hoc Committees? S.34 (6)

Heads of Departments of the Council or other authorised officers must attend meetings of the Committees and Ad hoc- committees and advise them on the execution of their functions. However, these officers will not have a right to vote in these Committees.

Can a Council dissolve a Committee and on which grounds or for what reasons? S. 35 (1), (2)

A Council can, by resolution of two-thirds of its members, dissolve a Committee if it is satisfied that such a Committee is not effectively performing its given or assigned functions.

A Committee will be deemed not to have performed its functions efficiently if its actions:

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

Can a Committee dissolve an Ad hoc Committee and when? S.35 (3)

A Committee can at any time dissolve an Ad hoc-committee it has established.

What are the functions of a Finance Committee? S. 36.

A Finance Committee is responsible for -

- (a) Reviewing the estimates of its Council;

- (b) Considering and making recommendations on any financial matter to be laid before its Council;
- (c) Offering advice on the fiscal policies of its Council;
- (d) Keeping under review the financial policy of its Council and advising its Council on the policy; and
- (e) Such other functions as its Council may delegate or assign to it.

What are the functions of an Establishment and Appointment Committee? S.37.

The Establishment and Appointment Committee is responsible for

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

What are the functions of the Development Committee? S. 38.

The Development Committee is responsible for -

- (a) Co-ordinating plans and programmes of development in its Area;
- (b) Promoting economic, social, spatial and human settlement policies relating to the development of its Area;
- (c) Harmonising development policies of its Area with national development policies;
- (d) Integrating and co-ordinating the processes of planning, programming and implementation;
- (e) Initiating and implementing development programmes and projects;
- (f) Monitoring and evaluating all policies, programmes and projects of development; and
- (g) Such other functions as the Council may deem fit.

Can two or more Councils set up Joint Committees? What function can such a Joint Committee not perform? S.39

Yes. Two or more Councils can discharge any of their functions jointly. The function of such a Joint Committee of the Council could also include the implementation of any project in which they are interested.

However, such a Joint Committee or Ad hoc Committee cannot:

- (a) Have the power to levy rates or other taxes or to borrow money.
This power can only be exercised solely by a Council.
- (b) Discharge any functions which a Council or specified Committee is supposed to carry out under this Act or any other enactment.

Who is disqualified from being a member of a Committee, Ad hoc Committee or Joint Committee? Any exception? S.41.

A person who is disqualified from being elected a member of a Council cannot be disqualified to be a member of a Committee or Ad-hoc committee of the Council or a Joint Committee.

However, a person cannot be disqualified from such membership of a Committee or Ad hoc Committee relating to education just because the person is a teacher or is employed in any educational institution.

ADMINISTRATION

What does the Act say about the office of the Chief Executive Officer and his or her appointment? S.42 (1), (2)

The Act states that:

- (a) Every Council should have a Chief Executive Officer and which post or office should be in the Local Government Service.
- (b) The terms and conditions of the post of Chief Executive Officer should, subject to the provisions of the Local Government Act, be prescribed by the Local Government Service.
- (c) A Chief Executive Officer should be appointed by a Local Government Service Commission after consultation with the Chairperson who may attend all proceedings and deliberations of the Commission when considering the appointment of a Chief Executive Officer.
- (d) Applications for the office of Chief Executive Officer shall be submitted to the Council for its prior comments.

What are the functions of a Chief Executive? S.43.

The Chief Executive Officer should:

- (a) Manage the affairs of the Council;
- (b) Be answerable to the Council and be subject to its direction and control;
- (c) Report to the Chairperson in the exercise of his or her functions.
- (d) Be an *ex-officio* member of all Committees of the Council;
- (e) Be responsible for the day-to-day performance of the executive and administrative functions of the Council and the implementation of all its decisions;
- (f) Supervise, monitor and co-ordinate the activities of the Departments of the Council and ensure accountability and transparency in the management and delivery of the Council's services;
- (g) Be the accounting officer of the Council;
- (h) Be the custodian of all documents and records of Council; and
- (i) Perform such other functions as are required by this Act, or any other enactment.

What does the Act say about the office of the Clerk? S.44. (1)

The Act states that each Council should have a Clerk who should be appointed by the Local Government Service Commission.

What are the functions or responsibilities of the Clerk of a Council? S.44 (2)

The Clerk of a Council should be responsible for the following:

- (a) Taking minutes of Council meetings;
- (b) Keeping records of Council meetings;
- (c) Organising meetings of the Council and its committees; and
- (d) Discharging such other duties as may be assigned to him or her.

To whom is the Clerk answerable to? S.44(3)

The Clerk is answerable to the Council in the performance of his or her functions.

Who can recommend the removal of a Chief Executive Officer or Clerk from Office and on what grounds? S.45.

The Council can recommend to the Local Government Service Commission the removal of a Chief Executive Officer or Clerk on any of the following grounds:

- (a) Abuse of office;
- (b) Incompetence;
- (c) Misconduct; or
- (d) Such physical or mental incapacity as would render him or her incapable of performing the functions of his or her office.

Can a Council establish Departments it thinks are appropriate for the day-to-day execution of its functions? What Departments must be established by a Council? 46 (1), (2) and (3)

A Council should establish such Departments as it shall deem appropriate for the day-to-day execution of its functions. However, every Council should have the following Departments:

- (a) Finance;
- (b) Services;
- (c) Planning and Development;
- (d) Administration; and
- (e) Municipal and Area Council Police (*2015 amendment/insertion*)

Each Council should determine the Terms of reference of its Departments and staff.

Who should head each Department? Who should determine their Terms of Reference? What should be the responsibility of the head of Department and who should the person report to? S. 46 (4), (5)

Each Department should be headed by a Director which should also be an office in the Local Government Service. Furthermore, subject to the provisions of this Act, the Local Government Service Commission can prescribe the terms and conditions of each Director.

The Directors should be responsible for the day-to-day implementation of the functions of their Departments and should report to the Chief Executive Officer or Clerk in the performance of these functions.

Who should be the head of the Department of Municipal or Area Council Police? What should be their functions and to whom should he or she report? S.46(6) – inserted in the 2015 amendment

The Officer, who is the head of the Department of Municipal or Area Council Police is referred to as 'Commissioner'. He or she should be responsible for the day-to-day implementation of the functions of security matters of his or her jurisdiction and should report to the Mayor or Chairperson of the Council.

Can the Minister of Local Government transfer staff of Community Development working at the Local Government level to a Council? S.47

Yes. The Minister of Local Government can, after consultation with the Councils determine which of the community development staff operating at the Local Government level should be transferred to a Council. However, all persons whose positions are transferred to a Council by the Minister will become staff of the Local Government Service with effect from the date of the transfer. A person transferred to a Council goes along with them all their entitlements, benefits and liabilities to the Council.

Part IV: Powers and Functions of Local Government Institutions

What are the General Powers of a Council? S.48(1), (2)

The powers of a Council within its area of jurisdiction are to:

- (a) Exercise all political and executive powers and functions;
- (b) Provide services as it deems fit;
- (c) Promote on a sound basis community development and self-help;
- (d) Perform such functions as deemed necessary to facilitate, or are conducive or incidental to, the discharge of any of its functions;
- (e) Protect the Constitution and other laws of The Gambia and promote democratic governance; and
- (f) Ensure implementation and compliance with Government policy.

In addition to the powers and functions specified in this Part (general, Legislative, Education, Agriculture, Natural resources, Public and Environmental Health, Roads, and Miscellaneous Powers), perform and carry out the functions and services specified under Part II of Schedule II to this Act.

1.	The control of pests of all sorts, including tsetse flies, mosquitoes, and weeds.	2.	Establish, maintain or control public parks, gardens and recreation grounds on any land vested in the Council.
3.	The regulation of methods of husbandry.	4.	Prohibit, restrict, regulate or license: (a) the sale or hawking of wares or the erection of stalls on any street, or the use of any part of the street or public place to carry on any trade, business or profession; (b) the depositing on any street, public place or unoccupied land any refuse, rubbish derelict vehicles, or any other material or thing whatsoever and to provide for the removal and disposal thereof; (c) street decorations and the erection of shelters, temporary buildings, platforms, seats and other structures at any entertainment, procession, exhibition, ceremony or display,

			<p>whether in a public place or not;</p> <p>(d) the placing of banners, wires, ropes or any other impediments over or across any street or public place.</p> <p>(e) the collection of money or goods in any public place for any charitable or other purpose;</p> <p>(f) the public exhibition or any monstrosity, freak of nature, or abnormal person or animal;</p> <p>(g) singing, dancing, drumming, the playing of musical instruments, the production of music or the making of any noise likely to disturb any person, or any performance for profit in any public place;</p> <p>(h) the storage or stacking of firewood or other fuel;</p> <p>(i) the washing or drying of clothes other than on private premises;</p> <p>(j) the quarrying of stone, lime, clay, Murray or other material;</p> <p>(k) the keeping of dogs, animals and poultry, and provide for the seizure and destruction of ownerless, unlicensed, diseased or dangerous dogs, and the seizure</p>
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			<p>and disposal of stray animals and poultry;</p> <p>(l) lodging houses;</p> <p>(m) the burning of rubbish and grassland;</p> <p>(n) prostitution and brothels;</p> <p>(o) Cinemas and video halls.</p>
5.	The prohibition, restriction and control of the planting, harvesting and possession of noxious or poisonous plants.	6.	Layout and adorn any street, square or open space vested in the Council by the erection of statues, fountains or other structures or in any manner.
7.	The control of stray animals, the provision and management of pounds, the sale and destruction of such animals, and the regulation of payment of compensation for damage done by such animals.	8.	Decorate streets and public buildings, erect shelters, temporary buildings, platforms, seats and other structures in public places.
9.	The control of the keeping and grazing in, and the movement in and into and out of the Council's area, of livestock of all kinds.	10.	Clear, level and maintain public and unoccupied land taken on lease from a land board and to plant, trim, protect and remove, flowers, trees and shrubs in or from any public place.
11.	The control and regulation of the drying of hides and skins and the sale thereof.	12.	Identify streets and other public places by assigning names thereto and cause those names to be exhibited on posts or pillars or to be painted or otherwise exhibited on any building or other erection fronting.

13.	The taking of measures for the prevention, control and relief of famine.	14.	Number, or otherwise identify any buildings fronting on any street or other public place, and cause such identification to be exhibited on the buildings or require the owner thereof, at his own expense, to cause such identification to be exhibited on a building.
15.	The control of diseases.	16.	Require the owner or occupier of any premises to remove or lower any fence or to remove, lower or trim any tree, hedge, or shrub overhanging any street or interfering with the passage of traffic or pedestrians, or any wires or other works or to require any owner or occupier to perform the removal, lowering or trimming which may be necessary for the maintenance of public safety or amenity or build and maintain the pavement bordering his or her property to the specifications, of the Council.
17.	The quarantining of persons and livestock of all kinds.	18.	Require the fencing or enclosing of plots and restrict the use of barbed wire, broken glass or any similar substance on fences and walls.
19.	The prohibition, restriction and control of the carrying and possession of weapons other than firearms.	20.	Preserve public decency, prevent offences against public order in streets and public places, and prevent damages to or defacement of property of the public or the Council.

21.	The prohibition, restriction and control of the drinking, brewing, possession, sale, transport and distribution of native beer and wine, including palm wine.	22.	Prevent and extinguish fires, remove buildings to prevent the spread of any fire and compensate the owner of any building removed.
23.	The prohibition, restriction and control of gambling.	24.	Establish, maintain, hire, support or control bands and orchestras and generally provide musical entertainment at public places and functions.
25.	The registration and enforcement of the registration of births, marriages, and deaths	26.	Undertake private works and services to charge and recover costs thereon and contract out public services to the private sector.
27.	The prohibition, restriction, regulation, control or doing of any matter or thing which is required by any customary law to be so prohibited, restricted, regulated, controlled, or done, and is not repugnant to morality or justice.	28.	At the request of the owner of the land situated within its area of jurisdiction construct, in such manner as the Council may think fit, by its servants or by contract, a foot way or pavement along any street contiguous (sic: contagious) with such land or vehicular crossings over any foot way or pavement and to recover the whole or any part of the cost of such construction including the cost of supervision, plant, machinery and tools from such owner in the manner as it may think fit.

29.	The prohibition, restriction and control of hunting and fishing.	30.	Sell all by-products resulting from the carrying on, by or on behalf of the Council of any works or services.
31.	<p>Establish, acquire, erect, maintain, promote, assist or control with the participation of the citizens:</p> <ul style="list-style-type: none"> (a) the lighting of streets and public places; (b) fire brigade services; (c) ambulance services; (d) cemeteries, crematoria mortuaries and ancillary services, and provide for the burial of bodies of destitute persons and of unclaimed bodies; (e) offices, stores, workshops, depots and other buildings for the purpose of the Council; (f) public halls, libraries, art galleries and museums; (g) slaughter houses, cold storage facilities and premises for the inspection or processing of milk, meat or hides and skins; (h) markets and piers, jetties and landing places; (i) botanical and zoological gardens; (j) canteens, social centres, clubs and hospitals, including such facilities for employees and staff; (k) public lavatories and urinals; 	32.	Make provision for the return of destitute persons to their homes.

	<ul style="list-style-type: none"> (l) pounds for stray animals and clinics for the treatment of sick animals; (m) public weighing machines; (n) public monuments; (o) sanitary services for the removal and disposal of night soil rubbish, carcasses of dead animals and all kinds of refuse and effluent; (p) Water supplies outside the jurisdiction of the water utilities provider. 		
33.	Arrange for the insurance of all assets of the Council against financial risks of any kind to which the Council may be subjected	34.	Provide: <ul style="list-style-type: none"> (a) gowns, chains and badges of office for Councillors and officers of the Council; (b) Badges, medallions or scrolls for presentation to persons who have given meritorious service to the Councils, and floral tributes in memory of Councillors, officers of the Council and persons of note.
35.	Regulate, control, manage, administer, promote or license any of the things or services which the Council is required or empowered to do and establish, maintain, carry on, control, manage or administer, and prescribe the forms in connection therewith; and to fix fees or charges to be made in respect thereof.	36.	With the consent of a neighbouring Local Government, render advice and or assist in controlling development and administer town and country planning schemes in any area within an agreed distance from the boundaries of its jurisdiction.

37.	Provide, control and manage the following services: (a) sporting and recreational facilities and programmes of informal education for both adults and young people including the provision and running of community centres; (b) the development of social work among adults; (c) remedial social welfare programmes aimed at the alleviation of social distress; (d) the welfare of children; (e) Public vehicle parking.	38.	Initiate and contract twinning arrangements with International Local Governments or Local Authorities in consultation with the Secretary of State.
39.	Any other functions or services incidental to or connected with the above.	40.	Any other functions not reserved to the Central Government

What can the Councils not do under this Section? S.48 (3)

A Council cannot or should not do anything which requires, according to this Act or any other enactment, the approval of any body or person unless the approval is obtained in accordance with this Act or the enactment.

Can a Council carry out a devolved function, services and powers? What should happen before such can take effect? S.49. (1) (2)

A Minister can, after consultation with the Minister of Local Government, devolve (transfer) functions, services and powers vested in his or her Ministry to a Council. However, such devolution (transfer) cannot be effected unless –

- (a) The Government and the Council are in agreement;
- (b) Adequate human, financial and material resources are made available for the performance of the functions, provision of the services and the exercise of the power:'), so devolved (transferred); and

(c) Appropriate measures are taken to bring the change to the attention of the public.

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

Functions and Services for which the Central Government is responsible are:

1.	Arms, ammunition and explosives.	17.	Energy policy. Public Services of The Gambia
2.	Defence, Security, maintenance of law and order.	18.	The judiciary
3.	Banks, banking, promissory notes, currency and exchange control	19.	National Standards
4.	Subject to the Constitution, taxation and policy.	20.	Education policy
5.	Citizenship, immigration, emigration, refugees, deportation, extradition, passport and national identity cards.	21.	Tertiary, including University Education.
6.	Copyright, patent and trade marks and all forms of intellectual property,	22.	National Training Institutions.
7.	Incorporation and regulation of business organisations	23.	National Surveys and mapping
8.	Land, mines, minerals and the environment	24.	Industrial policy.
9.	National parks, as may be prescribed by the National Assembly.	25.	Forests and wildlife conservation policy
10.	Public holidays.	26.	National research policy.
11.	National monuments, antiquities, archives and public records as the National Assembly may determine.	27.	Health policy.
12.	Foreign relations and external trade.	28.	Referral Hospital Services
13.	The regulation of trade and commerce.	29.	National facilities
14.	Making national plans for the provision of services and co-ordinating plans made by Local Governments.	30.	Agricultural policy

15.	National elections.	31.	All Government policies.
16.	Transport and communication policy.	32	National censuses and statistics.
33.	Any matter incidental to or connected with the above functions and services		

What can a Council do where a provision is made for it to carry out a devolved function, service or power? S50. (1)

A Council can, where any provision is made for the devolution of any functions, services or powers under this Act at the discretion of a Minister or any other authority, request that it be allowed to perform the functions, provide the services or exercise the powers.

What if this request of a Council is not granted within six months that it is made? S.50(2), (3)

When the request is made or submitted by a Council to the Minister or authority concerned but he or she does not grant the request within six months of its submission, the Council can make the request to the President, who shall, within three months upon receipt of the request, determine whether the request ought to be granted. However, in this instance, the decision of the President on the submitted request will be final.

How will this devolution of functions from the Central Government to the Councils be effected or carried out and what would be put into consideration? S. 51

The devolution of these functions, services and powers from the Central Government to Councils will be carried out or be effected gradually and will take into account the capacity of a Council to perform the functions, provide the services and exercise the powers.

What can happen if these devolved functions are not being carried out effectively or properly by a Council? Can these devolved functions be taken away or reversed? S.52 (1)

If a Minister has reasonable grounds to believe that any function service or power transferred to a Council is not being effectively performed,

provided or exercised, he or she may, after investigation and in consultation with the Minister of Local Government, submit to the President proposals for addressing the situation, which could include his or her Ministry to either temporarily or permanently perform, provide or exercise the devolved function, service or power.

What will the President do after receiving these proposals from a Minister? S.52 (2)

The President will not approve any proposals made by a Minister in this instance without first obtaining the views of the Council concerned.

Can a Council delegate to a District Authority or Joint Committee of a District Authority any of its functions specified in Part II (2) of Schedule II (2) of this Act (Functions and Service for which the Local Government are responsible)? What must happen before such can become effective? S.53

A Council can delegate to a District Authority or Joint Committee of a District Authority any of the functions specified under Part II of Schedule II to this Act. However, such cannot become effective unless:

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

Regardless of the delegation of such a function under this section, the Council will not be prevented from exercising the function and as well it can revoke such function if deemed fit.

LEGISLATIVE POWERS

What Legislative Powers do the Councils have? How are these powers exercised? 54 (1), (2), (3)

- (a) A Council has powers to make laws that are not inconsistent with the Constitution or any other law made by the National Assembly. These local bills are passed in 'By-laws'

- (b) The By-law should be certified by the Minister and signed by the Governor before they can become enforceable.
- (c) Before a local bill is signed by the Governor, he or she should forward the By-law to the Minister of Local Government who should also request the Attorney General to advise him or her whether or not the By-law is inconsistent with the Constitution or any other law of the National Assembly.

What should the Minister of Local Government do after receiving or getting the advice of the Attorney General on the local bill? What are the options available? S.54 (4)

- a. If the Attorney General advises that the local bill is inconsistent with the Constitution or any law of the National Assembly, the Minister of Local Government should, within ninety days of receipt of the local bill, return the bill with his or her comments to the relevant Council for modification or other appropriate action;
- b. If the Attorney General advises that the local bill is consistent with the Constitution or any law of the National Assembly, the Minister of Local Government should certify accordingly and return the local bill to the Council to be signed into a By-law by the Governor.

When does a local bill become a By-law of the Council? S 54. (5)

A local bill becomes a By-law of the Council when it is enacted by a Council, certified by the Minister of Local Government and signed by the Governor. It should also be published in the *Gazette* and the local media.

Should the public have access to a By-law? S.54(6)

The public should be given access to every By-law passed by a Council.

What offences and penalties could a By-law create? S. 55.

A By-law appropriately made can:

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

- (b) prescribe a penalty of a fine not exceeding twenty thousand dalasis or a term of imprisonment not exceeding one year or both in respect of an offence created under paragraph (a);
- (c) provide that, where a person is convicted of an offence created by a By-law which prohibits possession of an article, object or thing, the Court may order the forfeiture or destruction of the article, object or thing in addition to the penalty imposed under paragraph (b);
- (d) Prescribe that in addition to or substitution for the penalty, if the breach is in relation to a condition of a licence or permit under the By-law, the licence or permit be suspended or cancelled;
- (e) provide that in addition to the penalty, any expenses incurred by the Council or any person or other public body as a result of the breach of a provision of a By-law or non-performance of a requirement under the By-law shall be paid by the person or body convicted and the expenses may be recovered summarily as a civil debt.

Can a By-law impose fees, etc., for services under it? S.56.

A By-law that is made under section 54 of the Local Government Act may prescribe fees or charges equivalent to full cost recovery in relation to any act done or is supposed to be done or a service provided under the By-law. It may also require any act to be done or performed to the satisfaction of a prescribed person or body.

What can be the scope or limit of a By-law? 57. (1), (2)

- (a) A By-law can apply to the whole Local Government Area or any part of it or a particular section of the people or a profession.
- (b) The power to make By-laws shall include the power to regulate different matters in respect of different parts of the Local Government Area.
- (c) No By-law should be made in respect of any matter or issue which is adequately provided for under the Constitution or any law passed by the National Assembly. Where such a By-law is made, it should reproduce the provisions of the Constitution or law in its entirety.

When should a By-law become effective? S.58.

A By-law becomes effective on the date it is signed by the Chairperson or as may be provided in the By-law.

What can a Council not have the power to legislate on? S.59.

A Council does not have the power to make any By-law relating to the establishment or administration of courts or the exercise of judicial powers.

Can a Council make By-laws for its Committees? S. 60.

A Council can make By-laws for the guidance of its local committees, National Council of Seyfolu, District, Ward or Village Committees that are within its jurisdiction.

EDUCATION

What is a "School" in this Act? S.61

A 'school' means an assembly of not less than ten pupils meeting to receive regular instructions.

What types of 'Schools' are mentioned under the Act? S.61

The types of 'Schools' include the following –

- (a) Basic cycle schools grades 1 to 9;
- (b) Lower basic schools grades 1 to 6;
- (c) Upper basic schools grades 7 to 9;
- (d) Secondary schools grades 10 to 12;
- (e) Non-formal education schools;
- (f) Madararas; and
- (g) Early childhood care centres for development and growth.

Do the Councils have the power to establish schools? S.62.

From the date decided by the Minister of Basic and Secondary Education, the Council with a Local Government Area will be the sole authority for the establishment of such categories of schools as shall be specified.

What powers and education services should a Council have or exercise within its jurisdiction? S. 63.

A Council should:

- (a) Ensure that schools are established and operated in accordance with the Education Act for the time being in force and national policy guidelines;
- (b) Ensure that the establishment and management of Council schools are properly monitored and supervised;
- (c) Monitor the establishment and operations of all categories of schools, other educational and training facilities, (whether private or public) to ensure compliance with national policy guidelines;
- (d) Encourage the establishment of income-generating and skills-enhancing projects or programmes in all schools; and
- (e) Carry out such other functions as the responsible Minister of Basic and Secondary Education shall, by regulations, prescribe.

What Committee should the Council establish to be responsible for education services? What should be the functions and composition of such a Committee? S.64. (1), (2)

There should be a Local Education Committee established for each Local Government Area through which the Council will perform the functions specified under section 63 of this Act.

The Council should appoint the members of a Local Education Committee after consultation with the responsible Minister for Basic and Secondary Education.

The members of the Local Education Committee should comprise the following:

- (a) A Chairperson appointed by the Council;
- (b) The Principal Education Officer;
- (c) The officer of the Council in charge of education matters;
- (d) Two women to represent women groups in the Area;
- (e) Three persons to represent organisations closely involved in the development of education in the Area;
- (f) Three persons professionally qualified in education; and
- (g) Such other persons as the Council shall determine.

Can the Minister of Basic and Secondary Education transfer existing schools under her Ministry within a Local Government Area to the Councils? What should such an Order entail? S.65. (1), (2)

The Minister of Basic and Secondary Education can direct that any Government school within a Local Government Area be transferred to and be under the jurisdiction of the Council. Any such date this is decided by the Minister should be an Order that is published in the Gazette.

An Order that is made should make provision for:

- (a) The transfer of the land and buildings of the school;
- (b) The employment, service and pension rights of teachers; and
- (c) Such other provisions as shall facilitate the efficient transition of the school from a Government to a Local Government school.

What By-laws can Councils make regarding education services? S.66.

A Council may, subject to such regulations as the Minister of Basic and Secondary Education may prescribe, make By-laws for-

- (a) The fees to be paid by pupils of schools, other than private schools;
- (b) The maintenance and use of school buildings, premises and play grounds, and their equipment and furnishing, and for all matters connected therewith; and
- (c) The condition for the award of scholarships and bursaries.

AGRICULTURE

Should Councils be responsible for agricultural services within their jurisdiction? S.67 (1).

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

What should the Councils be responsible for regarding agricultural services? S.67(2)

A Council should:

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

When should seed storage facilities and district extension centres within a Local Government Area be transferred to and vested in a Council? S. 68. (1), (2)

- (a) All seed storage facilities should be transferred to and vested in the Council in whose jurisdiction they are situated from the date the Act comes into force.
- (b) All district extension centres should be transferred to and vested in the Council in whose jurisdiction they are situated on such date as indicated by the Minister of Agriculture by an Order published in the Gazette.

What Committee should the Council establish to be responsible for agricultural services in the Local Government Area? What should be the functions and composition of such a Committee? S.69. (1), (2)

Each Council should establish a Local Agricultural Committee in each Local Government Area through which it will perform the agricultural service functions specified under section 67 of this Act.

The members of the Local Agricultural Committee should be appointed by the Council after consultation with the Minister for Agriculture. The Committee should comprise the following:

- (a) A chairperson;

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

What Department should a Council establish to effectively perform its agricultural service functions? S.70.

To effectively perform its agricultural service functions under this Act, a Council should establish a Department of Agriculture and LiveStock Services.

The Director of Agricultural Services, in consultation with the Council, will determine which relevant Government extension workers and such other personnel will be transferred to this Department.

NATURAL RESOURCES

What responsibilities do the Councils have regarding other natural resource services in its area of jurisdiction? S. 71. (1)

With regards to natural resource services, the responsibilities of a Council are:

- (a) The management, protection and conservation of the environment;
- (b) The protection, control and management of forest resources;
- (c) The control, development and sustainable management of fisheries resources;
- (d) The conservation, sustainable management and bio-diversity of the environment;
- (e) The rational management, utilisation and conservation of water resources; and
- (f) Such other functions as may be assigned to it under this Act and any other enactment.

What are the other responsibilities of a Council? S. 71(2)

The other responsibilities of a Council are to:

- (a) Monitor the state of the environment within its Area and the impact on the environment of developmental activities;
- (b) Address public concerns on environmental issues;
- (c) Foster education of the community on environmental issues;
- (d) Regulate and control the exploitation of forest resources;
- (e) Monitor community forest management agreements concluded under the Forest Act 1997;
- (f) Promote community participation in micro project planning implementation and management of local resources;
- (g) Control and conserve areas identified as having high ecological value;
- (h) Implement any bio-diversity action plan for its Area;
- (i) Create local awareness of the value of wildlife;
- (j) Create wildlife reserves as protected areas;
- (k) Promote the rational use of available water resources;
- (l) Promote crop irrigation, the abatement of soil erosion, flooding and sanitation;
- (m) Implement a licensing system for all uses and users of water;
- (n) Regulate the use and management of wells and water reticulation systems;
- (o) Promote the centralised inventory of all water points;
- (p) Promote sanitation practices; and
- (q) Perform such other functions as shall be transferred to or assigned to it.

What Committee should the Council establish to be responsible for natural resource services in the Local Government Area? What should be the functions and composition of such a Committee? S.72. (1), (2)

Each Council should establish a Local Natural Resources Committee in each Local Government Area through which it will carry out the functions specified under section 71.

The members of the Local Natural Resources Committee should be appointed by the Council after consultation with the Minister of Environment and Natural Resources.

The membership of the Committee should consist of the following:

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

Can a Council request the Minister for Environment and Natural Resources to designate land as forest parks? What should the Minister do when such a request is made to him or her? S.73 (1), (2)

A Council can request the Minister of Environment and Natural Resources to designate as forest parks any Council land or any other land that a Council think its forest growth should be protected, preserved or established.

When a Council makes such a request to the Minister of Environment and National Resources, he or she should, acting in accordance with the provisions of the Forest Act, 1997, designate the land to be a Council forest under the Forest Act. This notice be published in the *Gazette*,

What should the Councils establish to perform their natural resources service functions? S.74.

To perform these functions, a Council shall establish such Departments as it may deem appropriate to which shall be transferred existing Central Government extension workers, and such other personnel as shall be determined by the responsible Ministers.

What should the Minister of Environment and Natural Resources do after the Act comes into force? S. 75.

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

PUBLIC AND ENVIRONMENTAL HEALTH

Should Councils be responsible for health services within their area of jurisdiction? S.76.(1)

Every Council is responsible for the promotion and preservation of health within its area of jurisdiction. This responsibility is, however, subject to national policy guidelines and such regulations as the Minister of Health, who is also responsible for the administration of the Public Health Act may prescribe.

What should the Councils be responsible for regarding health services? S.76.(2)

A Council should, within its jurisdiction, be responsible for-

- (a) Major health centres, sub-dispensaries and all primary health care services;
- (b) Maternal and child health services;
- (c) Distribution of pharmaceutical products and vaccines to health facilities;
- (d) General hygiene and sanitation.

What Committee should each Council establish to be responsible for public health? What should be the composition of such a Committee? S.77 (1), (2)

Each Council should establish a Local Public Health Committee in each Local Government Area through which it will perform its functions under section 76 of this Act.

The members of a Local Public Health Committee should be appointed by the Council after consultation with the Director of Health Services. It should consist of -

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

What Department should a Council establish to effectively perform its public health service functions? What about the appointment of staff to this Department? S.78. (1), (2)

Every Council should establish a Department of Health Services to perform its functions under this Act. It should also transfer the staff of the existing Regional Health Teams to this Department. Furthermore, in consultation with the Minister of Health, the Council should also appoint other local health officers as it may determine who shall have such powers and privileges as are conferred on health officers under the Public Health Act.

ROADS

"Secondary road" means any road, which borders off a trunk road or highway to which the public has lawful access and which does not form part of the National Road Network. (S.79)

What should a Council establish to be responsible for the upkeep and maintenance of all secondary roads? When should a responsibility or power be effected? S.80. (1), (2)

Every Council should establish a Local Roads Authority for its area of jurisdiction which would be responsible for the upkeep and maintenance of all secondary roads.

However, for this function of the Council to take effect, the Minister responsible for the administration of the Roads and Highways Act will have to, by Order published in the *Gazette*, specify the date on which subsection (1) of this section shall take effect.

What functions can a Local Roads Authority perform? S.80 (3), (4)

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

However, the Highways Authority can, with the approval of the responsible Minister, issue guidelines to the Councils with respect to the performance of their functions under this section.

What should be the composition of a Local Roads Committee? S.80 (5)

Every Council should, after consultation with the Minister responsible for the administration of the Roads and Highways Act, determine the membership of a Local Roads Committee.

MISCELLANEOUS POWERS

Can Councils make Standing Orders² with respect to contracts? S.86

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

² These Standing Orders are written rules which regulate contracts made by or on behalf of Councils.

What can Councils do in cases of serious emergencies or disasters? S 87.

When a serious emergency or disaster occurs, is about to occur or there is reasonable or good fear that it may occur, and a Council thinks it is likely to affect the whole or part of its Local Government Area, or all or some of its inhabitants, that Council can -

- (a) Incur such expenditure as it considers necessary to avert, alleviate or eradicate the effects or potential effects of the emergency or disaster in its Area or among its inhabitants; and
- (b) Make grants or loans to other persons or bodies in respect of any such action taken by those persons or bodies on conditions determined by the Council.

Can a Council accept, hold or administer gifts under this section? S. 88.

A Council can accept, hold or administer gifts of property and carry out or execute any work (including works of maintenance or improvement) to discharge any of its functions; or for the benefit of the inhabitants of its Area or some part of it.

In what ways can a Council provide information to the public on services available in its Local Government Area? S.89 (1), (2)

Within its Local Government Area, a Council can:

- (a) make or assist in the making of arrangements through which the public can make application to readily obtain from its offices or any other public place, information concerning the available services which are provided by the Council itself or by other authorities, Government Departments or voluntary organisations.
- (b) arrange for the publication of information, through audio and visual means, of information regarding the functions of the Council.
- (c) arrange for the delivery of lectures and addresses and the holding of discussions on these available services.

PART V: DEVELOPMENT

Who is the planning authority in a Local Government Area? S. 90(1)

Every Council is the planning authority for its Area. It can plan and implement any programme or project for developing the infrastructure, improving social services, developing human and financial resources and for the general upliftment of the community.

What should Councils do to perform their development functions? S.90 (2)

- (a) Prepare a comprehensive and uninterrupted development plan for its Area incorporating all ward plans;
- (b) Co-ordinate all donor support;
- (c) Approve all project agreements; and
- (d) Perform such other functions as may be assigned to it.

What should Councils do to involve communities in these development functions? S. 90(3)

Every Council should adopt such processes and procedures so that communities are involved in the conception and execution of development plans.

What should Central Government technical departments do? S.91.

Central Government technical departments operating in a Local Government Area should support the development process of the Council through their extension workers who are operating at ward and village levels.

VILLAGE DEVELOPMENT COMMITTEE

Where should a Village Development Committee be established? S.92

A Village Development Committee should be established for each village or cluster of villages. Each Council has the power to determine which cluster of villages can come together to form a Village Development Committee.

**Who should be members of the Village Development Committee?
S.93**

Every Village Development Committee should have the following members or representatives:

- (a) a Chairperson who should be selected from among the members of the Committee;
- (b) one male and one female from each kabilo in the village. They should be selected by their kabilos;
- (c) one male and one female to represent each community-based organisation in the village;
- (d) a representative of youth groups in the village; and
- (e) such other persons as the Development Committee should determine.

**Who should be the advisers of a Village Development Committee?
S.93(2)**

The advisers of a Village Development Committee should be:

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

Who can be invited to attend a VDC Meeting? S.93(3)

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

What is the tenure of a Village Development Committee? How long can members of a Village Development Committee be in office? S.93 (4)

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

What are some of the responsibilities of a Council towards a Village Development Committee? S.94

- (a) Keep a register of Village Development Committees
- (b) May make By-laws for:
 - the registration and monitoring of their activities.
 - the proper management and auditing of their resources; and
 - for such other matters as it shall deem necessary.

Who can expel a member from the Village Development Committee? On what ground(s) or for which reason(s)? What happens if a member is expelled? S. 95

Two-thirds or more of all the members of the Committee can expel a member from the VDC for good reason or just cause and only the Committee can be the sole judge of such a decision.

A member who is expelled can only be replaced, within a reasonable time, by the group he or she was representing on the Committee or by the authority that appointed him or her.

Who can dissolve a Village Development Committee? S. 96

A Council, through a resolution, can dissolve a Village Development Committee if it thinks that the Committee is ineffective or not operating in the best interest of the village.

Whenever a Village Development Committee is dissolved, the members should be replaced by the same groups/structures (Kabilo, Community-Based Organisations, youth groups) that have the power to nominate or appoint them.

What are the meeting arrangements or procedures of a Village Development Committee? How should the meetings or business of the Village Development Committee be conducted? S.97

A Village Development Committee should:

- Meet at such times, places and at such intervals as may be necessary. The Chairperson can convene a meeting at any time that he or she thinks is necessary.
- Keep minutes of its meetings and appoint any of its members to be the Secretary at its meetings.
- Have the power to make its own meeting rules except where a Council decides to make the meeting rules or procedures for a Village Development Committee.

What are the main responsibilities or functions of a Village Development Committee? S.98

A Village Development Committee should:

- be responsible for all development planning at the village level.
- serve as the local entry point for all development assistance to the village.

What are other specific responsibilities of a Village Development Committee?

The other responsibilities of the Village Development Committee include the following:

- (a) Identifying local development needs in consultation with the community-;
- (b) Prioritising such development needs in consultation with the community;
- (c) Developing appropriate plans for addressing local needs in consultation with the community;
- (d) Raising, coordinating and managing financial resources at the village level and to be held accountable for all the financial and other resources;
- (e) Mobilising community participation in development activities;

- (f) Implementing and managing such development plans and projects as the Council may approve for implementation at village level;
- (g) Supporting and strengthening all development-oriented sociocultural groups within the community; and
- (h) Carrying out such other functions as may be assigned to it by the Council, or the Ward Development Committee.

Can a Village Development Committee open or operate a bank account? S.98(3)

Yes. A Village Development Committee can, in the exercise of its functions, open or operate bank accounts. It can also appoint a treasurer to manage its resources, as well as appoint such other officers from among its members as it may deem necessary.

Can a Village Development Committee establish Sub-committees? S 99. (1), (2)

Yes. A Village Development Committee can establish such Sub-committees as it may deem necessary for the efficient conduct of its business. It also has the power to determine the membership and functions of such sub-committees.

WARD DEVELOPMENT COMMITTEES

What should be established for each Ward? S.100.

A Ward Development Committee should be established for each Ward.

What should be the composition or membership of a Ward Development Committee? Can a Ward Development Committee co-opt others? What should be the term of village representatives on the Committee? S. 101 (1), (2), (3)

A Ward Development Committee should comprise of the following:

- (a) The Councillor for the Ward as Chairperson;
- (b) One male and one female representative from each Village Development Committee elected by the Village Development Committee;

- (c) Representatives of organisations involved in development activities at ward level; and
- (d) Such other persons as the Council shall from time to time determine.

A Ward Development Committee can co-opt any person or organisation to participate in any meeting of the Committee.

The term of Village representatives and other representatives on the Ward Development Committee will be determined by the village or group they represent.

Who can or cannot be removed from membership of a Ward Development Committee? S.102. (1), (2)

Except for an ex-officio member, any other member can be expelled from the Ward Development Committee for good reason or just cause. In such a case only the Ward Development Committee should be the sole judge. A member who is removed should be replaced within a reasonable time.

Can a Council dissolve a Ward Development Committee and on what grounds? Who should replace the members? 103 (1), (2)

A Council can dissolve any Ward Development Committee by resolution approved by at least two-thirds of its members if the Council thinks that the Ward Development Committee is ineffective or not operating in the best interest of the Ward.

Whenever a Ward Development Committee is dissolved, its members should be replaced by the Village Development Committees whom they represent until a new Ward Development Committee is constituted.

However, this does not apply to the City of Banjul

What happens if a Ward Development Committee is dissolved in the City of Banjul? S. 103 (3)

In the case of the City of Banjul, whenever a Ward Development Committee is dissolved in the City of Banjul, its members should be replaced by three prominent members of the Ward selected by the

Chairperson/Mayor/Mayoress until a new Ward Development Committee is constituted. However, this selection by the Mayor/Mayoress is subject to the approval of the Minister of Local Government.

Who should convene ordinary and special meetings of a Ward Development Committee? Who determines its meeting procedures? S.104.

- It is the Chairperson (the Ward Councillor) who should convene meetings of a Ward Development Committee at such times and places as the Committee will deem expedient for the conduct of its business.
- The Chairperson of the Ward Development Committee can also summon special meetings on a matter of urgency at the request of any *ex-officio* member or at least five members.
- A Ward Development Committee shall keep minutes of its meetings and appoint one of its members to serve as Secretary at its meetings.
- The Ward Development Committee can determine its procedure although this is subject to such other rules of procedure as the Council may prescribe.

Which other officers can a Ward Development Committee elect from amongst its members? S.105.

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

What are the functions or responsibilities of a Ward Development Committee? S.106.

The functions of a Ward Development Committee are:

- (a) coordinating and prioritising all development planning at the ward level;
- (b) preparing ward development plans for approval by the Council;
- (c) coordinating development assistance to the ward.
- (d) reviewing village plans to identify shared priorities and concerns;
- (e) identifying and prioritising the needs of the ward and formulating ward plans;
- (f) prioritising solutions and alternatives to identified problems;
- (g) serving as the entry point for all outside assistance;
- (h) coordinating development activities at the Ward level;
- (i) establishing criteria for prioritisation of development projects by villages;
- (j) prioritising development projects between villages;
- (k) collaborating with donors in preparing project proposals for the Wards;
- (l) mobilising community participation at the ward level;
- (m) mobilising human, material and financial resources for Ward projects and shall be held accountable for such material and financial resources;
- (n) promoting Ward interests to the Council and donors; and
- (o) such other functions as may be assigned to it by the Council.

Can a Ward Development Committee establish Subcommittees? Who will determine the membership, terms of reference and functions of these Subcommittees? S.107 (1), (2).

A Ward Development Committee can establish such Sub-committees as it may deem necessary for the efficient conduct of its business. It should determine the membership, terms of reference and functions of the Sub-committee.

**Can a Ward Development Committee operate bank accounts?
S.107(3)**

A Ward Committee can operate bank accounts and appoint a Treasurer to manage its resources and such other officers from among its members as it may deem necessary.

TECHNICAL ADVISORY COMMITTEE

There should be a Technical Advisory Committee for each Local Government Area (S.108).

**What should be the composition of a Technical Advisory Board?
S.109(I)**

A Technical Advisory Committee should consist of-

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

**Who should appoint the Secretary to the Technical Advisory Council?
S. 109 (2)**

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

Who should be the Chairperson of a Technical Advisory Committee in a Local Government Area without a Governor? S.109 (3)

In any Local Government Area where no Governor has been appointed, the Chief Executive Officer shall be the Chairperson of the Technical Advisory Committee.

What is the frequency of meetings of the Technical Advisory Committee and its quorum? S.110. (I), (2)

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

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

Who should preside over meetings of the Technical Advisory Committee? Who should summon its meetings? How will decisions be made or reached? S.110 (3), (4), (5)

- The Chairperson, in his or her absence the Vice Chairperson, should preside over all meetings of the Technical Advisory Committee.
- The Chairperson can at any time and should, at the request of the Vice Chairperson, summon a special meeting of the Committee.
- Decisions of the Committee shall be by majority vote.
- The Committee shall determine its own rules of procedure.

What are the functions of a Technical Advisory Committee? S. 111.

A Technical Advisory Committee should provide technical advice to the Council and the Ward and Village Development Committees within its Local Government Area to ensure that local projects conform to national standards, policies and priorities.

**Can a Technical Advisory Committee appoint Sub-committees?
S.112.**

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

Can a Technical Advisory Committee co-opt other persons? Can such a co-opted member have voting rights? S. 113 (1), (2)

A Technical Advisory Committee can co-opt any person with special knowledge to attend its meetings and participate in its discussions. However, a person so co-opted will not have the right to vote on any matter put to the vote of members of the Committee.

What reports should a Technical Advisory Committee prepare and to whom should reports be submitted? S. 114.

The Technical Advisory Committee should prepare, and submit, quarterly reports of its deliberations to the Minister and the Council.

PART VI: THE LOCAL GOVERNMENT SERVICE

There should be a Local Government Service which shall form part of the Public Service of The Gambia. S.115

What should a Council do to properly discharge its functions? S.116. (1)

A Council should have such staff and establish such posts as is necessary for the proper discharge by the Council of its functions.

Is an office of a Council an office in the Local Government Service? S.116 (2)

An office of a Council is an office in the Local Government Service and will be subject to such terms and conditions, including conditions as to remuneration, as shall be prescribed for the Service.

Can an officer be seconded to a Council? S. 117

A Council can, if it considers it necessary, place at its disposal the service of an officer employed by the Central Government or other Council, or enter into an agreement with the Central Government or other Council on such terms and conditions for the secondment of the officer to its service after consultation with the officer concerned.

Should a Local Government Service Commission be established for The Gambia? S. 118 (1) – amended in the 2015

The Act established a unified or single Local Government Service Commission for the country.

What should be the composition of the Local Government Service Commission? S.118 (2)

The Local Government Service Commission should comprise-

- (a) A Chairperson; and
- (b) not less than two or more than four other members, all of whom shall be persons of high integrity and good character to be appointed by the Minister.

What are the functions and powers of the Local Government Service Commission? S.118 (3)

They are to -

- (a) Make appointments to offices in the Local Government Service;
- (b) Make provisions for the overall management and efficiency of the Local Government Service;
- (c) Set up general and uniform guidelines for appointment, promotion and discipline;
- (d) Review the terms and conditions of service of persons holding offices in the Local Government Service;
- (e) Perform such other functions as may be assigned to it by the Council or Public Service Commission;
- (f) Carry out such other work as necessary or conducive for the performance of its other functions.

What standards should a Local Government Service Commission conform to? S.118 (4)

In the performance of its functions, a Local Government Service Commission should conform to standards established by the Public Service Commission.

Should a Local Government Service Commission be independent? S.119

Subject to the provisions of the Constitution and this Act, a Local Government Service Commission should be independent and should not be subject to the direction and control of any person or authority.

What security should Councils take in relation to its officers or persons not in its employment who are likely to be entrusted with the custody or control of money? S. 120(1), (2)

- A Council should ensure that an employee who is likely to be entrusted with the custody or control of money takes all necessary and sufficient measures for the faithful execution of his or her office or for fully accounting for all money and property which may be entrusted to him or her.
- A Council can, in the case of a person not employed by it but who is likely to be entrusted with the custody or control of Council money or property, take all necessary and sufficient security so that the person can duly account for all money or property.

Who cannot be appointed to a paid office by a Council? S.121

A person who ceases to be a member of a Council for twelve months is disqualified from being appointed by that Council to any paid office.

Should officers disclose an interest in contracts? Is there a penalty for non-disclosure? S.122 (1)

An employee of the Council who knows that a contract in which he or she has a direct or indirect economic interest has been or is proposed to be entered into by the Council or any Committee of the Council should, as soon as practicable, give notice in writing to the Council of the fact that he or she has an interest in the contract. It does not matter if the employee is not a party to the contract.

An officer should be treated as having an indirect economic interest in a contract or proposed contract if he or she would have been so treated had he or she been a member of a Council.

Should an officer of a Council accept a fee or reward? S.122 (3)

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

What is the punishment for violating the provisions of subsection (1), (2) or (3) of S. 122? S.122(4), (5)

Any person, including all members of any Committee of the Council, who contravenes the provisions of subsection (1), (2) or (3) commits an offence and is liable on summary conviction to a fine not more than five thousand dalasis or imprisonment for a term not more than two years or to both such fine and imprisonment.

Who should oversee Local Government Areas? S.123(1) –

Amendments in 2004, 2006 and 2007

The President will appoint for each Local Government Area, except the City of Banjul and Kanifing Municipality, a Governor who should be a senior officer of the rank of a Director and above, in the civil service.

Who is the Governor answerable to? S.123 (2) (amended/included in 2006)

A Governor shall be answerable to the Minister of Local Government.

What are the functions of the Governor? S.124(1)

The Governor should:

- (a) Represent the President and the Central Government in the Local Government Area and accordingly, exercise executive powers in the area, and;
- (b) Co-ordinate the administration of Central Government services in the Area;
- (c) Advise the Minister of Local Government on matters of a national nature that may affect the Area or its plans or programmes and particularly the relationship between the Council and the Central Government;
- (d) Monitor and inspect the activities, of Local Authorities and, where necessary, advise the Minister of Local Government; and
- (e) Carry out such other functions as may be assigned by the President or prescribed by the National Assembly.

Can the Governor delegate his or her executive powers conferred by S.124(1)? S.124(1A)

The Governor can exercise these executive powers directly or delegate them to the Deputy Governor, Chairperson, Deputy Chairperson or other officials of the Local Government.

What other functions should the Governor perform? S.124 (2)

The Governor shall -

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

How many Deputy Governors should there be in each Local Government Area? S.125 (1)

Each Local Government Area will have such number of Deputy Governors as the President deems necessary.

What are the functions of the Deputy Governor? S.125(2)

To assist the Governor in carrying out his or her functions in a specified area of jurisdiction generally, as may be determined by the President.

Can a Council petition for the removal of a Governor or Deputy Governor? How can this be done? S.126. (1), (2)

The Council can petition the appointing authority for the removal of a Governor or Deputy Governor.

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

NATIONAL CONFERENCE OF GOVERNORS AND MAYORS (SECTIONS 126A, 126B, 126C AND 126D INSERTED IN THE 2015 AMENDMENT)

What does Section 126A establish?

It establishes the National Conference of Governors and Mayors.

What should be the composition of the National Conference of Governors and Mayors? S.126A(1)

It should consist of: –

- (a) Governors and Deputy Governors;
- (b) Mayors and Deputy Mayors;
- (c) The Paramount Seyfo who shall be an honorary member.

Who should select the Chairperson of the National Conference of Governors and Mayor? What should be the term of the Chairperson? S.126A(2), (3)

The President of The Gambia selects the Chairperson from amongst the members of the National Conference of Governors and Mayors. The Chairperson should serve for a term of three years which should be renewed for one further term. If the Chairperson cannot or does not complete his or her tenure, the Governor or Mayor who succeeds him or her should complete the remaining period of the term of office.

What should be the Functions of the National Conference of Governors and Mayors? S.126B

The National Conference of Governors and Mayors shall –

- (a) Enhance the effective coordination and administration between Central Government services and regional authorities;
- (b) Promote and strengthen Government policies and programmes at the regional level;
- (c) Ensure successful implementation of development programmes and activities;
- (d) Foster peace-building and conflict resolution at the regional level;
- (e) In collaboration with security personnel, promote and ensure the coordination of activities for the maintenance of security and stability; and
- (f) Carry out any other function assigned by the Minister.

What are the procedures for the Meetings of the National Conference of Governors and Mayors, including the frequency of meetings? S.126C (1)

The National Conference of Governors and Mayors should:

- (a) nominate a secretary from amongst its members;
- (b) meet at least twice every year at a venue to be determined by the Chairperson; and
- (c) host one conference at least one month before the end of the tenure of office of the Chairperson in which the general public shall be invited at a venue to be determined by the Chairperson in consultation with the Governors and Mayors.

What should be the quorum for the meetings? S.126C(2)

The quorum for the National Conference of Governors and Mayors meeting is two-thirds of the members.

How should the National Conference of Governors and Mayors be funded? S.126D (1)

The Government should create a budget and fund the activities and functions of the National Conference of Chairpersons and Mayors

What reports should the National Conference of Governors and Mayors submit annually and to whom? S.146D (2), (3)

It should submit an annual activity plan, audited financial statements and report to the Office of the President through the Ministry of Local Government. The audited financial statements of the Conference should form part of the Auditor General's overall report to the National Assembly.

PART VII: FINANCIAL PROVISIONS

Should a Council have autonomy over its financial matters? S.127.

Every Council shall have autonomy over its financial matters. This autonomy is, however, subject to this Act or any other enactment.

What comprises the revenue and funds of a Council? What should the revenue and funds be spent? S.128. (1), (2)

The revenue and funds of a Council include all sums of money or funds accruing to a Council. These revenue and funds should be used for the administration, development and welfare of the inhabitants within its Area of jurisdiction.

What per cent of the Council's development budget should the Central Government provide? S.128 (3)

The Central Government should provide twenty-five *per cent* of the Council's development budget.

To whom is a Council accountable? S.129.

Every Council should be answerable and accountable to –

- (a) Its electorate for all funds which accrue to the Council from the electorate; and
- (b) The National Assembly for all funds appropriated to the Council from the Consolidated Revenue Fund, or otherwise.

What finance and audit law should regulate the financial affairs of a Council? S.130.

The financial affairs of a Council should be regulated in accordance with a Local Government (Finance and Audit) law to be enacted by the National Assembly.

Does a Council have the power to levy rates and taxes? Through what legislation should rates be levied and collected? S.131(1), (2), (3)

- A Council has the power to levy rates and such taxes as the National Assembly should prescribe, to meet all liabilities, whether of a general or special nature.
- Rates should be levied and collected in accordance with the provisions of the General Rates Act, 1992, and the law referred to under section 130 of this Act.
- A Council may also make and levy rates on a flat-rate basis outside of a valuation list.

PART VIII: TRADITIONAL AUTHORITIES

National Council of Seyfolu (heading and section inserted in 2006 amendment) S.131A) (1)

There is hereby established in The Gambia a National Council of Seyfolu.

What should be the composition of the National Council of Seyfolu? S.131A(2)

The Council shall consist of-

- (a) The Paramount Seyfo who shall be the Chairperson; and
- (b) All the Seyfolu in The Gambia

What are the responsibilities of the National Council of Seyfolu? S.131A(3)

The National Council of Seyfolu is responsible for -

- (a) Settling disputes affecting the Seyfolu in The Gambia; and
- (b) Dealing with matters relating to administration of justice, and social, developmental, cultural and traditional issues.

When should the National Council of Seyfolu meet and who should convene the meetings? S.131A(4)

The Paramount Seyfo should convene and host a meeting of the National Council of Seyfolu at least once a year at such time and place as he or she may determine.

What are the meeting rules and procedures of the National Council of Seyfolu? S.131A (5). (6), (7)

- (a) The decision of the National Council of Seyfolu Council is by a simple majority of the Seyfolu present. If there is equality of votes, the Paramount Seyfo will have a casting vote.
- (b) A quorum for a meeting is two-thirds of all the Seyfolu in The Gambia.
- (c) The validity of the proceedings of the National Council of Seyfolu will not be affected by a vacancy among its members or by a defect in the appointment or qualification of a Seyfo.

How will the National Council of Seyfolu and the Paramount Seyfo be funded? S.131A(7)

The operations of the National Council of Seyfolu and the Paramount Seyfo will be funded from funds that would be provided by the Government through a budget that it will create.

PARAMOUNT SEYFO

Will there be a Paramount Chief in The Gambia? Who appoints the Paramount Chief and from amongst who? S.131B (1)

There will be a Paramount Seyfo in The Gambia. He or she will be appointed by the President from among the Seyfolu in The Gambia.

What is the term of the Paramount Chief? S.131B(2)

The Paramount Seyfo will be appointed for two years on a rotational basis. This means that Seyfolu will take turns to be the Paramount Chief.

Who presides over the meetings of the National Council of Seyfolu? S.131B (3)

The Paramount Chief should preside at meetings of the National Council of Seyfolu.

What plan and report should the Chairperson present and to which Office? S.131C – *inserted in the 2015 Amendment*

The Office of the Chairperson should submit or present an annual activity plan and report to the Office of the President. They should, however, be submitted through the Ministry and the National Conference of Governors and Mayors.

THE DISTRICT AUTHORITY

Does the Act establish a District Authority and what should be its composition? S.132.

Each District should have a District Authority and should comprise the Seyfo of the District as Chairperson and all the Alkalolu within the District.

Who appoints a District Chief? S.133. (1)

It is the President who appoints a District Seyfo in consultation with the Minister of Local Government.

Can the Minister of Local Government create new Seyfo Districts? S.133 (2)

The Minister of Local Government can, in consultation with the Regional Governors, make recommendations to the National Assembly for the creation of new Seyfo Districts.

What are the qualifications for appointment as Seyfo? S.134(1)

A person qualifies for appointment as a Seyfo if he or she -

- (a) is a citizen of The Gambia of not less than 30 years of age; and
- (b) is resident in the District to which he or she is to be appointed;
and
- (c) is knowledgeable in the customs, traditions culture and customary laws of his or her District.

What are the disqualifications for being appointed as a Seyfo? S.134 (2), (3)

A person is not qualified to be appointed as a Seyfo if he or she -

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

However, a person will be qualified to be appointed as a Seyfo if ten years have elapsed since the end of his or her sentence or the pardon.

How will a person cease to be a Seyfo? S.135.

A person will cease to be a Seyfo -

- (a) On his or her death;
- (b) If he or she resigns by writing a letter addressed to the President;
- (c) If he or she becomes disqualified under any of the provisions of subsection (2) of section 134; or
- (d) If he or she is removed by the President in relation to offences under section 136.

On what grounds could the President remove a Seyfo? S.136

The President can remove a Seyfo from office on the following grounds:

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

What are the duties of a Seyfo? S.137.

The duties of a Seyfo, subject to the powers and functions vested in the District Authority under section 139, are to:

- (a) Promote good order and stability in his or her District;
- (b) Preside over the District Tribunal and hear and determine matters over which they have jurisdiction according to law;
- (a) Promote the general well-being of the District;
- (b) Safeguard the traditions, customs and culture of the District and promote the well-being of its people;
- (c) Keep a register of every village in the District; and
- (d) Perform such other duties as may be assigned to him or her by the Council or the Governor.

What are the remunerations of a Seyfo? S.138.

A Seyfo is entitled to such salary and retirement benefits as shall be determined by the Minister of Local Government

What are the powers and functions of a District Tribunal? S.139.

A District Authority is responsible for:

- (a) Preventing or suppressing riots or affrays, and the maintenance of the peace, whether by the employment of necessary force, or any other means reasonable and fitting in such circumstances as may arise;
- (b) Preventing and detecting crime, the arrest and detention of offenders, and all other such duties as are usually performed by a civil police force;
- (c) Assisting the Council in collecting revenue;
- (d) Enforcing all statutes and bye-laws, regulations and the lawful policies of a Council within the District;
- (e) Protecting the environment and taking preventive measures against bushfires;
- (f) Promoting culture and other social activities; and
- (g) Performing such other functions as may assigned to it by the Council.

Can a Seyfo exercise any of the powers of a District Authority? S.139 (3)

A Seyfo acting alone can exercise any of the powers of the District Authority to ensure the implementation of Government policies and programmes within the District.

Can a District Authority grant a lease? S.140.

A District Authority cannot grant any lease unless it has obtained the prior approval of the Council and a copy of the lease is deposited with the Council.

The Alkalolu S.141.

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

Who should appoint an Alkalo and what should be taken into account when making such an appointment? S.142. (1)

It is the Minister of Local Government who should appoint an Alkalo in consultation with the Regional Governor and District Seyfo. However, in the appointment of an Alkalo, the Minister of Local Government should take into account traditional lines of inheritance.

What are the qualifications for a person to be appointed an Alkalo? S.143. (1)

A person qualifies for appointment as an Alkalo if he or she -

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

What are the disqualifications of being appointed an Alkalo? S143(2)

A person is not qualified to be appointed as an Alkalo if he or she -

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

However, a person will be qualified to be appointed Alkalo, if ten years have elapsed since the end of his or her sentence or the pardon.

How will a person cease to be an Alkalo? S.144.

A person will cease to be an Alkalo if he or she:

- (a) dies
- (b) resigns through writing addressed to the Minister of Local Government;
- (c) Becomes disqualified under any of the provisions of subsection (2) of section 143; or
- (d) is removed by the Minister in accordance with section 145.

On what grounds may an Alkalo be removed and by whom? S.145

The Minister of Local Government can remove an Alkalo from office on the following grounds:

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

What are the duties of an Alkalo? S.146

An Alkalo should:

- (a) promote good order, peace and stability in his or her village;
- (b) promote the general economic development of his or her village;
- (c) safeguard the traditions, customs and culture of his or her village and promote the well-being of its people;
- (d) carry out such functions and powers as may be assigned to it by the Council or District Authority;
- (e) exercise all powers vested in village head persons by any other law;
- (f) enforce all laws of the National Assembly;

- (g) enforce all regulations and By-laws of the Council;
- (h) promote environmental health and sanitation;

- (i) protect and preserve the environment of his or her village; and
- (j) Promote sports, culture and other social activities.

What remunerations are an Alkalo entitled? S.147.

An Alkalo should be entitled to such benefits as the Governor, Mayor or Mayoress, in consultation with the Minister of Local Government, may prescribe.

NATIONAL COUNCIL OF ALKALOLU (SECTIONS 147A. SECTION 147B AND SECTION 147C INSERTED IN THE 2015 AMENDMENT)

This section of the Act established the National Council of Alkalolu (S.147A (1))

Who should be members of the National Council? S.147A(1)

It should comprise of:

- (a) A Senior Alkalo appointed by the Minister who shall be the Chairperson; and
- (b) All Alkalolu in The Gambia.

What should be the Functions of the National Council of Alkalolu? S.147B

It should:

- (a) Promote peace, security, stability and settle disputes;
- (b) Safeguard the traditions, customs, cultural norms and values as well as protect the environment; and
- (c) Carry out any other function assigned to them by the Minister.

How should the National Council of Alkalolu be funded? S.147C (1)

The Government should create a budget through which it should fund the operations of the National Council of Alkalolu.

What annual reports should the Chairperson of the National Council of Alkalolu submit or present and to whom? S. 147C (2), (3)

The Chairperson should submit to the Minister of Local Government, through the National Council of Alkalolu, an annual activity plan, audited financial statements and report to the National Council of Alkalolu. The audited financial statements of the Council should form part of the Auditor General's overall report to the National Assembly.

REGIONAL AND NATIONAL EXECUTIVE COMMITTEES (SECTIONS 147D, 147E AND 147F INSERTED IN THE 2015 AMENDMENT)

What Committees should the National Council of Alkalolu establish? S.147D

It should establish, for the efficient conduct of its business:

- (a) a Regional Executive Committee; and
- (b) a National Executive Committee,

What should be the composition or membership of each Regional Executive Committee? S.147E (1)

- (a) a Chairperson who should be selected by a Regional Executive Committee from amongst its members;
- (b) three alkalolu from each District to be selected by the Alkalolu of the respective Districts;
- (c) one Alkalo from each Constituency of Kanifing Municipality and two others to be selected from amongst the Alkalolu,

What should be the frequency of meetings of the Regional Executive Committee? S.147E(2)

The Regional Executive Committee shall meet at least twice every year at a venue to be determined by the Chairperson.

What should be the term of the Chairperson of the Regional Executive Committee? S.147E(3)

The Chairperson of the Regional Executive Committee should serve for a term of three years which is subject to renewal for one further term.

Who should the Regional Executive Committee report to? S.147E(4)

The Regional Executive Committee should report to the National Executive Committee of Alkalolu.

What should be the tenure of each Regional Executive Committee? S.147E(5)

Each Regional Executive Committee should serve for a term of three years which is subject to renewal for one further term.

What should be the composition of the National Executive Committee? S.147F(1)

It should consist of the following:

- (a) a Senior Alkalo who shall be appointed by the Minister of Local Government from among the Alkalolu;
- (b) each Regional Executive Chairperson;
- (c) two other representatives from each Regional Executive Committee who should be selected by members of the Regional Executive Committee.

What should be the term of the Senior Alkalo? S.147F(2)

The Senior Alkalo should be appointed for a term of three years and should be eligible for re-appointment for one further term.

When should an Alkalo cease to be a member of the National Executive Committee or Regional Executive Committee? S.147F(3)

An Alkalo who is serving on the National Executive Committee or Regional Executive Committee should cease to be a member of the relevant Committee when he or she vacates the position of Alkalo.

What should be the frequency of meetings of the National Executive Committee? S.147F (4)

It should meet at least twice every year at such a time and place as may be determined by the Senior Alkalo.

What should the National Executive Committee organise and when? S.147F (5)

The National Executive Committee should organise a national congress at least one month before the end of the tenure of office of the Senior Alkalo,

What should be the quorum for the meeting of the National Executive Committee? S.147F(6)

The quorum for the National Executive Committee meeting shall be two-thirds of the members.

What should be the term of the National Executive Committee? S.147F (7)

It should serve for a term of three years, which is subject to renewal for one further term.

NATIONAL COUNCIL OF ELDERS (SECTION 147G AND SECTION 147H INSERTED IN THE 2015 AMENDMENT)

This section established the National Council of Elders.

Who should be members of the National Council of Elders? S.147G (2), (3), (4)

1. A male and a female from each District should be selected by the District Seyfo. However, the Governor should or has to endorse the selection of the two district representatives.
2. A male and female should be nominated by the Mayors of Banjul and Kanifing Municipality from each constituency within the area. These nominated persons should represent the two regions at the National Council of Elders.

What should be the functions of the National Council of Elders? S.147H

The National Council of Elders should:

- (a) Be advisers to Governors, Mayors, Seyfolu and Alkalolu at regional and district levels;
- (b) Promote cultural norms and values;
- (c) Engage in dispute resolution at the local level;
- (d) Encourage set-settal participation at the local level; and
- (e) Carry out any other function assigned to them by the Minister.

PART IX: INSPECTION, MONITORING AND COORDINATION OF LOCAL GOVERNMENT AUTHORITIES

Which Ministry is responsible for the coordination of Local Government Authorities and advocacy for their policy issues? S.148

The Ministry of Local Government is responsible for the coordination of Local Government Authorities and advocacy for their policies.

What is the mandate of the Ministry of Local Government over the Local Governments? S.149

- (a) Monitor and co-ordinate Central Government initiatives and policies as they apply to Local Governments and ensure harmonisation,
- (b) Co-ordinate and advice persons and organisations, in relation to projects involving direct relations with Local Governments;
- (c) Assist in the provision of technical assistance to Local Government Authorities;
- (d) Monitoring and supervision of the operations of Local Governments and their compliance with all laws, regulations and national policies and guidelines; and
- (e) Ensure transparency, accountability and compliance.

What should be the main objectives of the inspection of Local Governments by the Ministry of Local Government and other State organs authorised by law? S.150. (1)

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

What are the powers of this authorised inspector? S.150 (2)

The authorised inspector has the power to

- (a) Enter and inspect the premises or property of any Local Government Authority as may be relevant to the inspection;

- (b) Inspect books of accounts, records, stores and any other documents and require any person to produce any documents or item connected with the inspection and where necessary retain any document or item connected with the case being investigated; and
- (c) Look into any matter on his or her initiative or complaint made to him or her by any member of the public, whether or not that person has personally suffered any injustice because of that matter.

Can the authorised inspector attend the Council or Committee meeting? S.150 (3)

An authorised inspector may attend any Council or Committee meeting.

Can the Minister of Local Government give guidance to a Council and on what basis? S.151. (1)

When the Minister of Local Government receives a report on a Council and he or she is satisfied that a duty or power of a Council is being performed or exercised in an improper, unlawful or inefficient manner, then the Minister can convene a meeting of the Council to discuss the irregularities or anomalies found and give the guidance necessary to the Council.

What can the Minister of Local Government do if the Council fails to address the aforementioned irregularities or follow his or her guidance? S.151 (2) – inserted in the 2004 amendment

When a Council fails to address the aforementioned irregularities mentioned in S.151(2) above or follow the guidance given, the Minister of Local Government can do any or all of the following:

- a) institute a commission of enquiry to look into the matter;
- b) impose expenditure ceilings, or other financial measures, if the irregularity relates to any financial mismanagement, for such periods, as he or she may deem necessary;

- c) make recommendations to the Council for the removal of any member of the Council, including the Chairperson, if the irregularity concerns any actions or omissions of the member; or
- d) Give such other directions as the Secretary of State may deem appropriate to deal with the situation, and the Council shall comply, accordingly.

What should the Minister of Local Government do if a Commission of Inquiry finds that an offence may have been committed? S.151(3)

The Minister of Local Government should refer the matter to the President for appropriate action.

Can the President take over or assume the executive powers of any Local Government Area? How and under what circumstances? S.152. (1)

The President can, with the approval of a simple majority of the votes of all the members of the National Assembly, assume the executive powers of any Local Government Area in any of the following circumstances –

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

Can the President assume the executive powers of a Local Government Area during a state of emergency? S.152 (2)

The President can assume the executive powers of a Local Government Area when a state of emergency has been declared in that Area or any part thereof or The Gambia as a whole.

Can the President delegate these executive powers that have been taken or assumed? S.152(3)

The President can appoint any person or Officer to exercise these executive powers on his or her behalf. The legislative functions will be exercised by laws.

For how long will the President exercise these executive powers of a Local Government Area? S.152(4)

The President can exercise the executive powers of a Local Government Area for only ninety (90) days or less unless the National Assembly approves a longer term.

What happens when the President's exercise of the executive powers of a Local Government Area ends or expires? S.152(5)

On expiry of the term regarding the President's exercise of the executive powers of a Local Government Area:

- a. the President will hand back the administration of the Area to the incumbent Council; or
- b. if the National Assembly decides that the prevailing circumstances still make it impossible for the incumbent Council to assume the administration of the Area then –
 - (i) the independent Electoral Commission will organise or hold elections for a new Council within sixty days if the remaining term of the Council is more than twelve months; or
 - (ii) The President will continue to administer the Area until the next elections are to be held if the remaining term of the Council is twelve months or less.

PART X: MISCELLANEOUS

Legal Provisions

Who has the Power of entry? S.156)

A person who is duly authorised in writing by a Council can, at all reasonable times, enter into or on any land, building or premises within the Local Government Area to carry out any inspection, inquiry or the execution of works under this Act or of any By-laws made by the Council.

A person acting under the directions of a Council. S.157

Any person authorised by a Council can perform such functions, in this Act or a By-law, that are delegated or assigned to him or her by the Council. All acts done by this person in the performance of those functions will be deemed to be done by the Council. However, these functions would be performed under the directions and supervision of the Council.

Power of Arrest with or without a warrant. S.158

Any police officer, Seyfo, Alkalo, Council police officer or Badge Messenger can arrest any person *with or* without a warrant if they reasonably believe that this person has committed an offence against the provisions of this Act or any order, By-law or regulation made under it.

Power of arrest by a Municipal or Area Council Police Officer. S.158A- inserted by 2015 amendment

A Municipal or Area Council Police Officer can, with a warrant, arrest any person whom he or she reasonably believes to have committed an offence.

OFFENCES

Obstruction S. 162

A person who commits any of the following offences can be convicted to a fine not exceeding five thousand dalasis or imprisonment for a term not exceeding two years or to both such fine and imprisonment:

- (a) Wilfully or intentionally obstructing any member of a Council or any officer, Seyfo or member of a District Authority, or person acting under his or her authority in the execution of his or her duty;
- (b) Preventing the owner of a premises that one is occupying from complying with any requirements of the Council; or
- (c) Refusing or wilfully/intentionally omitting to disclose or wilfully misstating the name of the owner of the premises one is occupying when such a demand is made,

Corruption and Extortion

Prohibition of corruption and extortion by a Local Government Official S.163(1)

A Local Government official who commits any of the following offences can be convicted to imprisonment for not more than five years:

- (1) accepting or agreeing to accept, or obtaining or attempting to obtain, from any person, other than legal remuneration, any property, benefit or advantage whatsoever for himself or herself or any other person as an inducement or a reward to –
 - (a) do or refuse to do afterwards, or for having already done or refused to do, any official act;
 - (a) show or refuse to show afterwards, or for having already shown or refused to show, in the exercise of his or her official functions, favour or disfavour to any person; or
 - (b) render or attempt to render afterwards, or for having already rendered, any service or disservice to any person with any Local Government Authority, or with any local government official.

Prohibition of corrupting a Local Government Officer S.163(2)

A person commits an offence and can be convicted to imprisonment for five years if he or she:

- a. gives, confers on or procures for any other person; or
- b. promises or offers to give to or confer on, or to procure or attempt to procure for any other person,

any property, benefit or whatsoever advantage as an inducement or reward to corrupt a Local Government official as mentioned in sub-paragraph (a), (b) or (c) of S. 163

Disobedience to summons S.164

It is an offence for any person on whom a summons has been served under this Act or any By-laws made under to:

- a. refuse or omit, without sufficient cause, to attend at the time and place mentioned in the summons;
- b. refuse to take an oath or make an affirmation;
- c. Refuse or omit, without sufficient cause, to produce any documents in his or her possession or under his or her control which are mentioned in the summons.

General Offence S.165

It is an offence for any person or group (body of persons):

- (a) to refuse to do any matter or thing that is directed to be done under this Act; or
- (b) to do any matter or thing that the Act prohibited.

PRIVILEGES AND IMMUNITIES

Freedom of Speech and proceedings in Council S.167

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

Immunity for proceedings for acts in a Council.

Can a member of a Council be prosecuted for what he or she says or brings before the Council? S.168 (1)

No civil or criminal proceedings will be instituted in any court against a member or officer of a Council for what he or she has said in the Council or for any matter or thing, be it a petition, motion or otherwise, he or she has brought before the Council.

What can happen if the Chairperson of a Council thinks a statement by a Council member is defamatory? S.168(2)

If the Chairperson of the Council thinks that a statement made by a member of the Council defames any person, he or she should refer the matter for inquiry by a Committee of the Council constituted for that purpose. This Committee should report its findings to the Council no later than fourteen days when the matter was referred to it.

What happens after the Committee reports to the Council? S.168(3)

If the Committee reports to the Council that the statement made by the member is defamatory of any person, that member who made the statement will have to tender an apology at the bar of the Council at the next sitting of the Council. The Committee should approve the terms of the apology and communicate them to the person who has been defamed.

What if the member of the Council refuse to tender an apology? S.168(4)

If the member refuses to render an apology, the Chairperson should suspend him or her for two consecutive meetings of the Council.

What will the suspended Council member lose? S.168(5)

A member of the Council who is suspended will lose all his or her privileges, immunities and allowances in respect of his or her membership of the Council. The member will also lose or forfeit all the privileges, immunities and allowances until he or she apologises.

Should a member of the Council serve on a jury or tribunal? S169.

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

Should a court process be served on a member or officer of a Council while he or she is on the way to or returning from a Council meeting? S.170.(1)

No civil or criminal process from any court or place out of a Council should be served on or executed against any member or officer of the Council while he or she is on his or her way to attend or is returning from a meeting of the Council.

Is there any immunity from publication of a proceeding of a Council? S.171.

Unless it is shown that the publication was made with malice or in bad faith, no person will be under a civil or criminal liability in respect of the publication of -

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

What privileges does a witness who is summoned before a Council enjoy? S.172. (1)

Any person who is summoned to attend and give evidence or to produce any paper, book, record or other document before a Council will be entitled, in respect of his or her evidence or the production of the document, to the same privileges as if he or she were appearing before a court.

What powers does the Chairperson of a Council have regarding the production of a document before the Council? S.172(2)

A public officer will not be required to produce a document before a Council if the Chairperson of the Council certifies that -

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

What if there is doubt whether or not the production of a document before a Council is against the public interest or the security of the State? S.172(3)

If the Chairperson of a Council doubts or is unsure doubt whether the production of any document referred to in subsection (2) of this section is against public interest or the security of the State, he or she should refer the matter to the High Court for determination.

What acts will be regarded as Contempt of Council? S.173(1)

An act which:

- (a) obstructs or impedes a Council in the performance of its functions; or
- (b) obstructs or impedes a member or officer of the Council in the discharge of his or her duties; or
- (c) affronts the dignity of the Council or tends to produce such a result either directly or indirectly.

Can a Council punish for contempt? S.173(2)

The Council can exercise its power to punish for contempt. A contempt proceeding can also be taken against a person if the contempt of a Council is an offence under criminal law.

Who can make Regulations for the effective enforcement and implementation of this Act? S.174

The Minister of Local Government can/may:

- make regulations for the better carrying into effect of the provisions of this Act.
- with the approval of the President, amend, replace, alter or revoke any of the Schedules to this Act except Schedule I (Local Government Areas and Councils).

However, the Minister cannot delegate this function or responsibility.

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