L.N. 195 of 1999

LOCAL COUNCILS ACT, 1993
(Act No. XV of 1993)

Local Councils (Association) (Amendment) Regulations, 1999

IN exercise of the powers conferred by sections 37(3) and 72 of the Local Councils Act, 1993, the Minister for Justice and Local Government, has made the following regulations:–

Citation.

1. The title of these regulations is the Local Councils (Association) (Amendment) Regulations, 1999, and these regulations shall be read and construed as one with the Local Councils (Association) Regulations, 1994, hereinafter referred to as "the principal regulations". L.N. 153 of 1994.

Adds title of Part I to the principal regulations.

2. Immediately at the end of the introductory paragraph to the principal regulations and before regulation 1 thereof, there shall be inserted the following:–

"Part I
General".

Amends regulation 2 of the principal regulations.

3. Regulation 2 of the principal regulations shall be amended as follows:–

(a) immediately after the definition "Association" there shall be added the following new definitions:–

" "Chairman" and "Deputy Chairman" mean respectively the persons occupying the posts of Chairman and Deputy Chairman of the Association elected in terms of regulation 8 of these regulations;

"Committee" means the Executive Committee of the Association;"; and

(b) immediately after the definition "Councillor" there shall be added the following new definitions:–

" "Electoral Commission" means the Electoral Commission established by section 60 of the Constitution;

"Executive Secretary" means the person occupying the post of Executive Secretary of the Association established in terms of regulation 4 of these regulations;

"financial year" means the period of twelve consecutive months ending on the thirty first day of December in any year;

"Minister" means the Minister responsible for Local Government;

"Registrar" means the Director of the Department responsible for Local Councils.".

Amends regulation 3 of the principal regulations.

4. For regulation 3 of the principal regulations, there shall be substituted the following:–

"Part II

Establishment of the Local Councils Association

Establishment of the Association.

3. (1) There shall be an Association representing all the Local Councils with the aim of protecting and promoting the common interests of all the Local Councils and to represent, solely for the purposes of these regulations, all the Local Councils, in Malta and overseas, and on international associations of local government authorities.

(2) The Association is a juridical body having a distinct legal personality empowered to enter into contracts, of suing and being sued, and of doing all such things and entering into such transactions as are incidental or conducive to the exercise and performance of its functions as are allowed under these regulations:

Provided that the Association may not have the power to –

(a) borrow or lend any monies except with the authority in writing of the Minister with the concurrence of the Minister responsible for finance;

(b) enter into any form of commercial partnership, except with the authority in writing of the Minister with the concurrence of the Minister responsible for finance;

(3) The aims of the Association shall be those of protecting and promoting the common interests of Local Councils as well as offering consultancy services, training on its own initiatives and in conjunction with any other Council or Councils.".

5. For regulation 4 of the principal regulation, there shall be substituted the following:– Amends regulation 4 of the principal regulations.

"Constitution of the Executive Committee.

4. (1) The Association shall have an Executive Committee composed of six Councillors in office.

(2) All the Councillors in office elected in all Local Councils shall have the right to elect the Committee in accordance with regulation 6 of these regulations.

Appointment of Executive Secretary.

(3) The Minister shall, after consulting the Committee, appoint a public officer as the Executive Secretary detailed to perform the duties assigned to him in terms of these regulations.

Acting Executive Secretary.

(4) The Committee may, with the approval of the Minister, appoint an Acting Executive Secretary to exercise the functions of the Executive Secretary whenever he is unable to perform the functions of his office or whenever the office of the Executive Secretary is vacant.

(5) Whenever an Acting Executive Secretary is appointed there shall be applicable also all the conditions which regulate the position of the Executive Secretary until that day when the Executive Secretary resumes his duties or until a new Executive Secretary is appointed by the Minister.".

6. In paragraph (2) regulation 6 of the principal regulations for the words from "The election shall be held" to the words "to that effect by the electoral Commission" there shall be substituted the words "The election shall be held every two years on the second Saturday in October following a notice to that effect by the Electoral Commission. This shall not apply to the Committee in office at the time of commencement of these Regulations. The election for the new Committee shall be held after three years from the date of the last election:". Amends regulation 6 of the principal regulations.

7. Paragraph (11) of regulation 6 of the principal regulations shall be renumbered as paragraph (14) thereof, and for paragraphs (4) to (11) thereof there shall be substituted the following:– Amends regulation 6 of the principal regulations.

"(4) If at the expiration of the time fixed for the receipt of nominations the number of nominated candidates is three or less in the case of the General List, or is only one in the case of every Regional list, the Electoral Commission shall declare the candidates so nominated as elected.

(5) If at the expiration of the time fixed for the receipt of nominations the number of nominated candidates is less than three in the General List or no nominations are received in the case of any Regional List, the Electoral Commissioner shall issue a fresh notice for election to fill the remaining vacant seats in the General List or in the Regional List as the case may be:

Provided that if after a fresh notice for election is issued no other nominations are received, or if the number of nominated candidates is less than the number of vacant seats, the remaining vacant seats may be filled by co-option of a Councillor or Councillors from amongst Councillors who were previously declared elected by the Commission, so however that by way of in the co-option of the other member or members shall be in terms of those criteria established by the statute of the Congress.

Committee appointed by Minister.

(6) If the nominated candidates for the Committee is less than four, or when the Committee is dissolved for reasons mentioned in these regulations, the Minister shall appoint members to fill vacant posts and this according to the criteria established in the statute of the Congress.

(7) After thirty days from the dissolution of the Committee or from the date when the election for the Committee should have been held, the Electoral Commission shall hold an election for a new Committee;

Provided, also, in the case of dissolution no election shall be held where the remaining term of office of the dissolved Committee is less than three months.

(8) The newly elected Committee shall remain in office for the remainder of the dissolved Committee's term.

Persons eligible to vote.

(9) The persons who have a right to vote in the election for the Committee are all those Councillors who at that time shall be in office.

Ballot papers and voting procedures.

(10) Each Councillor shall vote on two ballot papers of which one shall be made up of a General List, and the other made up of eligible candidates in a Regional List according to the region to which the voter belongs in the form set out in the Third Schedule to these regulations. Each ballot paper shall have a list of candidates described by the name (including any nickname) as well as the locality or the region they represent and the Party in whose name they are contesting.

(11) (a) Voters shall deposit their ballot papers in a ballot box provided for such purpose by the Electoral Commission. The ballot box shall be sealed prior to the commencement of voting by the Council Secretary together with one of the Councillors after having verified that the ballot box delivered is empty.

(b) On the closing of voting, the Council Secretary shall seal the opening of the ballot box and afterwards the Secretary shall personally deliver the sealed box to the Electoral Commission.

(12) The counting of votes shall start as soon as the Electoral Commission starts receiving the sealed boxes.

(13) (a) The election results shall be immediately communicated by the Electoral Commission to the Minister and to the Registrar and shall be published in the Gazette not later than one week after having been so communicated.

(b) Immediately upon receiving the communication from the Electoral Commission the Registrar shall register the Association as constituted.".

Adds new regulations 7 to 19 to the principal regulations.

8. Immediately after regulation 6 of the principal regulations there shall be added the following new regulations:–

"Casual vacancy among members.

7. Whenever a casual vacancy occurs in the membership of the Committee, written notification of such vacancy shall be sent to the Minister, the Registrar and the Electoral Commission by the Executive Secretary within six

days after the vacancy has occurred, and a casual election shall be held in accordance with the provisions of regulation 6 of these regulations on a day to be established by the Electoral Commission being not more that thirty days after the date on which such vacancy has occurred:

Provided that if the casual vacancy occurs within three months before the expiration of the term of office of the Committee, no casual election shall be held and the Committee shall be deemed to be duly constituted for the purposes of these regulations:

Provided further that no other election shall be held if the term of office of the Committee has been extended in terms of the proviso of regulation 6 of these regulations.

Election and casual vacancy in the office of Chairman.

8. (1) The Committee shall appoint as Chairman from among its members the member who has obtained the majority of the votes of the Committee members. The same procedure shall apply for the appointment of Deputy Chairman (National Affairs) and Deputy Chairman (International Affairs).

(2) If a casual vacancy in the office of Chairman occurs, the person occupying the post of Deputy Chairman (National Affairs) shall assume the office of Chairman until such time when an election from among Committee members for the office of Chairman is held.

Committee member to vacate his seat when no longer Councillor.

9. Any member of the Committee shall vacate his seat immediately upon terminating his office as Councillor.

Resignation of Committee member.

10. (1) A member of the Committee may at any time resign his office by notice in writing signed by him and delivered to the Executive Secretary and his resignation shall take effect from the time of the receipt of such notice by the Executive Secretary and his office shall become vacant immediately.

(2) When a resignation occurs the Executive Secretary shall act in accordance with the provisions of regulation 7 of these regulations.

Members to attend all meetings.

11. (1) The Committee members shall attend all meetings of the Committee, and the Minister shall, after he

has been informed by the Executive Secretary, by notice signed by him addressed to the Executive Secretary, declare a seat to be vacant on failure of the member to attend six consecutive Committee meetings or in the aggregate if he attends less than one-third of the meetings called within a period of six months:

Provided that where the absence is justified, the Executive Secretary in informing the Minister of the member's failure shall also transmit the recommendation of the Committee for the Minister not to declare the seat vacant, if such is the case.

(2) The Registrar shall be notified with the Executive Secretary's notification as well as the decision of the Minister.

Dissolution of the Committee by the Minister.

12. The Minister may, by Order in the Gazette acting in accordance with the advice of the Registrar, dissolve the Committee upon any one of the reasons given below:

(a) a report from the Auditor General of serious or persistent breach of financial responsibilities; or

(b) persistent non observance of the provisions of these regulations after formal notice has been given by the Minister after consulting the Registrar; or

(c) when a Chairman is not elected as provided by Regulation 8 of these regulations; or

(d) when the annual estimates are not approved by the Committee; or

(e) when a recommendation to that effect in a report by a Board of inquiry appointed for the purposes of the provisions of these regulations.

Elections to follow dissolution or resignation.

13. (1) Upon the dissolution of the Committee in accordance with regulation 12 of these regulations, or if all the members have resigned and no other candidate can be elected in accordance with regulation 6 of these regulations, the Electoral Commission shall, within thirty days, hold an election for a new Committee:

Provided that no election shall be held where the remaining term of office of the dissolved Committee is less than three months.

(2) The Minister may in such case appoint a Committee of Management which shall perform all such duties as are competent on the Committee until a new Committee is elected:

Provided that if or until, as the case may be, a Committee of Management is not so appointed, the Executive Secretary shall perform all such duties as are competent on the Committee.

(3) The newly elected Committee shall hold office for the remainder of the term applicable to the dissolved Committee.

Part III

The Office of Chairman of the Committee

Chairman to represent the Association and preside meetings.

14. (1) Subject to the other provisions of these regulations, the Chairman shall be the representative of the Association and shall preside over all meetings of the Committee and supervise all the functions of the Association.

(2) The Chairman shall be responsible for the furtherance of the objects and provisions of these regulations.

Legal and judicial representation of the Association.

15. (1) The legal and judicial representation of the Association shall be vested in the Chairman together with the Executive Secretary and they may sue and be sued on behalf of the Association even where the case refers to acts done prior to the commencement of their term of office or appointment, as the case may be.

(2) Every correspondence, report, press release or any other similar document of the Association shall bear the signature of the Chairman or of the Executive Secretary.

(3) Every bank document shall be signed by the Chairman or the Deputy Chairman (National Affairs) and the Executive Secretary or the Deputy Secretary following approval by the Committee in accordance with the provisions of these regulations and of the Sixth Schedule to the Act.

Terms of office.

16. The Chairman, Deputy Chairman (National Affairs) and Deputy Chairman (International Affairs) shall hold office from the day of their election and they shall remain in such office until the expiration of the term of the Committee or until such other time as the Chairman or Deputy Chairman shall, for any reason cease to hold such office.

When the Deputy Chairman assumes the functions of Chairman.

17. When the Chairman cannot, for any reason, perform the functions of his office, such functions shall be exercised by the Deputy Chairman (National Affairs).

Vote of no Confidence.

18. (1) The Chairman or any Deputy Chairman shall cease to hold their office upon a petition of a vote of no confidence delivered by a majority of the Councillors.

(2) In the case where the Chairman or any Deputy Chairman cease to hold their office upon a vote of no confidence, the provisions of regulation 8 of these regulations shall apply.

Committee members to serve on an honorary basis.

19. The Chairman, the Deputy Chairman and the other Committee members shall serve on an honorary basis but shall be afforded all such assistance by their employers as is reasonable to allow them to carry out their functions in accordance with these regulations.".

Substitutes reguations 7 to 9 of the principal regulations.

9. Regulations 7, 8 and 9 of the principal regulations shall be renumbered as regulations 20, 21 and 22 respectively thereof, and there shall be substituted herefor the following:–

"Part IV

Functions of the Association, Procedure and Meetings.

Representation in the Congress.

20. (1) The Association shall be represented in the Congress.

(2) The Minister shall after counsulting the Committee appoint the delegation to the Congress, as far as possible according to the criteria for representation as established in the Statute of the Congress.

(3) The delegation, which shall have a Head and a Secretary, shall be composed of representatives and their substitutes from amongst the members of the Committee.

(4) Unless otherwise agreed by the Committee, the Chairman and the Executive Secretary shall be respectively the Head and Secretary of the delegation.

Applicability of the Standing Orders.

21. (1) The Standing Orders contained in the Sixth Schedule to the Act shall apply *mutatis mutandis* to the procedures which the Committee shall follow and any reference in the Standing Orders to Mayor, Deputy Mayor, Councillor and Secretary shall be deemed to refer to the Chairman, Deputy Chairman, member of the Committee and the Executive Secretary respectively.

(2) The meetings of the Committee shall be held following a notice in writing which shall be made at least five days before such meeting:

Provided that a meeting may be held without the need to follow this procedure if there is unanimous agreement by the members.

(3) Meetings shall be held at least once a month or at any other shorter intervals as the Chairman may decide. Meetings may also be called at the request of the least whole number above one-third of the members in office, and in such a case a notice in writing shall be issued at least eight days before the meeting.

Councillors may attend Committee meetings.

(4) The meetings of the Committee shall be open to all the Councillors.

Furnishing of copies of documents.

22. The Committee shall, if so requested by any Council, Councillor or the Registrar and on payment for postage and other necessary expenses which are incurred for the supply of any such information, furnish:-

(a) a copy of the agenda as circulated to members of the Committee; and

(b) such other statements or particulars and a copy of such other documents as are necessary to indicate the nature of any item included in the copy of the agenda so supplied:

Provided that the Committee shall, in all cases and free of charge, furnish a copy of the agenda and minutes to the Registrar; and

(c) a copy of the minutes so approved by the Committee.".

10. Immediately after regulation 22 as renumbered to the principal regulations, there shall be added the following new regulations:– Adds new regulations 23 and 24 to the principal regulations.

"Appointment of Sub-Committees.

23. (1) The Committee may appoint Sub-Committees for the purpose only of executing its functions better. The Sub-Committees shall be presided by a Chairman who shall be a member of the Committee and shall be composed of a number of other persons as the Committee may deem necessary in the circumstances.

(2) The Chairman of the Committee shall be an *ex officio* member of every Sub-Committee.

(3) A Sub-Committee may appoint a Secretary from amongst its members.

(4) A Sub-Committee shall remain in office until:–

(a) it has finalised the task for which it had been appointed; or

(b) it is dissolved by the Committee; or

(c) the term of office of the Committee expires.

(5) Members of Sub-Committees shall serve on an honorary basis.

(6) The meetings of Sub-Committees shall be recorded as minutes of the Committee and shall be kept in the custody of the Executive Secretary.

Annual meetings for councillors.

24. (1) The Committee shall once every year convene all the Councillors in office for the meetings hereunder indicated:

(a) an annual meeting for all Mayors, to be chaired by the Chairman or his delegate;

(b) an annual meeting for all Councillors, excluding Mayors, to be chaired by the Chairman or his delegate; and

(c) an annual plenary session of Mayors and Councillors, to be chaired by the Chairman.

(2) The Committee may convene other meetings or plenary sessions as it may deem necessary or whenever requested in writing to do so by half the persons eligible to attend such meetings or plenary sessions.".

Substitutes regulations 10 and 11 of the principal regulations.

11. Regulations 10 and 11 of the principal regulation shall be renumbered as regulations 25 and 26 respectively hereof, and there shall be substituted herefor the following:–

"Annual Regional Meetings.

25. (1) The three members of the Committee who represent the three regions shall, once a year as close as possible to the annual meetings referred to in regulation 24 above, individually convene and chair an annual regional meeting of all Mayors and Councillors of their respective region.

(2) The Committee may convene other regional meetings as it may deem necessary or whenever so requested in writing by half the persons eligible to attend such regional meetings.

The Association to advise Minister on Town-Twinning.

26. (1) Any twinning between a capital city, town or village in Malta and another locality in any other country shall require the approval of the Minister after the Association has given the Minister its opinion on such intended twinning.

(2) In establishing the twinning of localities, consideration shall be given to the status of the localities due to be twinned such that as far as possible the capital city or former capital cities of Malta shall be twinned with a capital city or former capital cities of other countries, and also as far as possible a city be twinned with another city.".

Adds new regulations 27 to 37 of the principal regulations.

12. Immediately after regulation 26 of the principal regulations as renumbered there shall be added the following new regulations:–

"Part V

Officers and Employees

Full-time Executive Secretary.

27. The Executive Secretary shall act on a full-time basis.

Appointment and qualifications of the Executive Secretary and other employees.

28. (1) Subject to the provisions of subsection (6) of section 110 of the Constitution, the Committee may appoint such other employees as the Committee deems necessary for the efficient discharge of the functions of the Association so however that the Committee may not employ more than two persons.

(2) The Committee may, after consulting the Registrar, prescribe the qualifications to be possessed by, the technical, administrative and office procedure to be followed by –

(a) any person appointed to the office of Executive Secretary; and

(b) any other person appointed by the Committee.

Functions of the Executive Secretary.

29. (1) The Executive Secretary shall be the executive, administrative and financial head of the Committee.

(2) Without prejudice to any provisions of these regulations, the Executive Secretary shall:

(a) issue all notices and prepare the agenda in consultation with the Chairman and attend all meetings;

(b) draw up the minutes of meetings of the Committee, and if no Secretary is appointed for a Sub-Committee in accordance with paragraph (3) of regulation 23 of these regulations, draw up also the minutes of that Sub-Committee;

(c) submit a detailed annual administrative report to the Chairman;

(d) cause to be submitted to the Committee and to the Registrar estimates of the income and expenditure of the Association during the next following financial year;

(e) carry out any other duties that may be detailed or delegated to him by the Chairman or by the Committee.

Remuneration of Executive Secretary and other employees L.N. 127 of 1998

30. (1) The Executive Secretary shall receive a remuneration equivalent to the highest remuneration payable to Local Council Secretaries as prescribed in the Local Councils (Human Resources) Regulations, 1998 or as amended from time to time.

(2) Without prejudice to the provisions of these regulations, the provisions of sections 53 and 54 of the Act shall, whenever applicable, apply *mutatis mutandis* to the Executive Secretary.

(3) The provisions of paragraphs (2), (4), and (5) of regulation 14, paragraph (3) of regulation 15, and regulations 18, 19, 22 and 24, and from 26 to 32 of the Local Councils (Human Resources) Regulations, 1998, shall apply in regard to the other employees of the Association.

Conditions and qualifications of Executive Secretary.

31. The provisions of regulations 6, 9 ,11, 12, 13, 14(5) and 19(2) of these regulations and regulations 24 and from 27 to 32 of the Local Councils (Human Resources) Regulations, 1998 shall apply in regard to the Executive Secretary.

Part VI
Finance

Request for funds.

32. (1) Each year the Minister responsible for finance shall allocate funds to the Association which shall serve for the exercise of its functions.

(2) The Executive Secretary shall by not later than the thirtieth of September in each year make a written request to the Minister through the Registrar for funds as determined in paragraph (1) above.

(3) Any monies declared to be a surplus in any financial year shall not be set off against the sum allocated to the Association for the next financial year.

(4) When submitting the request as indicated in paragraph (2) of this regulation, the Executive Secretary shall submit also a draft of the business plan.

Additional funds.

33. The Association may, after consulting the Registrar, raise funds by means of a scheme providing for the collection of contributions by Local Councils, designed to provide additional funds to those allocated to it by the Government:

Provided that all funds collected in this manner shall be used only in carrying out the functions of the Association.

Request for refund of expenses incurred.

34. All claims for the refund of payments incurred by members of the Committee and employees during the course and for the purposes of executing their duties shall be submitted, and duly certified by the Executive Secretary on the appropriate form in accordance with the Local Councils Financial Procedures:

Provided that any refund of expenses may only be effected if there is prior approval by the Committee as to the nature of the claim.

Administrative report.

35. (1) At the end of each financial year a detailed administrative report shall be prepared by the Executive Secretary. Such report shall -

(a) give an account to the Committee of the Committee's finances during the previous year;

(b) review the operating and financial results achieved against the Committee's stated objectives, plans and budget; and

(c) include audited financial statements of the Committee for the year that ended and the Committee's retained funds as at the year end.

(2) The annual administrative report shall be forwarded to the Auditor General by not later than the thirty-first of March of each year.

L.C.P. 1/96
L.N. 180 of 1996.

(3) The detailed annual administrative report shall be prepared in the form specified in the Local Councils (Financial) Procedures, 1996.

(4) Within two weeks from the approval of the Committee and by not later than the thirty-first of March of each year the Executive Secretary shall forward a copy of the audited financial statements and a copy of the budget to the Minister, the Registrar and to every Council.

Appointment of auditors.

36. (1) The Auditor General shall appoint an auditor or auditors to audit the accounts of the Association subject to such conditions that he may deem appropriate. The appointment shall be for a period of one year, renewable each year, for a total period of not more than five consecutive years.

(2) The auditors of the Association shall submit their report by not later than twelve weeks after the end of the financial year to the Auditor General who shall immediately forward copies of the report to the Minister, the Minister responsible for finance, the Association and the Registrar. A copy of this report shall be laid on the Table of the House of Representatives in the same manner as provided in section 108(5) of the Constitution, and of Section 5 of the Auditor General and National Audit Office Act, 1997.

Act XVI of 1997

Applicability of several regulations. L.N. 155 of 1993 L.N. 156 of 1993 L.N. 157 of 1993.

37. (1) Without prejudice to the provisions of the following paragraph of this regulation, the Local Councils (Financial) Regulations, 1993, the Local Councils (Audit) Regulations, 1993, and the Local Councils (Tendering) Regulations, 1993, shall apply *mutatis mutandis* for the Association, and any reference, if applicable, in these regulations to Council, Mayor or Secretary shall be deemed to refer to the Committee, Chairman and Executive Secretary of the Association respectively.

(2) In those cases where the provisions of the regulations mentioned in paragraph (1) of this regulation are at variance with the provisions of these regulations, the provisions of these regulations shall prevail.

(3) The following provisions shall not apply in regard to the Association –

(a) regulations 7(2)(c) , 8, 9, 11(1), 13(2), 15, 16, 17, 18, 21(1), 32 and 43 (2) of the Local Councils (Financial) Regulations, 1993;

(b) regulations 3(3), 4, 8 and 9 of the Local Councils (Audit) Regulations, 1993.

(4) The applicability of the provisions of the Local Councils (Financial) Regulations, 1993, shall be subject to the following provisions:–

(a) In paragraph (5) of regulation 11 of the said regulations, the words "within the time limit stipulated in subsection (1) of section 56 of the Act" shall be read and construed as if substituted by the words " in the month of September in any financial year;"

(b) In paragraph (1) of regulation 13 of the said regulations, the words "as stipulated in subsection (2) of section 56 of the Act" shall be read and construed as if substituted by the words "by not later than the 15th October.".

13. Regulation 12 of the principal regulations shall be renumbered as regulation 38 thereof, and immediately preceding regulation 38 as renumbered there shall be inserted the following:– Renumbering of regulation 12 of the principal regulations.

"Part VII
Miscellaneous".

14. In the Third Schedule to the principal regulations, for the words "Regulation 6(7)" there shall be substituted the words "Regulation 6(10)". Amends Third Schedule to the principal regulations.