L.N. 114 of 2010

LOCAL COUNCILS ACT
(CAP. 363)

Local Councils (Association) (Amendment) Regulations, 2010

IN exercise of the powers conferred by articles 37(3) and 72 of the Local Councils Act, the Prime Minister has made the following regulations:-

1. The title of these regulations is the Local Councils (Association) (Amendment) Regulations, 2010 and they shall be read and construed as one with the Local Councils Association Regulations, 1994, hereinafter referred to as "the principal regulations". Title. L.N.153 of 1994.

2. In regulation 38 of the principal regulations, for the principal regulations, for the words "Members of the Council" there shall be substituted the words "Local Government Elected Representatives". Amends regulation 38 of the principal regulations.

3. For the Fourth Schedule to the principal regulations there shall be substituted the following:- Substitutes the Fourth Schedule to the principal regulations.

"FOURTH SCHEDULE

(Regulation 38)

Code of Ethics For Local Government Elected Representatives

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CODE OF ETHICS FOR LOCAL GOVERNMENT ELECTED REPRESENTATIVES

PART I - Purpose and General Principles

Article 1 - Objective of the Code

The objective of this Code is to specify standards of behaviour expected of elected representatives at all levels of Local Government in the performance of their duties and to inform

citizens with the level of behaviour they should rightly expect from elected representatives to represent them at local government level.

Article 2 - Definitions

In this code the words listed below shall have the following meaning:

"Act" means the Local Councils Act (Chapter 363 of the Laws of Malta);

"Local Government" means all levels of Local Government established by statute in the Islands of Malta and Gozo, including both regional and local levels, including the Administrative Committee for Communities;

"Candidate" means a candidate for regional elections, Local Elections as well as for elections for Administrative Committees for Communities;

"Regional President" means the member elected through an election to represent the Region;

"Elected Representative" means the member elected at regional or local levels or in the Administrative Committee for Communities;

"Region" means one of the five Regions as established in the Act.

Article 3 - General Principles

The elected representatives shall hold office as established by law and shall at all times act as required by law.

While performing their duties, the elected representatives should serve the interests of citizens and not the direct or indirect personal interest or private interest of individuals or groups of individuals with a view to obtain directly or indirectly personal benefits from them.

Article 4 - Objectives for the execution of the mandate

The elected representatives should perform their functions carefully, transparently, with integrity, honesty, fairness,

conscientiously, and with fervour, and they shall be responsible for their own decisions.

Article 5 - Obstacles to the implementation of the mandate

In the performance of their duties, elected representatives shall respect the power and prerogatives of other representatives, who were democratically elected, as well as all employees of Local Government, and also those in the public sector.

The elected representatives shall not, in carrying out their functions encourage or assist any other political representative or any employee or public official to breach the principles set out in this Code.

Similarly, elected representatives should refrain from allowing themselves to be influenced by third parties to desist from doing what is expected of them, and if approached to do so they should immediately report the matter to the Regional President, the Mayor or the Chairperson of the Administrative Committee as appropriate.

PART II - Specific Obligations

Article 6 - Election Campaigns

The election campaigns organized by prospective candidates shall serve as a means of information and explanation about their political programmes.

The prospective candidates shall not seek to obtain votes other than by persuasion, argumentation and discussion. In particular, they shall not try to gain votes by resorting to slanderous arguments about other candidates, using violence and / or threats or by doing or promising favours.

The prospective candidates shall maintain expenditures for election campaigns properly and within the limits set by law. They shall abide carefully with the provisions of the law requiring that they publicly declare the source and amount of revenue to be allocated for their electoral campaign and the nature and amount of their expenditure is to be disclosed for public information.

Article 7 - Favouritism

The elected representatives shall not perform their functions or utilise the benefit of their office in the private interest of individuals or groups of individuals, with the aim of acquiring direct or indirect benefit.

In particular, elected representatives shall act at all times during their office in the interest of the entire locality and of the community.

Article 8 - Exercise of authority for personal gain

The elected representatives shall not perform their functions or use the benefit of their office to promote private or personal interest whether directly or indirectly.

Article 9 - Attendance and participation at Local Government meetings and contribution towards the fulfilment of the set objectives

The elected representatives shall devote time and attention to the work of their Local Government as well as attend all Local Government meetings. If an elected representative cannot attend any of these meetings for a justified reason, he shall notify the Executive Secretary as soon as possible about his inability to attend.

The elected representatives shall perform their duties wisely, impartially and conscientiously, and to the best of their abilities.

Article 10 - Association

The elected representatives shall avoid the danger of association with organizations whose goals are in conflict with those of the Local Government.

The elected representatives shall refrain from conduct that could harm their reputation and the reputation of the office or other elected representatives, or do anything or associate themselves with organizations that can put them and the Local Government and / or the locality to shame.

Article 11 - Conflict of interest

The elected representatives shall refrain from any discussion or vote in any matter in which they have any direct or indirect personal interest.

When elected representatives have a direct or indirect personal interest in matters being discussed by the Local Government of which they are members, or by any committee or subcommittee thereof, they shall undertake to declare their interests before the discussions are made, and the vote taken.

The elected representatives shall not have interests (excluding securities in public companies) or have a personal contract or agreement with suppliers or contractors of Local Government.

When taking office, or whenever necessary, elected representatives shall declare in writing to the Executive Secretary of Local Government, any office of leadership, partnership or interest in any business in which they are engaged unless this engagement is related to public companies or were nominated for the office of management to represent the interests of the government.

This declaration should be sought by the Executive Secretary each year and kept solely by the Executive Secretary.

Article 12 – Limitations on occupation of posts

The elected representatives shall not have political positions or engage in similar activities which may hinder them from carrying out their functions as elected representatives or are incompatible with their oath of office.

Neither shall they have duties, chosen mandates, official occupations or positions involving supervision of functions as elected representatives, nor those who are duty bound to supervise in their capacity as elected representatives.

The elected representatives are obliged to inform the Local Government if they intend to contest the General Elections or the European Parliament Elections as soon as they are officially accepted by the political party with whom they will be contesting or prior to submitting their candidacy with the Electoral Commission if they intend to contest as independent candidates.

Article 13 - Operation of discretionary powers

In exercising their discretionary powers, elected representatives shall remain impartial at all times to ensure that the advice and recommendations are based on full and impartial consideration of the relative facts and circumstances.

Detailed information shall be given for every decision taken, specifying all the factors on which the decision was taken, particularly the relevant rules, and which show how decisions were taken in accordance with those rules. Before taking a decision the elected representative shall take account of advice on the relevant matter given to Local Government by the Executive Secretary.

In the absence of rules and obligations, the reasons for the decision taken shall include elements that demonstrate the proportionality, the truth and compliance with public interest.

Article 14 - Corruption

During the course of their duties, elected representatives shall refrain from any act that is deemed, under Maltese or international criminal law, as active or passive corruption.

Moreover, elected representatives have a duty to fully and immediately reject any attempt of this kind and make a written report without delay to the political head of the Local Government on the pressure and undue influence that may be exercised by persons or bodies, and the head is obliged to report to Local Government members as appropriate.

The elected representatives, their wives or husbands or their children (including minors) shall not accept commissions, grants, gifts, services, or compensation from persons, companies and organisations having a working relationship with the Local Government which can be deemed to create any real or imaginary obligation.

Article 15 - Compliance with financial discipline on the estimate of expenditure

The elected representatives shall undertake to observe discipline relating to the estimate of expenditure and other finance

in order to guarantee the proper management of public funds as established in the Local Councils Act and other regulations established by the same Act.

In fulfilling their obligations, elected representatives shall not do anything that may lead to misuse of public funds and / or grants. They shall refrain from doing anything that might lead to public funds and / or grants being used for direct or indirect personal needs.

Article 16 - Use of information obtained

The elected representatives shall not take advantage, or benefit from information obtained during the performance of their official duties and responsibilities and to which the public does not have access.

They shall only give official information or documents obtained during their term of office when so required at law, in the performance of their duties, when called to testify in court, or when there is a legitimate order in this regard.

Article 17 - Acting on behalf of Local Government

The elected representatives shall not give orders, instructions or directives on behalf, or in representation of their Local Government unless authorised to do so by their Local Government and such orders, instructions or directives are to be issued only formally by the Mayor or the Regional President or the Chairperson of the Administrative Committee (or in their absence the Deputy Mayor or the authorised representative of the Regional President or the Chairperson of the Administrative Committee) or by the Executive Secretary of the Local Government except for work orders and / or orders for the acquisition of services that shall be issued only under the authority of the Executive Secretary.

Article 18 - Safeguarding of certain posts

In the performance of their duties, the elected representatives shall not take measures that allow them to gain personal advantage in the future when they no longer are in office:

- In private entities on which they engaged in inspections during the performance of their duties

- In private entities with which they have established a contractual relationship in the performance of their duties.

PART III - Means of Supervision

Article 19 - Use of facilities and tools for Local Government

The elected representatives shall ensure that the use of any resource or tool of Local Government are used conscientiously and wisely and therefore they shall not allow them to be abused by others.

The elected representatives shall not directly or indirectly use or permit the use of any property of local government or the administrative offices for political activities or any activity that is not approved by, or which can be in conflict with the interests of Local Government. Moreover they shall ensure that Local Government funds and / or other resources are not used for partisan purposes.

Article 20 - Procurement

The elected representatives shall ensure that in drawing up the documentation for the tender and in the planning of the specifications and conditions for the purchase of goods or services as well as in the adjudication of tenders, the Local Government must obtain the best offer in terms of value for money, since the expenditure of Local Government will be defrayed from public funds and be spent and authorised only in the manner and the procedure as permitted by law and the related regulations.

The elected representatives shall ensure that the highest level possible of accountability and transparency be reflected in all the purchase procedure.

PART IV - Relations between Electoral Representatives, Local Government Staff, the Public and Other Entities

Article 21 – Publication and provision of reasons for decisions taken

During their mandate, elected representatives shall act in a responsible manner with the public.

The elected representatives shall give detailed reasons for any decision taken by them, specifying all the factors underlying the decision, in particular the relevant rules, and show how decisions taken are in accordance with those rules and regulations.

When the information is confidential, the reasons for such confidentiality shall be explained.

The elected representatives shall provide answers to any requests from the public relating to the performance of their duties, and give reasons for the decisions taken by them.

They shall encourage and promote any measure that leads to transparency about their authority, the operation of their authority and the performance of the services provided by their Local Government.

Article 22 - Appointments

The elected representatives shall undertake to prevent any appointment of administrative staff to be based on principles that do not include the recognition of merit and professional skills and / or purposes other than the needs of Local Government.

In cases of appointment of employees or promotions, the elected representatives should take an objective and reasoned decision, which reflects careful deliberation.

The elected representatives shall not request for any person any office in their Local Government or make the recommendation of a person for such appointment or promotion.

Article 23 - Respect towards Local Government staff

In fulfilling their function, elected representatives shall demonstrate respect towards the office of the staff of Local Government, without prejudice to the legitimate performance of the authority they have.

They shall not ask or require the staff of Local Government to take or desist from doing in a way such measures that gives them direct or indirect advantage or that gives any other advantage to any individuals or groups of individuals with a view to acquiring any direct or indirect personal benefit to them from that source.

The elected representatives shall not make improper and derogatory allegations (unless they have enough evidence of this) and they shall refrain from any form of behaviour, which may cause any grievance to or confounds any member of staff unnecessarily.

Article 24 - Respect towards colleagues, staff and the public

The elected representatives shall not annoy or discriminate on the basis of sex, marital status, pregnancy, age, race, colour, nationality, physical or mental disability, sexual preference or religious beliefs, political or other, or alliances with regard to their colleagues, the staff of Local Government or members of the public.

The elected representatives shall relate to the public in a fair, impartial and non partisan manner.

They shall respect the opinion of their colleagues and in their relations they shall maintain the highest levels of respect. During the meetings of Local Government they shall use appropriate language and adopt a constructive and reconciliatory attitude during discussions while abiding with the provisions of the Standing Orders.

Article 25 - Relations with constituted bodies and Members of Parliament

The elected representatives shall maintain cordial relations with all constituted bodies in their locality.

They shall also collaborate with Members of Parliament and respect the work of others.

PART V - Duties of Regional Presidents, Mayors and Chairpersons of Administrative Committees

Article 26 – Presidents of the Regions, Mayors and Administrative Committee Chairpersons shall assume responsibility for their actions and those of the Local Government

The Regional Presidents, Mayors and Chairpersons of the Administrative Committees shall give an example in the performance of their duties and responsibilities and shall avoid any action or situation that is inconsistent with their duties.

They shall act in accordance with the policies and resolutions approved by their Local Government and are expected to assume responsibility for the actions of Local Government.

PART VI – Relations with the Media

Article 27 - Relations with the Media

The elected representatives shall act wisely, honestly and thoroughly with respect to every request from the media for information concerning the performance of their duties, but they shall not give confidential information or information concerning the private life of elected representatives or third parties.

They shall encourage and promote any measure that encourages the media to provide information on their powers, the performance of their duties and the services provided by Local Government of which they are members.

PART VII - Action with respect to Breaches of the Code

Article 28 - Action against those breaching the Code

Breach of the Code of Ethics shall be dealt with by the Local Governance Board to be set up within the Department for Local Government. This Board has the right to give all such recommendations as it deems appropriate to the Department to act upon where it finds a breach of ethics.

The Department for Local Government shall have the right to publish the names of those Local Government members who repeatedly breach the Code of Ethics, as well as impose on such persons any other sanctions permitted by law.

PART VIII - Information, Distribution of Information and Increase in Awareness

Article 29 - Distribution of the Code to elected representatives

The elected representatives shall ensure that they have read and understood all the provisions of this code and they shall state that they are willing to be guided by the provisions of the code.

Article 30 – Distribution of the Code to the public, Local Government staff and the Media

The elected representatives shall encourage and promote any measure adopted to distribute this code to staff of Local Government, the public and the media, that increase awareness of those persons on the principles included therein."

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