L.N. 155 of 1993

LOCAL COUNCILS ACT, 1993
(ACT NO. XV OF 1993)

Local Councils (Financial) Regulations, 1993

IN exercise of the powers conferred by sections 67 and 72 of the Local Councils Act, 1993, the Prime Minister, in conjunction with the Minister of Finance, has made the following regulations:

PART I

General Provisions

Citation

1. These regulations may be cited as the Local Councils (Financial) Regulations, 1993.

2. In these regulations, unless the context otherwise requires —

"Act" means the Local Councils Act, 1993;

"auditors" means the local government auditors appointed under section 65 of the Act;

"authorised primary documentation" means any original document which is properly authorised and which legally verifies the execution of a financial transaction by way of declaration or description of the said transaction, and by the signature of all the parties involved;

"chart of accounts" means the common list of accounts to be used by Councils in the administration of their accounting and financial operations;

"coding structure" means the system of code numbers used to identify each type of accounting and financial transaction;

"committee" and "chairman" mean respectively the committee and chairman appointed under section 47 of the Act;

"community" and "residents" shall refer to a part of or to all the population of a locality as defined in section 2 of the Act;

"Council", "Councillor", "Director of Audit", "financial year", "locality", "Mayor", "Minister" and "Secretary" shall all have the same meaning as is assigned to them by section 2 of the Act;

"Council's administrative office" shall have the same meaning as is described in section 48 of the Act;

"Council employee" or "employee" means any person receiving a wage or salary, excluding the Mayor, from the Council for work or services rendered, or any other person acting in such a capacity;

"Council property" includes all property owned by the Council, whether movable or immovable;

"Financial Procedures" means the Local Councils Financial Procedures issued by the Minister;

"Human Resources Procedures" means the Local Councils Human Resources Procedures issued by the Minister to be followed by Councils in the execution of their human resources duties and responsibilities under the Act and in accordance with the Local Councils (Human Resources) Regulations, 1993.

Councils to define procedures etc.

3. The Council may set policies, systems and timescales which are not inconsistent with the provisions of the Act or of these regulations and which shall be administered by the Secretary in order to execute the functions of the Council as defined in the Act and in these regulations.

PART II

Accounting

System of accounting.

4. The Secretary shall —

(a) establish, manage and maintain the system of Council accounting and financial reporting, including timing of reports, according to the chart of accounts and coding structure as specified in these regulations and in the Financial Procedures;

(b) bring promptly to account, under the proper headings, all moneys and assets received, paid or relinquished by the Council directly or through its bankers;

(c) maintain a positive balance between income and expenditure and accrued income and expenditure at all times while respecting all obligations for income and expenditure and the execution of Council functions as specified in the Act;

(d) ensure that all financial transactions and accounting procedures are properly recorded and documented in accordance with the Act, these regulations and the Financial Procedures.

PART III

Control and Responsibility

Control.

5. (1) The Secretary shall be directly responsible to maintain a continuous internal control and monitoring system to ascertain that the accounting, recording and other financial operations of the Council are being properly conducted in accordance with the Act, these regulations and the policies, systems and timescales referred to in the Financial Procedures.

(2) In the event of a suggested or potential irregularity, abuse of control, weakness, fraud or embezzelment in the Council's financial affairs —

(a) the Mayor or the Secretary shall initiate an investigation within twenty-four hours and notify the Minister in writing immediately;

(b) the Minister may order an investigation to be conducted by the Director of Audit or by a board appointed under the Inquiries Act.

(3) The Mayor, the Secretary, the Director of Audit, the board appointed under the Inquiries Act or their authorised representative, shall have authority to —

(a) enter and have access to any part of Council land, buildings and offices at all times;

(b) have access to all records and documents relating to financial and other transactions of the Council;

(c) require explanations from any Councillor or Council employee on any matter connected with the investigation;

(d) require any Council employee to produce documents, cash, stocks, inventory or any other Council property under his control.

(4) The Mayor, the Secretary, the Director of Audit or the board appointed under the Inquiries Act shall, within two weeks after completing their investigation, submit to the Minister and the Council a written report of the findings on an investigation referred to in paragraph (2) of this regulation.

(5) Following the receipt of the written report mentioned in paragraph (4) above, the Council may take any such steps which it deems necessary, or as may be directed by the Minister.

Responsibility.

6. (1) The Secretary shall be responsible to the Council for all aspects of financial management.

(2) The Secretary may delegate to other employees such of his duties for financial management as he judges appropriate, sohowever that he will retain overall responsibility for such employees.

(3) Employees to whom the Secretary delegates any duties under this regulation shall be responsible to him for the —

(a) due performance of the duties under their responsibility;

(b) proper collection and custody of all Council moneys and other assets receivable by the Council;

(c) proper relinquishment of all Council moneys and other assets payable or relinquished by the Council;

(d) accuracy of the accounts rendered by them or under their responsibility.

(4) The fact that auditors audit and report on the conformity of Council accounts and financial affairs to the conditions defined by the Director of Audit shall not in any way diminish the responsibility of any employee from complying, or securing compliance, with the Act, these regulations and the Financial Procedures.

PART IV

Business and Financial Planning

Business plan.

7. (1) The Secretary shall be responsible for the preparation of a draft of the Council's business plan. In the preparation of such a plan the Secretary shall follow such directions as may be given by the Council or by the Mayor and shall consult such committees and employees as may be necessary.

(2) The business plan shall —

(a) outline the values, goals, organisation and business direction of the Council;

(b) provide details about past and future Council operations and projects, including details about allocated resources, and achieved or expected results;

(c) include a three-year financial plan for income and expenditure categorised according to the Financial Procedures;

(d) be prepared in the form specified in the Financial Procedures.

Approval of business plan.

8. (1) The Council shall prepare and discuss the draft of the new or revised business plan as stipulated in subsections (1) and (2) of section 59 of the Act.

(2) The Secretary shall forward to the Minister a copy of the draft of the business plan not later than eight weeks after the end of the Council's first year of its term and thereafter by the fifteenth day of February of each year.

(3) The Minister may make comments about the draft business plan and the Council may adjust the draft business plan accordingly.

(4) The business plan shall be approved by the Council before the end of the fourth month after the completion of the Council's first year of its term and thereafter by the end of March of each year.

(5) The Secretary shall submit a copy of the approved business plan to the Minister and to the Minister responsible for finance within the time limit stipulated in subsection (3) of section 59 of the Act.

Publication of business plan.

9. The Council shall publish its business plan within three weeks after its approval. A copy of the published business plan shall be open for public viewing at the Council's administrative office during normal office working hours.

PART V

Annual Budget

Preparation of annual budget.

10. The Secretary shall be responsible for the preparation of the annual budget, including estimates for income and expenditure in consultation with the Council, relevant committees and employees, who shall forward all the required supporting information.

Budget process.

11. (1) The Secretary shall calculate the provision allocated by Government to the Council on the basis of the proportion of the annual financial allocation according to section 55 of the Act.

(2) The Secretary shall coordinate the preparation of the annual budget and shall —

(a) assist committees and employees in the preparation of their proposals;

(b) evaluate each individual account heading, and committee budget;

(c) ensure compatibility and consistency between account headings and committee budgets;

(d) consolidate all individual budgets into the Council's annual budget.

(3) The Council's annual budget shall consist of:

(a) an overview and summary of the budget;

(b) consolidated and detailed budget estimates for income and expenditure classified according to the system of accounts under the Financial Procedures;

(c) capital expenditure budget;

(d) cash budget; and

(e) budgeted indicators to measure performance of works and services.

(4) The budget estimates shall be accompanied by explanations respecting every item of an unusual nature therein comprised and of any significant difference under each item between the proposed expenditure or expected income and the approved budget estimates for the preceding year.

(5) The Secretary shall submit the annual budget to the Council for its approval within the time limit stipulated in subsection (1) of section 56 of the Act.

Budget format.

12. The format and contents of the annual budget shall be presented in the form prescribed by the Financial Procedures.

Approval of annual budget.

13. (1) The Council shall consider, and if necessary revise, and approve the annual budget as stipulated in subsection (2) of section 56 of the Act.

(2) The Secretary shall submit a copy of the Council's approved annual budget to the Minister within the time limit stipulated in subsection (3) of section 56 of the Act.

Publication of annual budget.

14. (1) The Council shall publish its annual budget not later than two weeks after submitting it to the Minister according to paragraph (2) of regulation 13 of these regulations. A copy of the published budget shall be forwarded to the Minister responsible for finance.

(2) A copy of the Council's annual budget shall be open for public viewing at the Council's administrative office during normal office working hours.

Supplementary budgets.

15. (1) If supplementary funds for Local Councils are made available according to section 62 of the Act, the Council shall submit its approved supplementary budget to the Minister within three weeks from the approval of the supplementary vote.

(2) The Secretary shall publish the supplementary budget and make a copy thereof available for public viewing at the Council's administrative office during normal office working hours. A copy shall also be forwarded to the Minister responsible for finance.

PART VI

Financial Management and Reporting

Preparation of annual administrative report.

16. (1) At the end of each financial year a detailed annual administrative report shall be prepared by the Secretary. Such report shall —

(a) account to the Council for the Council's finances during the previous year;

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

(c) include a statement of the Council's income and expenditure for the year that ended and the Council's retained funds as at the year end.

(2) The detailed annual administrative report shall be prepared in the form specified in the Financial Procedures.

Approval of annual administrative report.

17. (1) The Council shall discuss the annual administrative report and instruct the Secretary to make any changes it may deem necessary.

(2) It shall be the duty of the Council and the Secretary to ensure that the financial statements forming part of the report fairly present, in accordance with accounting policies applicable to Local Councils, the income and expenditure of the Council for the year that ended and its retained funds as at the year end, and that they comply with the Act, these regulations and the Financial Procedures.

(3) The Council shall approve the annual administrative report not later than four months after the end of its first financial year of office and subsequently by not later than the end of July of each year.

Publication of annual administrative report.

18. (1) The Secretary shall publish the Council's annual administrative report, including a copy of the audited financial statements, within two weeks from its approval by the Council.

(2) The annual administrative report shall be made available for public viewing in the Council's administrative office during normal office working hours.

PART VII

Banking Arrangements

19. (1) The Secretary shall, with the approval of the Council, make all arrangements and agreements with the Council's bankers and shall operate such bank accounts as he considers necessary.

(2) Accounts shall only be held with banks approved by the Minister with the concurrence of the Minister responsible for finance.

(3) Bank accounts shall not be used for personal matters.

Secretary to maintain bank records.

20. The Secretary shall ensure that for each bank account a record of all bank transactions, supported by authorised primary documentation, is maintained.

Cheques, direct payments, etc.

21. (1) All cheques shall bear the Council's coat of arms and shall be ordered by the Secretary, who shall ensure their safe custody and proper use.

(2) Cheques issued by the Council for payment shall —

(a) bear the joint signatures of the Mayor and the Secretary;

(b) be prepared correctly;

(c) not be post-dated;

(d) not be signed without bearing the amount or payee name.

(3) Cheques, direct payments and inter-bank transfers or payments shall be authorised by the Council according to order 32 of the Standing Orders contained in the Sixth Schedule to the Act.

Bank statement reconciliation.

22. The Secretary shall as soon as possible, but not later than the tenth working day of each month, prepare a statement to reconcile the balance of each bank account as it appears on the Council's books or records with the balance on the bank statement for the immediately preceding month.

PART VIII

Expenditure

Cash expenditure.

23. (1) The petty cash system shall be governed by the following rules:

(a) no cash transactions shall be made for items of expenditure costing Lm10 or over in the aggregate;

(b) Council may by resolution authorise the Secretary to advance, as may be necessary, such sums of money to employees as an advance account for the payment out of the petty cash;

(c) employees holding advance accounts shall keep a proper record and, on request, give the Secretary a statement of the accounts;

(d) an employee who ceases to be entitled to hold an advance account shall render an account to the Secretary for the amount advanced to him.

(2) No employee can transfer Council money to another employee without the express consent of the Secretary. Such transfer shall be recorded.

(3) Each month the Secretary shall account to the Council for all petty cash expenditure incurred during the immediately preceding month.

Purchasing of works, goods and services.

24. (1) Save as otherwise provided under the Financial Procedures, all purchase orders, contracts and agreements for works, goods or services to be supplied to the Council shall be authorised by the Council. This provision shall not apply to petty cash purchases and for the supply of public utility services.

(2) Purchase orders made verbally, including orders made by telephone, shall be immediately confirmed in writing.

(3) Prior to the approval of a Council purchase order, the Secretary or the employee responsible for purchasing shall ensure that each purchase corresponds to and does not exceed an item or heading within the approved estimates, unless otherwise so authorised by the Secretary or the Council.

(4) Council purchase orders, contracts and agreements shall require Council authorisation according to the following approval limits:

(a) orders, contracts, agreements or items not exceeding Lm100 shall be authorised by the Council according to paragraph (1) of order 32 of the Standing Orders contained in the Sixth Schedule to the Act, provided that items of the same nature are not purchased within a consecutive four-month period;

(b) orders, contracts, agreements, or items exceeding Lm100 but not exceeding Lm1,000 shall require at least three official signed quotations or the issue for a public tender according to the Local Councils (Tendering) Regulations, 1993:

Provided that, if the Council opts for a quotation, Council authorisation in accordance with paragraph (1) of order 32 of the above mentioned Standing Orders shall also require a written justification for the selected quotation;

(c) orders, contracts, agreements, or items exceeding Lm1,000 shall require the —

(i) issue of a public tender according to the Local Councils (Tendering) Regulations, 1993;

(ii) the approval of the Council according to paragraph (1) of order 32 of the Standing Orders contained in the Sixth Schedule to the Act and according to the Local Councils (Tendering) Regulations, 1993.

(5) Purchases of works, goods and services shall not be made from suppliers appearing on the Unauthorised Suppliers List in the Financial Procedures.

Capital expenditure.

25. (1) Capital expenditure shall be jointly controlled by the Mayor and the Secretary.

(2) Expenditure of a capital nature from the Council's funds shall require written justification by the Secretary and shall be approved by the Council following the procedures stipulated in sub-paragraphs (a), (b), and (c) of paragraph (4) of regulation 24 of these regulations.

(3) The Secretary shall ensure that —

(a) capital expenditure corresponds to the projects approved in the current year's annual budget estimates and business plan, unless otherwise authorised by the Council;

(b) the Council's records are to be supported by the physical presence of capital items.

Payments.

26. (1) Payments of money due from the Council shall, other than petty cash, be made by cheque, bank transfer, or other instrument jointly drawn by the Mayor and the Secretary on the Council's bank accounts.

(2) All payment orders and invoices shall be certified correct by the Secretary prior to payment. For this purpose the Secretary shall examine the documents and shall be entitled to make enquiries and receive such information as he requires.

(3) Orders for payment shall be certified by the Secretary, approved by the Council and signed according to paragraph (1) of order 32 of the Standing Orders contained in the Sixth Schedule to the Act.

(4) The Secretary shall satisfy the Council that —

(a) all documentation is properly compiled and correct;

(b) overpayment or the duplication of payment is prevented;

(c) cheques, direct payments, and inter-bank transfers are correctly prepared;

(d) remittance advices are correctly prepared and despatched with payments.

Claims for refund of expenses.

27. (1) All claims for the refund of payments incurred by Councillors and employees during the course of executing their Council duties shall be submitted, and duly certified by the Secretary, on the appropriate form in accordance with the Financial Procedures.

(2) All claims by Councillors and employees shall be submitted to the Secretary not later than five days after the end of the financial month during which the expense has been incurred.

(3) Prior to payment each claim shall be vetted and certified by the Secretary and subsequently approved by the Council and signed, according to paragraph (1) of order 32 of the Standing Orders contained in the Sixth Schedule to the Act.

(4) Certification by the Secretary shall imply that he is satisfied that the expense was properly and necessarily incurred and that the claim is properly payable.

PART IX

Personnel and Payroll

Payment to the Mayor and employees.

28. (1) The Secretary shall ensure that payment of salaries, wages, gratuities and other benefits and remuneration to the Mayor, employees and former employees, shall be made by cheque or bank transfer by the last working day of each month.

(2) The Council and/or the Secretary shall not make payments to employees not appointed according to the Local Councils (Human Resources) Regulations, 1993 and the Human Resources Procedures.

The Secretary to maintain personnel details related to pay.

29. (1) The following personnel details shall be accurately maintained by the Secretary:

(a) appointments, resignations, dismissals, suspensions, secondments and transfers;

(b) absence from duty for sickness, leave, training and other reasons;

(c) changes in remuneration, including normal increments and nationally negotiated pay awards;

(d) records related to PAYE, Social Security, statutory sick pay and statutory maternity pay.

(2) Appointments of all employees shall be made in accordance with approved methods, grades and rates of pay as defined in the Local Councils (Human Resources) Regulations, 1993 and the Human Resources Procedures.

(3) Attendance records and other pay documents shall be certified by the Secretary.

Payroll accounting.

30. (1) The Secretary shall maintain a payroll accounting system as stipulated in the Financial Procedures.

(2) Authorised payments, returns and claims to the Department of Social Security and the Department of Inland Revenue and any other Government department shall be administered by the Secretary and submitted on time.

PART X

Income

Supervision of collection of moneys due.

31. The collection of all moneys due to the Council shall be under the supervision of the Secretary.

Request for financing from Government.

32. The Secretary shall submit to the Minister responsible for finance, through the Minister, a written request for financing from Government according to section 57 of the Act.

Moneys received.

33. (1) All Council moneys shall be received or directed to one of the Council's bank accounts by the Secretary or any authorised employee.

(2) The Secretary shall ensure that paying-in documents are correctly prepared and reconciled with the relevant records.

(3) Every employee authorised to receive money shall daily account to the Secretary for all moneys received by him.

Moneys due, etc.

34. (1) Contracts, leases and other agreements which will result in moneys due to the Council shall be authorised by resolution of the Council and jointly signed by the Mayor and the Secretary.

(2) For such purpose the Secretary shall make available to the Council any documents which it may require.

(3) The Secretary shall maintain sufficient details and proper records of all moneys due to the Council with respect to works done, goods supplied, services rendered, or any other matter.

(4) The Secretary shall arrange for claims to be raised for the recovery of moneys due to the Council.

PART XI

Insurance and Security

Council to ensure security.

35. The Secretary shall, with the approval of Council, ensure the security of the Council's assets and employees and insure the Council against any loss, damage, injury or death and against any other source and form of liability or claim from third parties.

Insurance.

36. (1) The Secretary shall effect all insurance cover and liaise with the Council's insurers on all matters, including claims.

(2) The Secretary shall regularly review and where necessary amend all insurances with the approval of the Council.

(3) No indemnities shall be given without authority of the Secretary and the Council's insurers.

(4) Council members and employees of the Council shall be insured against third party liability.

Claims, risks and liabilities.

37. (1) The Secretary shall advise the Council and its insurers of all claims, and all new risks, properties, vehicles, machinery, equipment, plant and activities which may require insurance cover and of any alterations affecting existing insurances.

(2) Employees shall immediately notify the Secretary of any loss, liability, damage or event which may lead to a claim.

(3) Employees shall provide the Secretary sufficient advance notice of any property whose custody will be temporarily accepted by the Council.

Security.

38. (1) The Council or its employees shall not hold items of value on behalf of third parties.

(2) The Secretary shall be responsible to ensure the security of all buildings, stocks, stores, furniture, equipment, machinery, cash and other Council assets.

(3) The maximum limit for cash holdings shall be Lm100.

(4) Keys to safes and other secure areas are to be kept in the custody of the employee responsible. Any losses must be immediately reported to the Secretary, who shall take all necessary actions to maintain security.

(5) The Secretary shall ensure the security and privacy of information held in the Council's records, including computer systems, and shall introduce and enforce procedures and measures to maintain security and confidentiality.

PART XII

Inventories, Stores and Stocks

Control of inventories.

39. The Secretary shall create, maintain and control an accurate and up-to-date inventory of the Council's assets and stocks.

Inventories.

40. (1) Employees shall, in consultation with the Secretary as to the form and content, maintain an inventory of all furniture, fittings, equipment, vehicles, plant, machinery and other assets under their control.

(2) All inventory items, except stock items, shall be permanently marked or labelled to facilitate identification.

(3) Employees shall carry out an annual check on all items on the inventory and shall take such action on any surplus or deficiency as may be decided in consultation with the Secretary.

(4) No Council property shall be removed, unless in the ordinary course of the Council's business, without the written authorisation of the Secretary.

(5) No personal property may be kept or stored in the Council's buildings without the written authority of the Mayor. In such a case the property shall be properly marked for identification.

Stores and stocks.

41. (1) The Secretary shall control and secure the storage, issue and receipt of stock items into and out from stores, and maintain an accurate inventory of stock items.

(2) Employees shall be accountable for the care and custody of all stocks and stores under their responsibility.

(3) Stocks shall not be held in excess of normal requirements.

(4) The Secretary shall arrange for periodic independent checks of stocks and stores and shall ensure that all stocks are checked at least once in every year. Physical checks shall be made against documented stock records.

(5) Employees shall supply the Secretary all the necessary information on inventories, stores and stocked items for accounting, costing and financial records.

(6) Obsolete materials, assets, stocks or equipment shall be disposed of by competitive tender, public auction or any other means as approved by the Council, and written-off the Council's accounts.

(7) The Secretary shall inform the Council of any disposals referred to in paragraph (6) of this regulation.

PART XIII

Property

Maintenance of estate documents.

42. (1) The Secretary shall have custody of all title deeds and shall be responsible for their security.

(2) The Secretary shall maintain a register of all land and buildings owned by the Council as described in the Financial Procedures.

Dealings in property.

43. (1) Dealings in property must be made in accordance with the Financial Procedures.

(2) The contracting to third parties of rights, concessions, permits or authorisation to manage, operate, use or occupy Government property within the locality shall be made after a public call for tenders has been made according to the Local Councils (Tendering) Regulations, 1993:

Provided that Government has authorised the Council, by notice in the Gazette, to administer the Government property in question.

(3) The contracting to third parties of other rights, concessions, permits or authorisations within a locality shall be made after a public call for tenders has been made according to the Local Councils (Tendering) Regulations, 1993.

PART XIV

Investments and Borrowing

Administration of investments and borrowing.

44. The Secretary shall administer and control investments and borrowing on behalf of the Council.

Investments.

45. (1) The Council may invest its money only in Government issued securities, including stocks, bonds and bills.

(2) All securities, including stocks, bonds and bills owned by the Council or held in its name, shall be held in custody by the Council's bankers.

Borrowing.

46. (1) In exceptional circumstances borrowing may be effected in the Council's name and only after written approval from the Minister, with the concurrence of the Minister responsible for finance.

(2) The Secretary shall maintain a record of all the Council's borrowings.

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